

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

NEPR

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IN RE: OPTIMIZATION PROCEEDING OF
MINIGRID TRANSMISSION AND
DISTRIBUTION INVESTMENTS

CASE NO.: NEPR-MI-2020-0016

SUBJECT: Informative Motion in Attention to
Energy Bureau's Resolution and Order of May 11,
2023

**INFORMATIVE MOTION IN ATTENTION TO ENERGY BUREAU'S RESOLUTION
AND ORDER OF MAY 11, 2023**

TO THE PUERTO RICO ENERGY BUREAU:

COME NOW, LUMA ENERGY, LLC and LUMA ENERGY SERVCO, LLC

(collectively, "LUMA"), through the undersigned legal counsel and respectfully states and submits the following:

I. Introduction

1. On May 11, 2023, the Puerto Rico Energy Bureau of the Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order requiring the Puerto Rico Electric Power Authority ("PREPA") "to inform the status of the amendment to the Streetlighting Manual and submit it on or before May 18, 2023" ("May 11th Order") This Energy Bureau referenced, in turn, a Resolution and Order of August 6, 2021, wherein it had ordered PREPA "to amend the Streetlighting Manual to include only the essential physical and functional features and delete any specific reference to a brand."¹

¹ The undersigned met with counsel for PREPA to discuss the response to the May 11th Order and informed that LUMA would be submitting its own streetlighting standard document.

2. The mentioned manual refers to a Streetlighting Manual submitted by PREPA in this proceeding on May 31, 2021 (the “PREPA Streetlighting Manual”) as Exhibit D to a *Motion to Submit Final Design Criteria Codes and Standards for Streetlighting, Substations, Transmission and Underground Distribution Construction* of that date (“May 31st Motion”). In their May 31st Motion, PREPA also submitted Transmission Design Criteria, Substation Design Criteria, Transmission Manual and Underground Distribution Manual. *See*, May 31st Motion, Exhibits A, B, C, and E, respectively.

3. LUMA herein informs that as the operator of PREPA’s transmission and distribution system (“T&D System”)² LUMA is responsible for the technical design, engineering or construction criteria and standards of the T&D System (as explained further below). LUMA is in the process of developing Street Lighting Construction Standards which will be compliant with the Energy Bureau’s requirements in the May 11th Order. *See* Exhibit 1 (“LUMA’s Street Lighting Construction Standards”). LUMA’s Street Lighting Construction Standards are being developed by LUMA in a new updated manual to substitute the existing technical documents developed by PREPA on the subject, including the PREPA Streetlighting Manual. LUMA does not use the PREPA Streetlighting Manual. Therefore, rather than revising this latter manual that LUMA is not using, LUMA plans to submit the mentioned more updated manual.

4. As further explained below, LUMA is developing the Street Lighting Construction Standards as part of its responsibilities under (“T&D OMA”) and applicable laws.

² Pursuant to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement executed among PREPA, LUMA, and the Puerto Rico Public-Private Partnerships Authority dated as of June 22, 2020 (“T&D OMA”), LUMA was engaged to provide management and operation services, among others, of the T&D System and (*see* T&D OMA, Section 5.1 and Annex I) and serves the role of T&D System operator (*see id.* Annex I, Section IC).

II. Discussion

A. LUMA's rights and responsibilities under T&D OMA

5. After the submittal of PREPA's May 31st Motion, on June 1, 2023, LUMA commenced providing operation and maintenance services of the T&D System pursuant to the T&D OMA, which services are defined as "(i) provid[ing] management, operation, maintenance, repair, restoration and replacement and other related services for the T&D System, in each case that are customary and appropriate for a utility transmission and distribution system service provider, [...] and (ii) establish[ing] policies, programs and procedures with respect thereto" (collectively, the "O&M Services"). *See* T&D OMA Section 5.1.

6. The O&M Services are to be provided in accordance with "Contract Standards"³ (*see id.*), requiring compliance with Applicable Law⁴, Prudent Utility Practice, and other standards, terms, conditions, and requirements specified in the T&D OMA (*see id.* at page 9).⁵ "Prudent Utility Practice" is defined, in pertinent part, as "at any particular time, the practices, methods, techniques, conduct and acts that—at the time they are employed—are generally recognized and accepted by companies operating in the United States electric transmission and distribution business as such practices, methods, techniques, conduct and acts appropriate to the operation,

³ "Contract Standards" is defined as "the terms, conditions, methods, techniques, practices and standards imposed or required by: (i) Applicable Law; (ii) Prudent Utility Practice; (iii) applicable equipment manufacturer's specifications and reasonable recommendations; (iv) applicable insurance requirements under any insurance procured pursuant to [the T&D OMA]; (v) the Procurement Manuals, as applicable, and (vi) any other standard, term, condition or requirement specifically contracted in [the T&D OMA] to be observed by [LUMA]". *Id.* Section 1.1 at page 9.

⁴ "Applicable Law" is defined as including "any foreign, national, federal, state, Commonwealth, municipal or local law, constitution, treaty, convention, statute, ordinance, code, rule, regulation, common law, case law or other similar requirement enacted, adopted, promulgated or applied by any [governmental body][...]" in each case applicable to the parties to the T&D OMA. *Id.* at page 3.

⁵ These obligations are subject to the System Remediation Plan established to remediate, repair, replace and stabilize the T&D System to achieve Contract Standards pursuant to the T&D OMA. *See id.* Sections 4.1(d) and 5.1.

maintenance, repair and replacement of assets, facilities and properties of the type covered by the [T&D OMA]” *Id.* at page 26.

7. As part of the O&M Services, LUMA is required to “perform and supervise Capital Improvements, including engineering and related design and construction management services”. *Id.*, Section 5.5(a)(vi). LUMA is also responsible for the expansions and replacements of the T&D System to meet Contract Standards and “management and performance of construction of improvements thereto, including compliance with approved FEMA scopes of work for projects that are eligible for Federal Funding and required maintenance”. *See id.* Annex I, Section IA. In addition, LUMA is responsible for “all engineering activities related to the operation of the T&D System”, including, among others: “analyses related to, and maintenance of records and standards for design and engineering, design standards, construction standards, system mapping and related information, system performance, reliability, root cause analysis, equipment ratings, customer contact and needs assessment” and “expansions and replacements to meet the Contract Standards and [PREPA’s] then applicable Integrated Resource Plan ...”. *See id.* Annex I, Section ID. Furthermore, LUMA is responsible for “the improvement of existing, or development of additional/new, and the on-going maintenance of revisions to all T&D System drawings, specifications, construction manuals, equipment diagrams and other technical documentation”. *See id.* Annex I, Section IE.

8. It is important to note, with respect to these rights and responsibilities, that the T&D OMA provides that “except for the rights and responsibilities reserved to [PREPA] and Administrator as set forth in Article 6 ... [of the T&D OMA] or as may otherwise be expressly provided in [the T&D OMA], [LUMA] shall (A) be entitled to exercise all of the rights and perform

the responsibilities of [PREPA] in providing the O&M Services, and (B) have the autonomy and responsibility to operate and maintain the T&D System and establish the related plans, policies, procedures and programs with respect thereto as provided in [the T&D OMA]”. *Id.* Section 5.1. Therefore, LUMA is entitled to exercise the rights and perform the responsibilities of PREPA with respect to the maintenance and revision of design, engineering or construction criteria and standards, among others.

B. Applicable Law

9. LUMA’s rights and obligations described above are to be seen in light of the various policy mandates under Applicable Law. Specifically, Act 17-2019 (“Act 17”) establishes among its initial objectives “the fastest and most efficient reconstruction and modernization and revamping of the transmission and distribution system for the purpose of developing a robust and flexible system that can integrate new technologies, distributed generation, renewable energy sources, and energy efficiency mechanisms as well as provide consumers with alternatives in the energy sector, thereby maximizing available state and federal resources”. *See* Act 17, Section 1.6(1).

10. Act 17 also establishes, as two of seven guiding principles for the Puerto Rico Electric System, the principles of quality, by virtue of which “electric power services must meet the technical requirements and the reliability and quality standards established therefor”, and adaptability, leading to the “incorporation of scientific and technological advances that improve the quality and efficiency of the service rendered at the lowest possible cost”. *See id.* Section 1.4 (ii) and (iv). Act 17 further declares as public policies relating to infrastructure design, resilience, maintenance and security:

- (a) To ensure the security and reliability of our electric power infrastructure by **using modern technologies** that promote inexpensive and efficient operations and allow for the integration and dissemination of renewable sources;
- (b) To design the infrastructure of the Electrical System to be **more robust and resistant to weather events and other disasters, so as to apply and adopt design codes that meet the National standards in effect, as well as security requirements** for the utility poles that carry power distribution lines and telecommunication lines, among others;
[...]
- (d) To conduct the appropriate planning studies on the operating voltages of the transmission and distribution system in order to ensure the reliable operation thereof; specify and keep an inventory of the **Electrical System components that meet the standards in effect of the continental United States electric power industry**, which facilitates the replacement of such components as part of the regular maintenance or as a result of damage caused by force majeure, such as storms and hurricanes; provided, that this shall not exclude the possible use of Volt-Var Optimization as an efficiency technology;
[...]
- (f) To ensure continuous improvements for the electric power grid, in order to promote its resilience and diversification, by combining the generation capacity with the demand by region, thus facilitating the **effective transition to new technologies and renewable energy sources**;
- (g) To provide incentives for **grid modernization incorporating technology** as appropriate to attain the transformation goals without entailing excessive spending;
[...]

Id. Section 1.5(9). (Emphasis added).

Therefore, in managing the technical standards applicable to the T&D System, LUMA is required to take into account modern technologies, grid modernization, and current industry standards, among others, as per the applicable laws discussed above.

C. LUMA’s Review of Design, Engineering and Construction Technical Documents

11. Since June 1, 2021, pursuant to the provisions of the T&D OMA discussed above, LUMA has been responsible for the maintenance and revisions of the design, engineering or construction codes, standards, criteria, or manuals (collectively, “Technical Manuals”) for T&D System assets such as streetlights, substations, transmission, and underground distribution

construction, among others. In connection with its responsibilities under the T&D OMA, LUMA commenced an extensive review of existing Technical Manuals applicable to T&D System reconstruction, repair or new construction activities. This review has had the purpose of determining whether the existing Technical Manuals were suitable for such activities or whether there was a need to update any of these Technical Manuals. LUMA performed this analysis to ensure that these projects meet Contract Standards, including Prudent Utility Practice and Applicable Law, as well as, in many cases, FEMA requirements.

12. Among the Technical Manuals reviewed was the PREPA Streetlighting Manual and PREPA's Requirements and Standards for the Construction of Public Lighting System, Regulation 3237, which became effective on August 23, 1985. The PREPA Streetlighting Manual submitted by PREPA with their May 31st Motion is another technical document apparently intended to substitute, in whole or in part, Regulations 1876 and 3237.

13. LUMA has been developing LUMA's Street Lighting Construction Standards, in accordance with Prudent Utility Practice and Applicable Law as an updated and comprehensive manual.

14. LUMA provides herein a status report on the development of LUMA's Street Lighting Construction Standards. *See Exhibit 1*. Based on the information in the attached Exhibit 1, LUMA respectfully informs that it will be ready to submit LUMA's Street Lighting Construction Standards to the Energy Bureau by August 2023.

WHEREFORE, LUMA respectfully requests that the Energy Bureau **take notice** of the aforementioned and allow LUMA to submit its Streetlighting Construction Standards in lieu of the PREPA Streetlighting Manual by August 2023.

RESPECTFULLY SUBMITTED.

I hereby certify that I filed this motion using the electronic filing system of this Energy Bureau and that I will send an electronic copy of this motion to the attorney for PREPA, Joannely Marrero-Cruz, jmarrero@diazvaz.law.

In San Juan, Puerto Rico, this 18th day of May 2023.



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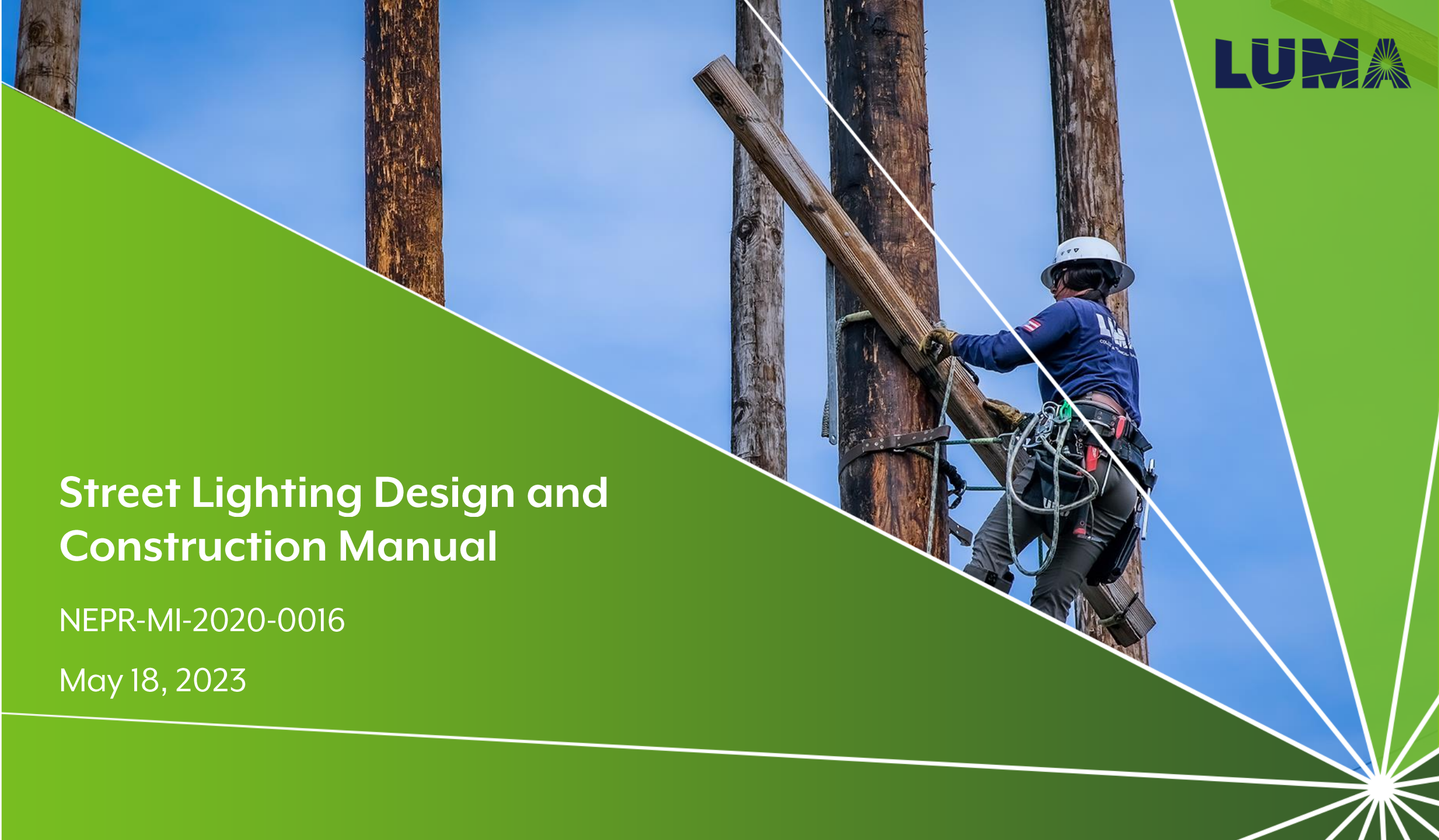
Exhibit 1
Status Report



Street Lighting Design and Construction Manual

NEPR-MI-2020-0016

May 18, 2023



Street Lighting Design and Construction Manual

G On target
 Y Caution
 R Off plan
 C Complete

Key Activity Summary
<ul style="list-style-type: none"> Research, analysis and standards drawings modifications Requirements updated, conforming current industry codes and standards <p><u>Next steps:</u></p> <ul style="list-style-type: none"> Research and analysis revisions Software-based testing and validation for streetlight design criteria and requirements Final compilation of standards' drawings and theoretical part to prepare the final manual

Key Milestones	Date	Status
Street lighting construction standards drawings revision and development	May 2023	C
Revision of design and construction manual	May 2023	G
Software based testing and validation	May 2023	G
Completed manual	August 2023	G

Risks / Issues:
<ul style="list-style-type: none"> Delays for all new LUMA's operated and maintained streetlighting projects. Continued project and resource planning making use of old standards.