

Descripción	Tipo	Origen	Dueño	Fecha
Urgent Request to Release LUMA from Compliance with Order to Include \$0 Value in Model Bill for EE Rider Factor	Moción	External	Margarita Mercado Echegaray	Aug 1, 2023 - 10:55 PM

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

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

CASE NO. NEPR-MI-2020-0001

**SUBJECT: Urgent Request to Release LUMA
from Compliance with Order to Include \$0
Value in Model Bill for EE Rider Factor**

**URGENT REQUEST TO RELEASE LUMA FROM COMPLIANCE WITH ORDER TO
INCLUDE \$0 VALUE IN MODEL BILL FOR EE RIDER FACTOR**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COME NOW LUMA Energy, LLC (“ManagementCo”), and **LUMA Energy Servco, LLC** (“ServCo”) (“LUMA”), through the undersigned counsel, and respectfully state and request the following:

I. Introduction

1. On July 17, 2023, LUMA filed with this Honorable Puerto Rico Energy Bureau (“Energy Bureau”) the reconciliations of the Fuel Charge Adjustment (FCA) and the Purchased Power Charge Adjustment (PPCA) riders costs for the months of May and June 2023, and the calculated factors for the FCA, PPCA, and Fuel Oil Subsidy (FOS) riders to be applied for the period from August 1st through September 30th, 2023, consistent with the approved and currently existing PREPA Tariff Book and the Final Rate Order. *See Submission of Reconciliations for May and June 2023, Submission of FCA, PPCA, PPCA, and FOS Calculated Factors, and Request for Confidential Treatment* (“July 17th Submission”).

2. With the July 17th Submission, LUMA filed the Energy Efficiency (“EE”) Rider’s calculated factor in identical form to that filed for approval as Exhibit 2 to the EE Rider Filing of May 19, 2023 in Case No. NEPR-MI-2022-0001, *In Re: Energy Efficiency and Demand Response*

Transition Period Plan (the “EE/DR TPP Case”).¹ LUMA requested that the Energy Bureau consider the EE Rider calculated factor in this Permanent Rate docket and direct that all future filings regarding the implementation of the EE Rider, including future calculated factors and reconciliations, be filed in this Permanent Rate docket.

3. After several procedural developments, on July 31, 2023, this Energy Bureau issued a Resolution and Order with the subject “Determinación sobre los factores de las Cláusulas de Ajuste Trimestral para el período de agosto a septiembre de 2023,” whereby, among others, it approved the FCA, PPCA reconciliations for the months of May and June 2023, set the FCA, PPCA, and FOS factors to be implemented from August 1, 2023 through September 30, 2023, and issued directives to implement the EE Rider (“July 31st Order”).

4. In what is relevant to the subject matter of this Motion, in the July 31st Order this Energy Bureau stated that it decided to implement the EE Rider starting August 1, 2023. *See* July 31st Order, page 7. However, this Energy Bureau also determined that the possibility of future availability of federal funds to implement EE programs warrants a stay of implementation of the EE Rider until it issues the next determination on the quarterly factors to apply starting on October 1, 2023. *See id.* page 8. Thus, implementation of the EE Rider is currently stayed until October 2023.

5. In the July 31st Order this Energy Bureau also directed LUMA to include the EE Rider on customer bills at \$0 value for the period of August 1, 2023, through September 30, 2023. *See Id.* LUMA hereby respectfully request that this Energy Bureau release it from complying with said order.

¹ LUMA originally filed the proposed EE Rider factor on April 11, 2023, Case NEPR-MI-2022-0001.

II. Discussion

6. As this Energy Bureau is aware, the current version of the Model Bill was approved by this Energy Bureau on November 16, 2021, in Case No. NEPR-MI-2021-0008. Minor non-substantive revisions were approved on February 11, 2022, in Case No. NEPR-MI-2021-0008. The Energy Bureau approved inclusion of the EE Rider in the Model Bill. However, the LUMA bill that is currently issued to customers does not include the EE Rider within current charges to customers because the EE Rider has not been implemented.

7. During the Technical Conference held on May 5, 2023, in the EE/DR TPP Case, LUMA requested ten days ahead of the date of implementation in the billing system, to receive the final order approving the EE Rider factor. *See* Audio Recording, May 5, 2023, 1:14:54-1:15:49.² Ms. Melanie Jeppesen, Director of Billing Services for LUMA explained that the ten days would allow LUMA time for testing to ensure that things work appropriately and to allow us to schedule with our staffing. *Id.* In response to questions by Energy Bureau consultant Asa Hopkins, Ms. Jeppesen agreed that to implement the EE Rider factor by July 1st, a time frame to receive an order from this Energy Bureau by mid-June would work, but approval of the EE Rider factor sooner was also acceptable. *Id.* 1:15:50-1:16:03. In response to questions by Associate Commissioner Ramos, Ms. Jeppesen further explained that although testing was completed on the billing system to incorporate the EE Rider, the requested ten days would allow LUMA time to ensure that the rates are correctly implemented in the billing system and run verification tests. *See id.*, 1:17:28 -1:18:56. Referencing the processes that happen when the Energy Bureau approves the FCA and PPCA factors and the annual factors for CILT and other subsidies each month of June, Ms. Jeppesen explained that:

² Available at <https://www.youtube.com/watch?v=HzsqcsKo06A>.

There are other programmatic and administrative functions that happen within our billing system such as things related to net metering and so forth. We have a lot of resources that end up working outside of normal business hours. This requires additional coordination and poses additional risks to the system and processes by consolidating a lot of activity into a short period of time with . . . changes. LUMA is asking for additional time to ensure it can process all of the changes without . . . midnight approvals and requirements. Typically, if we do not get the factors until the day before the rates go into effect, we are working overnight to make sure that they go into the system correctly and running verification tests. We request additional time to ensure to plan for staffing.

Id. (unofficial transcript of testimony).

8. Energy Bureau consultant Asa Hopkins stated for the record that one of the reasons of having LUMA file the EE Rider for the record then [April 2023] rather than in May, was to make sure that the Energy Bureau approved it sooner rather than later. *Id.* 1:19: 40 a 1:20:26. He further stated that this helped LUMA's programmatic planning and the implementation contractor to know how much money is coming when. *Id.*

9. Ms. Jeppesen's testimony in the May 5th Technical Conference held in the EE/DR TPP Case and the conversation with the Energy Bureau regarding timelines for issuance of an order to implement the EE Rider factor, support the need for at least ten days, and even more days, between approval of the EE Rider factor and the time to implement the EE Rider factor in LUMA's billing system and Model Bill. *See also Urgent Motion Requesting Determination Regarding the Revised EE Rider Petition and Clarifying the Calculated Factor in the Revised EE Rider Petition Submitted on May 19, 2023*, filed on June 29, 2023, Case No. NEPR-MI-2020-001 (stating that during the May 5th Technical Conference, LUMA requested the Energy Bureau provide its determination on the April 11th EE Rider Petition at least ten days prior to the rate implementation deadline of July 1, 2023, to allow for sufficient time for testing and to reduce risks to the system

given other rider changes and programmatic and administrative functions that happen within LUMA's billing system during such time period.).

10. In light of the explanations and requests made in the EE/DR TPP Case, LUMA hereby respectfully informs that it is not in position to implement the \$0 value for the EE Rider factor within twenty-four hours after receipt of the July 31st Order. Moreover, LUMA respectfully submits that the order to include an EE Rider line item in the bills issued to customers prior to the date of its implementation, will cause confusion among customers and is contrary to the legal requirement of a transparent bill.

11. Act 83 of May 2, 1941, as amended, known as the Puerto Rico Electric Power Authority Act ("Act 83"), Act 57 of May 27, 2014 ("Act 57-2014") and Act 17 of April 11, 2019 ("Act 17-2019"), establish the requirements of a transparent customer bill. Act 83 provides that with approval from the Energy Bureau, PREPA shall adopt a transparent bill that clearly itemizes the categories of the different charges and credits to consumers for each customer class of PREPA or its successor. *See* Act 83, Section 6, 22 LPRC §196 (i) (2022). Pursuant to Act 57-2014, as amended, electric service companies must itemize rates approved by the Energy Bureau in their customer bills, reflecting each one of the charges comprising the rate and in accordance with the transparent bill requirements established by the Bureau by regulation and as per the principles of Article 1.10 of Act 17 and Section 6 of Act 83. *See* Act 57-2014, Section 6.25(b), 22 LPRC §1054x (b).

12. As this Energy Bureau has stated, "[t]he purpose of [a] transparent bill is to provide PREPA's customers with detailed information regarding **the rates they pay** for their electric service and how their payments are applied to PREPA's operational and administrative expenses." Energy Bureau Resolution and Order of August 16, 2016, Case No. CEPR-AP-2016-0002 at page

1. (emphasis added). This honorable Energy Bureau has construed that a “totally transparent bill” is “a simple bill that is clear and discernible for the consumer.” Final Resolution and Order of January 10, 2017, Case No. CEPR-AP-2016-0002, at page 5. This means, “first ... that all the charges that are itemized in the bill correspond with the costs incurred by PREPA to provide electric service” and “[s]econd, it is a bill that can be understood by the consumer, with the purpose of placing the consumer in a better position to make informed decisions about its electricity consumption.” *Id.* This honorable Energy Bureau has also clarified that a bill with too much detail may not necessarily be transparent. *Id.* pages 5-6. This Energy Bureau further construed that the charges in the transparent bill “must reflect the costs that are reasonably distinguished by the consumers, that offer them clear price signals, in which they can trust to adjust their energy consumption patterns to more efficient energy consumption patterns.” *Id.* page 5.

13. Given that the Energy Bureau determined to stay implementation of the EE Rider factor until it approves the factors to be implemented starting on October 1, 2023, LUMA respectfully submits that inclusion of the EE Rider in the Model Bill issued to customers for months when the EE Rider will be stayed and thus, the costs of said rider will not be borne by customers, runs counter to the requirements of a transparent bill that is meant to inform customers of the charges included in the bill and that is easy to understand. Respectfully, LUMA understands that a new line item with a \$0 value does not reflect a current charge to customers, does not offer a price signal for customers to adjust their energy consumption patterns, and is not easily understood absent explanations why the line item with a \$0 value has been added to the bill.

14. LUMA issues electricity bills to customers that only include current charges. If LUMA adds the EE Rider factor to the bills sent to customers prior to it becoming a current charge and includes a \$0 value, customers will likely call or contact in person LUMA’s Customer

Experience Representatives to inquire about the new line item on their bills and the \$0 value. Further, LUMA expects that customers may file bill objections pursuant to Act 57-2014 inferring a mistake if a line item is billed at no value while other values are being charged. Thus, LUMA will need time to implement internal guidelines and work with the Independent Consumer Protection Office (“OIPC”) to align on how to best address customer inquiries regarding this new line item with a \$0 value in their bills. LUMA’s view is that it is important to provide information to customers on the functioning of the EE Rider and the programs it funds in order to decrease customer confusion on this new charge.

15. Given the aforementioned, LUMA respectfully requests that this Energy Bureau release it from complying with that portion of the July 31st Order that required LUMA to include a \$0 value for the EE Rider factor in the bills issued to customers for the period of August 1, 2023 through September 30, 2023. LUMA proposes to include the EE Rider factor in the bills issued to customers within ten days after the Energy Bureau implements the EE Rider factor.

16. LUMA respectfully submits that this request aligns with operational realities and is consistent with the legal requirements of a transparent bill that is easy to understand. Because per the order of this Energy Bureau the EE Rider is currently envisioned to come into effect in October 2023, the interest anent its implementation will not be abated by the request to delay including the EE Rider line item in bills until such time when the EE Rider is implemented.

17. LUMA remains committed to working with the Energy Bureau to implement the EE Rider factor.

WHEREFORE, LUMA respectfully requests that the Energy Bureau **take notice** of the aforementioned, **release** LUMA from compliance with that portion of the July 31st Order that required LUMA to include a \$0 value for the EE Rider factor in the bills issued to customers for

the period of August 1, 2023 through September 30, 2023, and **direct** that LUMA shall include the EE Rider factor in the bills issued to customers within ten days after the Energy Bureau implements the EE Rider factor.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 1st day of August 2023.

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 counsel for PREPA Joannely Marrero, jmarrero@diazvaz.law and to the Independent Consumer Protection Office, through Director Hannia Rivera, hrivera@jrsp.pr.gov.



DLA Piper (Puerto Rico) LLC
500 Calle de la Tanca, Suite 401
San Juan, PR 00901-1969
Tel. 787-945-9107
Fax 939-697-6147

/s/Margarita Mercado Echegaray
Margarita Mercado Echegaray
RUA NÚM. 16,266
margarita.mercado@us.dlapiper.com