

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

NEPR Received: Apr 11, 2023 10:35 PM

IN RE:
ENERGY EFFICIENCY AND DEMAND
RESPONSE TRANSITION PERIOD
PLAN

CASE NO.: NEPR-MI-2022-0001
SUBJECT: Motion to Submit EE Rider

MOTION TO SUBMIT EE RIDER

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COME now **LUMA Energy, LLC** (“ManagementCo”), and **LUMA Energy ServCo, LLC** (“ServCo”), (jointly referred to as “LUMA”), and respectfully state and request the following:

I. Submittal of EE Rider Calculated Factor

1. On February 16, 2023, this Energy Bureau issued a Resolution and Order (the “February 16th Resolution and Order”) in which it considered, amended and approved the proposed Energy Efficiency (“EE”) and Demand Response (DR) Transition Period Plan submitted by LUMA on June 21, 2022 (“Proposed TPP”)¹, containing the EE and DR Programs to be implemented by LUMA during the Transition Period and associated budgets for Fiscal Years (“FY”) 2023 and 2024, among others.

2. In the February 16th Resolution and Order, the Energy Bureau orders LUMA to fund the TPP for FY 2024 using the EE Rider, “except to the extent that LUMA (1) decides to apportion some of its base budget to support EE and DR programs, and files as such in its EE Rider filing for FY2024 [...], (2) carries over unspent funds from its FY2023 EE and DR budget, and/or

¹ See *Motion Submitting Proposed EE/DR Transition Period Plan* of that date and its *Exhibit 1*.

(3) external funding is secured to displace EE Rider funds.” *See* February 16th Resolution and Order at page 27. The Energy Bureau also orders LUMA to “file the EE Rider” on or before April 1, 2023 which:

- a. Addresses exhaustion of the FY2023 budget funding from its base budget before the end of the fiscal year (if this is anticipated to be an issue);
- b. Is designed to raise the necessary revenue to fund FY2024 programs, accounting for external or LUMA funds;
- c. Reflects LUMA's best estimate of the total sales expected in FY2024, for use in calculating the EE Rider rate; and
- d. Reflects any changes that LUMA requests regarding the FY2024 budget (for example, with regards to changes to its DR programs).

See id. at pages 27 and 30.

3. The February 16th Resolution and Order establishes other reporting or activity deadlines, as well as performance incentive metrics tied to deadlines. *See id.* Tables 1 and 2.

4. On March 8, 2023, LUMA filed a motion requesting reconsideration of the February 16th Resolution and Order, including the performance incentive metrics and deadlines. *See Motion for Reconsideration of Resolution and Order of February 16, 2023, and Request to Vacate Deadlines* of that date (“March 8th Motion”). In this motion LUMA indicated that, notwithstanding the request for reconsideration, it anticipated it would be filing the EE Rider by the deadline established in the February 16th Resolution and Order. *See* March 8th Motion at page 44.

5. On April 3, 2023, the Energy Bureau issued a Resolution and Order (“April 3rd Resolution and Order”) in which it made several determinations regarding LUMA’s March 8th Motion, including, among others, ordering LUMA to file the EE Rider petition on or before April 11, 2023. *See* April 3rd Resolution and Order at page 5. In the April 3rd Resolution and Order, the Energy Bureau indicates that this petition “shall include” the following:

- The FY24 EE and DR budget to be funded by the rider, including program summaries and budgets in accordance with the approved TPP[.]
- Details of any external funding sources secured[.]
- The first-year energy efficiency savings expected to be achieved during FY24. Section 2.02(A)(2) of the EE Regulation requires LUMA to design programs and budgets to achieve at least 0.25 percent of annual sales this year.
- The expected sales over which the EE Rider will be allocated.
- A calculation of the EE Rider rate, in \$/kwh.
- Any and all other information LUMA believes the Energy Bureau needs in the administrative record in order to approve the EE Rider.

Id.

6. In compliance with the February 16th Resolution and Order, as modified or supplemented by the April 3rd Resolution and Order, LUMA hereby submits for this Energy Bureau’s approval, the calculated factor for the EE Rider in \$/kwh. *See Exhibits 1 and 2.* The EE Rider used for the calculated factor discussed *Exhibits 1 and 2* is the EE Rider approved by the Energy Bureau in Case No. CEPR-AP-2015-0001, *In RE: Puerto Rico Electric Power Authority Rate Review*,² that is included in the current PREPA Tariff Book.³ As noted in Exhibit 1, LUMA and the Department of Economic Development of Puerto Rico (DEDC) are in discussions regarding possible funding for EE and DR programs in the TPP. At this time the government has not committed any funds to the programs for FY2024. If funds are committed, then the amount of funding required by the EE Rider for FY2024 could be reduced in proportion to the actual amount of funding.

² See Final Resolution and Order of January 10, 2017, CEPR-AP-2015-0001, *In Re: Puerto Rico Electric Power Authority Rate Review*; see also Resolution and Order of September 27, 2019, CEPR-AP-2015-0001, *In Re: Puerto Rico electric Power Authority Rate Review*, at page 1 (wherein the Energy Bureau cites the January 10th Resolution and Order in stating that it “approved several riders designed to recover costs associated to fuel, purchased power, Contribution in Lieu of Taxes (“CILT”) and other subsidies, as part of the [PREPA] Permanent Rate” and that these rates included the “Energy Efficiency Rider”).

³ See Resolution and Order of Resolution and Order of May 31, 2017, CEPR-AP-2015-0001, *In RE: Puerto Rico Electric Power Authority Rate Review* (wherein the Energy Bureau approved the revised the Tariff Book presented by PREPA in that same docket on May 19, 2022, which included the EE Rider, and ordered PREPA to implement the Permanent Rate as detailed therein).

7. *Exhibit 1* includes a narrative discussion of the background and supporting information for the EE Rider calculated factor, including the information required in the February 16th Resolution and Order and the April 3rd, 2023 Resolution and Order. *Exhibit 2* includes an excel table containing the EE Rider’s calculated factor for FY 2024 (i.e., July 2023 through June 2024); the planned program budget for FY 2024, and a proposed filing schedule for adjustments and reconciliations, among other supporting information.

8. It is respectfully informed that after the EE Rider is approved in this proceeding, LUMA will submit the same in the separate proceeding dedicated to implementing riders, including rider factors and reconciliations, *In re Permanent Rate of the Puerto Rico Electric Power Authority*, Case No. NEPR-MI-2020-0001 (“Permanent Rate Case”). See Resolution and Order of January 16, 2020, NEPR-MI-2020-0001, at page 1 (stating that “the submission of the proposed rider factors and reconciliations are a part of the implementation of the Permanent Rate. The Energy Bureau . . . [opens] the instant docket to evaluate PREPA’s future filings regarding rider factors, including their reconciliations.”). LUMA respectfully requests that this Energy Bureau consider and approve the EE Rider calculated factor in the Permanent Rate Case and direct that future filings regarding the implementation of the EE Rider, including calculated factors and reconciliations, be submitted in the Permanent Rate Case. LUMA understands, in good faith, that the Permanent Rate Case was conceived and designed to consolidate all processes related to implementation of rate riders and that thus, interests of expediency and procedural economy weigh in favor of submitting future filings on the EE Rider and the corresponding calculated factors and reconciliations, in the Permanent Rate Case docket.

II. Request for Confidential Treatment of Excel File and Supporting Memorandum of Law.

9. The EE Rider calculated factor submitted with this Motion as *Exhibit 2* in an excel spreadsheet (.xls) and with formulae intact in a file entitled *Exhibit 2 EE Rider Factor Calculation FY 2024 Confidential*. The file includes formulae and original calculations made by LUMA personnel that reveal confidential procedures and include sensitive commercial information belonging to LUMA that should be protected by law from disclosure, and that should not be disclosed in native form. In addition, Exhibit 1, section 3.0 contains confidential information subject to a non-disclosure agreement with a third party, which should also be protected from disclosure.

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

10. 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 L.P.R.A. §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).

11. Relatedly, in connection with the duties of electric power service companies, Section 1.10 (i) of Act 17-2019 provides that electric power service companies shall “provide documents and information as requested by customers, except for: (i) confidential information in

accordance with the Rules of Evidence of Puerto Rico; [...] (vii) trade secrets of third parties; [and] (viii) issues that should be maintained confidential in accordance with any confidentiality agreement, provided, that such agreement is not contrary to public interest[.]” *Id.* § 114li(i) (Emphasis added.)

12. 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).

13. 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.

14. 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).

15. 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

16. 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. 80-2011.⁴ 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)).

17. 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).

18. The excel spreadsheet that is submitted today as *Exhibit 2* in native form and with formulae intact in with the EE Rider calculated factor in the filed entitled *Exhibit 2 EE Rider*

⁴ 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.*

Factor Calculation FY 2024 Confidential, includes protected trade secrets. It has commercial value to LUMA as it reveals confidential processes and analysis. LUMA keeps and maintains the native file confidentially and does not disclose them to the public or unauthorized third parties. To avoid future competitive harms that could ensue if the original format spreadsheets with formulae and calculations is publicly disclosed, LUMA respectfully requests that the aforementioned excel file submitted today be received, kept, and maintained confidentially by this Energy Bureau.

19. The confidential spreadsheet included in the file entitled *Exhibit 2 EE Rider Factor Calculation FY 2024 Confidential*: (1) has information with commercial and financial value, and (2) 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 spreadsheet is a business document showing processes, methods, and mechanisms that garner protection under Act 80-2011. It is an original document that has not been disclosed to third parties and whose disclosure would reveal sensitive and private commercial processes employed by LUMA. The disclosure of this sensitive commercial information would place LUMA in a vulnerable and disadvantageous commercial position that could affect LUMA customers and impact rates. Reasonable measures have been taken to protect the file from disclosure and avoid unauthorized access by third parties that could seek to gain commercial advantages. It is respectfully submitted that the spreadsheet included in the file entitled *Exhibit 2 EE Rider Factor Calculation FY 2024 Confidential* should be protected from public disclosure.

20. In addition, Exhibit 1 contains one paragraph with information on the collaboration of LUMA with a third party pertaining to potential external funding sources for EE and DR programs which is currently subject to a mutual non-disclosure agreement. Therefore, this information warrants protection from disclosure pursuant to Section 1.10 (i) of Act 17-2019. Maintaining this

information in confidence has a potential independent financial value and its disclosure of this information at this time could have unintended consequences on the process. Hence, it currently constitutes a trade secret that should be protected from disclosure pursuant to Act 80-2011. This information is not common knowledge or readily accessible by third parties and LUMA has taken reasonable measures to protect it from disclosure.

LUMA is submitting herein a redacted copy of Exhibit 1 for public disclosure and respectfully requests this Energy Bureau maintain the unredacted version under seal of confidentiality.

C. Identification of Confidential Information

	Document or file	Tabs or Pages in which Confidential Information is Found, if applicable	Summary of Legal Basis for Confidentiality Protection, if applicable	Date Filed
1	<i>Exhibit 2 EE Rider Factor Calculation FY 2024</i> Confidential	Att 1 - Factor Calc Att 1 - FY24 EE Budget Load Forecast FY2024	Sensitive Commercial Information and Trade Secrets	April 11, 2023
2	<i>Exhibit 1</i>	Page 8	Subject to Non-Confidentiality Agreement Sensitive Commercial Information and Trade Secrets	April 11, 2023

WHEREFORE, LUMA respectfully requests that the Energy Bureau **take notice** of the aforementioned, **accept and approve** the EE Rider’s calculated factor as discussed and presented

in *Exhibits 1 and 2* herein; **grant** LUMA's request for confidential treatment; **deem** LUMA in compliance with the requirement to submit the EE Rider set forth in the February 16th Resolution and Order and the April 3rd Resolution and Order; and **direct** that future filings regarding the EE Rider shall be submitted and addressed in the Permanent Rate Case, Case No. NEPR-MI-2020-0002.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 11th day of April 2023.

We hereby certify that we filed this Motion using the electronic filing system of this Energy Bureau and that we will send an electronic copy of this Motion to agraitfe@agraitlawpr.com; info@sesapr.org; elevin@veic.org; jordgraham@tesla.com; forest@cleanenergy.org; customerservice@sunnova.com; the attorneys for PREPA at jmarrero@diazvaz.law and mvazquez@diazvaz.law; and the Independent Office for Consumer Protection at hrivera@jrsp.pr.gov.



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Exhibit 1

Narrative Explanation



Exhibit 1

Energy Efficiency Rider

April 11, 2023

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1.0 Introduction

Puerto Rico Energy Transformation and RELIEF Act, Act 57-2014, requires the Puerto Rico Energy Bureau (Energy Bureau or PREB) to, among other things, establish energy efficiency programs in order for Puerto Rico to reduce energy consumption from current levels. Energy public policy in Puerto Rico includes significant reductions in energy use. According to the Energy Efficiency Regulation set by the Energy Bureau¹, energy efficiency has a significant role to play in rebuilding a stronger energy system that is responsive to customer's needs. Energy efficiency not only provides a mechanism to assist individual customers to decrease their consumption of electricity, thereby lowering their energy bills, but it also reduces the costs of the electric system as a whole. Energy efficiency can also contribute to energy quality and equity, among others, by diminishing the need for more expensive fossil fuel generation and offering mechanisms for all customers to reduce their energy consumption and their energy bills.

The Energy Efficiency Rider established by the Energy Bureau is a mechanism which provides for the cost recovery of all expenses associated with the implementation and administration of energy efficiency programs operated by LUMA on behalf of PREPA. The costs of the program shall be recovered through a per kilowatt-hour (KWh) charge for all customers, the Energy Efficiency Charge (EEC).²

By Resolution and Order of February 16, 2023 in Case No. NEPR-MI-2022-001 (February 16 R&O) the Energy Bureau considered, amended and approved the proposed Energy Efficiency (EE) and Demand Response (DR) Transition Period Plan (TPP)³ and ordered LUMA to fund the TPP for FY 2024 using the EE Rider, "except to the extent that LUMA (1) decides to apportion some of its base budget to support EE and DR programs, and files as such in its EE Rider filing for FY2024 [...], (2) carries over unspent funds from its FY2023 EE and DR budget, and/or (3) external funding is secured to displace EE Rider funds.". The Energy Bureau also ordered LUMA to file an EE Rider that: addresses exhaustion of the FY2023 budget funding from its base budget before the end of the fiscal year (if this is anticipated to be an issue); is designed to raise the necessary revenue to fund FY2024 programs, accounting for external or LUMA funds; reflects LUMA's best estimate of the total sales expected in FY2024, for use in calculating the EE Rider rate; and reflects any changes that LUMA requests regarding the FY2024 budget..

The Energy Bureau subsequently issued a Resolution and Order on April 3 (April 3 R&O) requiring information regarding the FY24 EE and DR budget to be funded by the rider, including programs summaries and budgets in accordance with the approved TPP; details of any external funding sources secured; the first year energy efficiency savings expected to be achieved during FY2024; the expected sales over which the EE Rider will be allocated; and a calculation of the EE Rider rate, in \$/kwh.

This document includes a discussion and information to address the requirements listed in the February 16 R&O and the April 3 R&O. The narrative explanatory discussion is provided in this Exhibit 1 and the calculations and other supporting data are provided in Exhibit 2. The EE Rider used for the calculated factor discussed in this document and *Exhibit 2* is the EE Rider approved by the Energy Bureau in the

¹ Energy Efficiency Regulation, [20220105-MI20210005-Resolution-and-Regulation.pdf \(pr.gov\)](https://www.pr.gov/2022/01/05/20220105-MI20210005-Resolution-and-Regulation.pdf)

² See Resolution and Order of Resolution and Order of May 31, 2017, CEPR-AP-2015-0001, *In RE: Puerto Rico Electric Power Authority Rate Review* (wherein the Energy Bureau approved the revised Tariff Book presented by PREPA in that same docket on May 19, 2022, which included the EE Rider, and ordered PREPA to implement the Permanent Rate as detailed therein).

³ See Motion Submitting Proposed EE/DR Transition Period Plan filed by LUMA with the Energy Bureau on June 21, 2022 in Case No. NEPR-MI-2021-0006.

currently applicable rate case⁴ and that is included in the current PREPA Tariff Book⁵, a copy of which is included in Attachment 6 of Exhibit 2. Exhibit 2 also includes the proposed schedule for the annual filing of the EE Rider factor.

As noted below, LUMA and the Department of Economic Development of Puerto Rico are in discussion regarding possible funding for energy efficiency and demand response programs. At this time the government has not committed any funds to the programs. If funds are committed, then the amount of funding required by the EE Rider could be reduced.

⁴ See Final Resolution and Order of January 10, 2017, CEPR-AP-2015-0001, *In Re: Puerto Rico Electric Power Authority Rate Review*; see also Resolution and Order of September 27, 2019, CEPR-AP-2015-0001, *In Re: Puerto Rico electric Power Authority Rate Review*, at page 1 (wherein the Energy Bureau cites the January 10th Resolution and Order in stating that it “approved several riders designed to recover costs associated to fuel, purchased power, Contribution in Lieu of Taxes (“CILT”) and other subsidies, as part of the [PREPA] Permanent Rate” and that these rates included the “Energy Efficiency Rider”).

⁵ See Resolution and Order of Resolution and Order of May 31, 2017, CEPR-AP-2015-0001, *In RE: Puerto Rico Electric Power Authority Rate Review* (wherein the Energy Bureau approved the revised the Tariff Book presented by PREPA in that same docket on May 19, 2022, which included the EE Rider, and ordered PREPA to implement the Permanent Rate as detailed therein).

2.0 FY2024 Energy Efficiency and Demand Response Budget

2.1 Overview

LUMA developed a portfolio of energy efficiency, demand response and education and outreach programs for the TPP that require a budgeted amount of \$20,538,083 for FY2024 set forth in the TPP and that will be funded by the EE Rider.⁶ This section provides a summary of these programs for FY2024 along with the program budgets and savings. This budget does not contemplate the exhaustion of the FY2023 budget funding given that the EE Rider will commence to be implemented on FY 2024 and therefore there will be no unspent funds from FY 2023 to carry over to FY 2024. In addition, LUMA does not propose to apportion any part of its base budget to fund the TPP programs for FY 2024. Therefore, the budget of \$20,538,083 will be fully funded by the EE Rider. This amount is the same as that included in the TPP and LUMA does not propose any increases thereof.

In selecting these programs for the TPP, LUMA was mindful of the overarching goals of for energy efficiency from the Puerto Rico Energy Transformation and Relief Act and the Puerto Rico Energy Public Policy Act. The TPP was designed as a starting point to begin contributing toward achieving the targets. The TPP portfolio has been designed to include programs that could be launched quickly and achieve savings at the scale of 0.25% in FY 2024 as per the target set in Section 2.02(A) the Energy Bureau's Regulation for Energy Efficiency, although, as indicated in that section, these are not binding energy savings targets.

The TPP programs will provide a greater understanding of the Puerto Rico market, customer needs and preferences, and how best to address barriers to adoption across LUMA's broad customer mix and inform the design of the Three-Year Energy Efficiency Plan. Table 2-1 summarizes the estimated costs to reach the savings targets for FY 2024 of the TPP for both EE and DR programs. Section 2.3, Program Budgets, presents a summary of program cost estimates for FY 2024.

Table 2-1. Summary of Program Savings and Program Cost Estimates for FY 2024

Summary of Program Savings and Program Cost Estimates	Program for FY2024
Total Estimated Annual Savings (MWh)	41,357
Total Estimated Annual Peak Demand Savings (MW)	46.6
Total Estimated Program Cost (millions)	\$20.5

⁶ In the February 16 R&O, the Energy Bureau makes reference to a total program portfolio cost for FY 2024 of \$20,528,083, which appears in Table 3 of the February 16 R&O. LUMA understands that this amount is in fact \$20,538,083 given that all the program costs listed in Table 3 of the February 16 R&O add up to that amount. In addition, the TPP establishes the latter amount as the total costs for the programs for FY 2024, as set forth in Table 2-2 below. See also Table 3-3 of the TPP.

2.2 Program Summaries

The following section provides a brief summary of each program expected to be launched in FY 2024, which will be funded by the EE Rider. A detailed description of each program can be found in Section 4.0 of the TPP filing.

2.2.1 Education and Outreach Program

The Education and Outreach Program is comprised of educational tools, information resources and outreach initiatives to increase customer and stakeholder understanding of EE and DR technologies for achieving energy bill savings. Messaging will be delivered through various channels and include information on energy reduction actions, bill savings and other programs offerings (once available). The program will also include online informational tools and resources, community/stakeholder engagement initiatives and/or demonstration projects.

The Program will provide information that is easy to understand on energy efficiency technologies and energy bill reduction strategies for the home and business. Messaging may also highlight the importance of saving energy during critical peak demand periods. Depending on feasibility of implementation, the program may include additional features such as online energy audit and customer-oriented energy savings/cost estimation tools, home energy reports with personalized information about customer consumption patterns, and technical assistance for community demonstration projects and for project proponents. The target population for the program includes all customers. The specific details of services provided will be finalized based on input from the implementation contractor selected to deliver the program. Since this is an educational and awareness program focused on providing information rather than incentives, no financial incentives will be offered. However, financial incentives available in the Residential Rebates and Business Rebates programs (once available) will be cross promoted.

2.2.2 Residential Energy Efficiency Rebate Program

The Energy Efficiency Rebate Program will provide customers with a financial incentive for purchasing and installing high-efficiency equipment from a list of eligible measures. It is anticipated that heating, ventilation, and air conditioning (HVAC), lighting, and water heaters will be the primary focus of Program Year 2, as these are well-understood to be cost-effective measures.

A prescriptive financial incentive (\$/unit) will be available for each eligible measure, which will be reviewed on a regular basis and updated as needed based on changing market conditions and pricing of the eligible measures. Low-income customers may be offered higher incentives per measure for select measures to provide greater access to energy efficiency opportunities. Customers are required to submit their rebate application by mail, email or online to LUMA. The implementation contractor will review and approve the application and process an incentive payment.

The program may also include informational resources and cross promotion with the Education and Outreach Program. The specific details of final incentive levels, measure lists, and other services provided will be finalized based on input from the implementation contractor selected to deliver the program. During the Transition Period, this program will provide a better understanding of which measures will have the greatest potential savings for customers, as well as opportunities to improve the customer journey.

2.2.3 Battery Demand Response Program

The Battery Demand Response Program will target residential customers with Behind the Meter (BTM) batteries and provide incentives for load shifting to batteries during DR event periods. BTM batteries could potentially provide significant grid benefits, which will be tested through this program. Battery adoption is expected to grow significantly, primarily driven by resiliency, and this program will help customers leverage those assets for additional bill savings opportunities, while helping to maintain grid reliability. This program will develop and test operational procedures for leveraging distributed batteries as a DR resource.

The program will encourage participants to shift home load from grid to batteries during DR event periods in response to emergency/reliability or economic triggers. Participants will be provided with an incentive (\$/kWh) for incremental load shifting to batteries during DR event periods. Per the February 16 R&O, this program is planned to be coordinated and integrated with the Emergency Demand Response Program, which is now open to residential customers with BTM batteries.

2.2.4 In-Store Energy Efficiency Discount Program

The In-store Discount Program builds on the Residential Rebate program by offering an additional delivery channel through in-store point of sale discounts on eligible measures at participating retail stores. LUMA will work directly with retailers to provide an instant in-store discount for measures, by-passing the traditional rebate application process, to make participation as easy as possible for customers. Participating retailers will redeem the value of the discounts provided through the LUMA redemption process. LUMA will review and approve the redemption materials provided by each participating retailer and issue the redemption check.

LUMA will provide a fixed (\$/unit) discount for each eligible measure. The program will start with low-cost measures such as lighting, potentially expanding to HVAC, water heaters, and appliances as funding allows. LUMA will begin the program with a small number of stores, to establish and refine policies and procedures. Stores in low-income areas may be geo-targeted for the start of in-store discount rollouts to provide greater access to energy efficiency opportunities. The rationale for this phased strategy is to avoid oversubscribing the program by adding too many measures at once, resulting in early program closure. The specific details of final incentive levels, measure lists and other services provided will be finalized based on input from the implementation contractor selected to deliver the program.

2.2.5 Business Energy Efficiency Rebates

The Business Rebate Program offers customers a financial incentive for purchasing and installing eligible measures. It is anticipated that HVAC, lighting, water heating equipment will be the primary focus of the program, with the potential to add other measures like appliances, building envelope and variable frequency drives as budget allows. The Program aims to provide measures in commercial and industrial establishments, and in small businesses and the common areas of multi-residential buildings. During the Transition Period, this program will help provide a better understanding of which measures will have the greatest uptake and savings for customers, as well as opportunities to improve the customer journey.

A prescriptive financial incentive (\$/unit) of roughly 30%-50% of incremental cost will be available for each eligible measure to help defray the up-front cost of the measure to commercial and industrial customers. To participate, customers are required to submit a rebate application by email or web portal, depending on the application processing system capabilities of LUMA's implementation contractor. The implementation contractor will review and approve the application and will process an incentive check.

Details about each project will be recorded in a detailed tracking database to ensure accurate reporting and verification.

2.2.6 Emergency Demand Response Program

Under the Emergency Demand Response Program, customers voluntarily reduce load or shift load to back up generators or batteries during DR events, triggered by reliability/emergency conditions. This program was initially designed to target the top 100 Commercial and Industrial (C&I) customers with the highest energy usage, however, as mentioned, per the February 16 R&O, this program will also be open to residential customers with behind-the-meter batteries in FY 2024.

DR events will be triggered by emergency conditions on the grid and therefore this program will help improve reliability and eventually reduce energy costs during high demand periods. Customers will be provided advanced notice of upcoming DR events and will be requested to respond to events within a pre-defined time period. When DR events are called, participants receive an energy compensation (\$/kWh) based on actual energy reduced during DR events. The program will be delivered through aggregators, who will be responsible for customer enrollment, event communications, battery dispatch and customer compensation.

2.2.7 Economic Demand Response Program

The Economic Demand Response Program includes voluntary load reduction and/or load shifting during DR events triggered by economic conditions (high energy prices). This program targets the top 100 C&I customers with the highest energy usage. Customers are notified of DR events on a day-ahead or day-of basis (likely two hours ahead of event) and incentivized to reduce/shift load during critical event periods. The program will offer an energy compensation payment (\$/kWh) to customers for reducing energy use during peak demand periods relative to baseline energy use or for shifting load to backup generators or to any other storage device on site (e.g., thermal energy storage or batteries). Customer sited interval meters will be used for baseline measurement, performance calculation, and settlement.

2.3 Program Budgets

Table 2.2 below provides the FY2024 budgets for each program, as filed in the TPP.

Table 2-2. FY2024 Transition Period Program Budgets

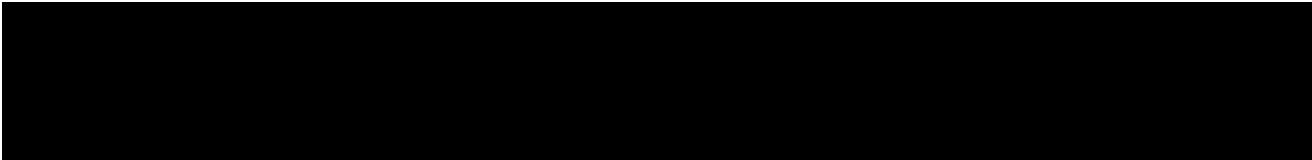
Program	Total FY2024 Budget
Residential Rebate	\$5,625,000
In-Store Discount	\$1,125,000
Business Rebate	\$610,034
Emergency DR	\$5,625,000
Economic DR	\$4,213,427
Battery DR	\$336,415
Customer Education/Awareness Campaign	\$1,500,000
Cross-Cutting Admin & Startup Costs	\$1,500,000
Total Portfolio of Programs	\$20,534,875

3.0 External Funding Sources

Throughout this proceeding, LUMA and intervenors identified that a reliable and long-term source of funding is essential for successful planning and delivery of energy efficiency (EE) and demand response (DR) programs. LUMA has explored funding and collaboration through federal and local government. As a result of its engagement, LUMA has identified various potential opportunities to mobilize external resources.

LUMA maintains regular engagement with local government agencies like the Department of Economic Development and Commerce (DEDC) Energy Policy Program (EPP) to discuss available funding and collaboration opportunities. The initial area of collaboration is the creation and delivery of educational materials and joint outreach efforts. As discussed with stakeholders and the Energy Bureau in this proceeding, and as filed in the approved TPP, the Education and Outreach program is foundational for the successful launch and implementation of energy efficiency programs.

Further, as the State Energy Office, DEDC is in charge of administering and operating different federal programs. As new funding sources are expected for the coming fiscal years, DEDC and LUMA are discussing the use of public funds as incentives for the Demand Response programs outlined in the TPP. At this time DEDC has not committed any funds to the programs. If funds are committed, then the amount of funding required by the EE Rider could be reduced.



LUMA continues to engage key agencies to learn and leverage the opportunities to deploy additional grant funding from other public and private sector programs, however, no external funding sources are secured at this time.

4.0 Energy Efficiency Savings

The annual energy and demand savings per program as well as the overall portfolio savings during FY2024 are shown in Table 4-1 below.

Without the benefit of a Baseline Study, these savings estimates rely on inputs and assumptions from other jurisdictions and represent indicative estimates for planning purposes. As stated in the TPP and during technical hearings, there is uncertainty about the magnitude of savings that can be achieved during the early years of program delivery. However, LUMA will work to achieve the overall savings target below. LUMA will deploy standard program management methods (e.g. adding measures, marketing, modifying incentive levels, etc.) to increase or decrease the rate of program participation during the program year, to maintain progress towards savings targets.

Table 4-1. Energy and Peak Demand Savings for Transition Period by Program

Program	FY2024	
	Annual Electricity Savings (MWh)	Peak Demand Savings (MW)
Residential Rebate	14,536	9.2
In-Store Discount	3,419	2.2
Business Rebate	23,402	6.3
Emergency DR	n/a	21.1
Economic DR	n/a	4.4
Battery DR	n/a	3.5
Customer Education/Awareness Campaign	n/a	n/a
Total Portfolio of Programs	41,357	46.6

5.0 Forecasted Sales

The totals sales forecast corresponding to FY2024 shown in Table 5-1 below was used to determine the Energy Efficiency Rider cost. This information is available at the Attachment 3 of the EE Rider Factor Calculation FY2024 spreadsheet file. The sales forecast presented are as of April 11, 2023, according to Macroeconomics delivered by Fiscal Oversight and Management Board (FOMB) in March 2023. The information illustrated below may change based on the Fiscal Plan as Certified by FOMB and other factors.

Table 5-1. FY2024 Sales Forecast

Load Forecast FY 2024 (GWh)	
Customer Segment	Total
Residential	6,166.8
Commercial	7,124.2
Industrial	1,864.0
Public Lighting	253.1
Others	36.2
Agriculture.	21.5
Total	15,465.7

6.0 EE Rider Rate Calculation

The required calculation to determine the cost per energy unit (kWh) is shown below (Table 6-1) where line 3 (Estimated Total Cost of Energy Efficiency Program to be recovered) is divided by Line 4 (Estimated retail kWh sales for FY2024) to arrive at an EE factor cost of \$0.00133 per kWh. This information is also provided in Exhibit 2, Attachment 1.

Table 6-1. Calculation of the EE Rider Rate

Item	Amount
Calculation of Energy Efficiency Factor for FY2024	
Estimated Total Cost of Energy Efficiency Program for FY2024	\$20,538,083
Prior Period Reconciliation for Under/(Over) Recovery	\$-
Estimated Total Cost of Energy Efficiency Program to be recovered	\$20,538,083
Estimated Retail kWh sales for FY2024	15,465,689,696
EE Factor for July 2023 to June 2024 (\$/kWh)	\$0.00133

7.0 Additional Information

While the TPP was under review by the Energy Bureau, LUMA continued to move forward with key activities that would lay the foundation for the launch of the TPP. These activities would also be instrumental in the forging of a structure to be further polished by the Implementation Contractor, leveraging the Contractor’s program delivery expertise.

The table below summarizes the activities in progress being implemented by LUMA since October 2022 in alignment with the Transition Period Plan.

Program (Energy Efficiency or Demand Response)	TPP Reference	Activity	Description
EE/DR	Program Management and Implementation Strategies Sec 5.0	Design and Implementation of Transition Programs	Evaluation of proposals in progress
EE	Education and Outreach Program Sec 4.2	Consumer education	Improvements to LUMA’s Energy Content webpage
EE	Education and Outreach Program Sec 4.2	Consumer education	Publication of energy savings calculator
EE	Education and Outreach Program Sec. 4.2	Consumer education	Energy savings tips on bill
EE	Street Light Conversion Program Sec. 4.5	Street Lighting Conversion Program	Repair or replace the streetlight infrastructure and upgrade to LED’s
EE	Education and Outreach Program Sec. 4.2	LUMA STEM Program	Integrate students of all ages in projects and discussions to help them learn from and contribute to innovative uses of AGI technologies
EE	Education and Outreach Program Sec. 4.2	Stakeholder Outreach	Active participation in bi-weekly meetings

DR	Emergency Demand Response Program Sec. 4.4.2	Pilot Program	Creation and presentation of Emergency Demand Response Pilot Program
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Exhibit 2

Calculated Rider Spreadsheet