

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

<b>NEPR</b>  <b>Received:</b>  <b>Aug 25, 2023</b>  <b>6:41 PM</b>
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IN RE: PERFORMANCE METRICS  
TARGETS FOR LUMA ENERGY SERVCO,  
LLC

**CASE NO. NEPR-AP-2020-0025**

**SUBJECT:**

**Request for Further Extension of Time to  
File Replies to Final Briefs by the Parties**

**MOTION REQUESTING FURTHER EXTENSION OF TIME TO FILE REPLIES  
TO FINAL BRIEFS BY THE PARTIES**

**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 February 7-10, 2023, this Honorable Puerto Rico Energy Bureau (“Energy Bureau”) held the Evidentiary Hearing to evaluate the *Request for Approval of Revised Annex IX to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (OMA)*.

2. 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. The Energy Bureau granted the request on February 22, 2023.<sup>1</sup>

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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.

3. On March 3, 2023, LUMA filed a *Motion Requesting the Energy Bureau to Amend Procedural Calendar* requesting to extend the calendar to complete the transcript of the proceedings and to submit the final substantive and legal briefs after the official transcripts were provided to the parties and the Energy Bureau has deemed that LUMA complied with its bench orders. The Energy Bureau granted the request on March 9, 2023.

4. On March 29, 2023, the Energy Bureau entered a Resolution and Order, providing the requested time for completing the transcript. The Energy Bureau extended the deadline to submit the final legal and substantive briefs to April 27, 2023.

5. On April 19, 2023, LUMA filed an *Informative Motion on the Evidentiary Hearing Transcript and Request for Final Amendment of the Procedural Calendar*, requesting to extend the deadline to file legal briefs until May 11, 2023.

6. On May 11, 2023, LUMA, LECO, and the OPIC filed their respective legal briefs before the Energy Bureau.

7. On May 22, 2023, LUMA filed a *Motion Requesting Extension of Time to File Replies to Final Briefs by the Parties*, requesting to extend the deadline to submit the replies to the final briefs by the parties until June 22, 2023. The Energy Bureau granted the request on May 23, 2023.

8. On May 25, 2023, the Energy Bureau issued a Resolution informing that it had taken official notice of a group of twelve (12) documents and directed all parties to file their position on taking official notice within fifteen (15) days of the notification of the Resolution (“May 25<sup>th</sup> Resolution”).

9. On June 9, 2023, LUMA filed *LUMA’s Response and Opposition to Resolution and order of May 25, 2023 Taking of Administrative Notice* objecting to the decision of the Energy

Bureau to take administrative notice as it did not comply with the requirements under Puerto Rico law and case law. LUMA objected to the Energy Bureau's decision on various grounds, including that it was entered in violation of LUMA's due process and that it had not met the requisites established under the Puerto Rico Rules of Evidence and its interpretative case law to take administrative notice of such documents.

10. On that same day, June 9, 2023, LECO filed *Local Environmental and Civic Organization's Response to Resolution for Official Notice and Request to Take Official Notice on Additional Information* ("LECO Request"). It requested the Energy Bureau to take official notice of additional documents referenced in LECO's legal brief, which includes more than 30 documents from news and media articles, reports, cases before the Puerto Rico Court of First Instance, Energy Bureau docket entries, and information submitted by LUMA in different cases.

11. On June 15, 2023, LUMA filed an *Urgent Request to Stay the Deadline to Submit Reply Briefs*. LUMA requested the Energy Bureau to stay the pending deadlines to submit the reply briefs until the controversy regarding the Energy Bureau's decision to take administrative notice of certain documents and LECO's subsequent request for the Energy Bureau to take administrative notice on another amount of documents. Also, LUMA informed the Energy Bureau of its intent to file an opposition to LECO's Request, requesting until June 29 2023, to do so.

12. On June 16, 2023, the Energy Bureau issued a Resolution granting LUMA until June 29, 2023, to file its opposition to LECO's Request. The Energy Bureau also ordered the stay of the deadlines to submit the reply briefs.

13. On June 29, 2023, LUMA filed *LUMA's Response and Opposition to LECO's Request on Taking of Administrative Notice*. Therein, LUMA opposed LECO's Request as it did not comply with Puerto Rico law and case law requirements. Moreover, LECO did not explain how the documents were related to any of the performance metrics at issue in this proceeding, nor has it established the accuracy and validity of the information presented. As such, LECO's Request was a clumsy intent to circumvent the directives of the Energy Bureau for presenting evidence in this instant proceeding.

14. On August 17, 2023, the Energy Bureau entered a Resolution denying LECO's Request. However, the Energy Bureau ruled that taking administrative notice of specific information of certain documents included in the May 25th Resolution was deemed appropriate. Finally, the Energy Bureau ordered the parties to file the reply briefs no later than twenty-one (21) days after the notification of the Resolution, including any clarification the parties may have on the facts subject to administrative notice.

15. LUMA is concurrently working on the replies to the legal briefs filed by LECO and ICPO. LUMA is also working on a clarification request and response to the facts subject to administrative notice by the Energy Bureau. However, as LUMA must file separate replies to LECO and ICPO's final briefs, this endeavor would be challenging to complete by the set due date, given that Attorney Margarita Mercado Echegaray from LUMA is currently attending an evidentiary hearing in an arbitration proceeding scheduled to finalize on August 31, 2023.

16. In view of the above, LUMA states that the September 7, 2023, deadline to submit the replies to the final briefs by the parties should be extended until September 21, 2023.

17. This extension 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 extend the deadline to submit the replies to the final briefs by the parties until at least September 21, 2023.

**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](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@agrailawpr.com](mailto:agraitfe@agrailawpr.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), [lvez@earthjustice.org](mailto:lvez@earthjustice.org), [rmurthy@earthjustice.org](mailto:rmurthy@earthjustice.org), [jcassel@earthjustice.org](mailto:jcassel@earthjustice.org).

In San Juan, Puerto Rico, this 25<sup>th</sup> day of August 2023.



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