

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

IN RE:

ENERGY EFFICIENCY AND DEMAND
RESPONSE TRANSITION PERIOD
PLAN

CASE NO.: NEPR-MI-2022-0001

SUBJECT: Motion in response to Energy
Bureau’s Determination in Resolution and
Order of August 29, 2023 Related to
Confidentiality Request

**MOTION IN RESPONSE TO ENERGY BUREAU’S DETERMINATION IN
RESOLUTION AND ORDER OF AUGUST 29, 2023 RELATED TO
CONFIDENTIALITY REQUEST**

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:

1. On August 23, 2023, LUMA submitted to this Puerto Rico Energy Bureau of the Public Service Regulatory Board (“Energy Bureau”) a *Motion to Submit Costs Associated with Emergency DR Program in Compliance with Resolution and Order of August 11, 2023, and Request for Confidential Treatment* (“August 23rd Motion”) in which LUMA provided, in an Exhibit 1 to the August 23rd Motion (“Exhibit 1”), the proposed estimated costs associated with the Battery Emergency Demand Response (“DR”) Program¹, including the proposed compensation to be offered to the DR aggregators that participate in this program, that would be

¹ This is a program under the Emergency Demand Response Program of LUMA’s Energy Efficiency and Demand Response Transition Period Plan submitted by LUMA on June 21, 2022 in Case No. NEPR-MI-2021-0006, *In Re: Demand Response Plan Review, Implementation and Monitoring*, as this document was considered, amended and approved by the Energy Bureau by Resolution and Order of February 16, 2023.

recovered through the Purchased Power Cost Adjustment mechanism (“PPCA”). In what is pertinent to this motion, in the August 23rd Motion, LUMA requested confidential treatment of the proposed compensation amount to be paid to DR Aggregators participating in the program set forth in Exhibit 1 (and associated details), as sensitive commercial information that should be protected from disclosure. In support of this request, LUMA explained that this compensation was intended to be a non-negotiable amount forming part of a standardized program and that, if disclosed, it could give rise to attempts by third parties to negotiate it. In addition, LUMA explained that disclosure could raise expectations that, if unmet, could result in disincentivizing participation in the Program and could result in creating a disadvantage to LUMA in its efforts to achieve program success. LUMA further indicated that the testing ground for this amount should be through the program implementation which experience could then be used to determine future adjustments to this amount.

2. On August 29, 2023, the Energy Bureau issued a Resolution and Order (“August 29th Resolution and Order”) in which, among others, it approved the compensation amount to be offered to the DR aggregators that participate in the Battery Emergency DR Program as proposed in LUMA’s August 23rd Motion. With respect to the confidentiality request in the August 23rd Motion, the Energy Bureau indicated that the reasons provided for such request did not persuade them to grant such request and ordered LUMA to, within five (5) days of the notification of the August 29th Resolution and Order to “provide compelling legal reasons to maintain such price confidential taking into consideration that such amounts shall be recuperated through the PPCA”.

3. LUMA herein informs that given that the DR aggregator compensation amount approved by this honorable Energy Bureau in the August 29th Resolution and Order is identical to the compensation amount proposed by LUMA in the August 23rd Motion, the concerns LUMA

raised in its August 23rd Motion regarding potential attempts by third parties to negotiate this amount or the potential creation of expectations that a different amount could be approved are no longer present. LUMA had raised these concerns in good faith in furtherance of ensuring program success. Such request was meant to be temporary- that is, meant to last only during the time the Energy Bureau was considering the appropriate amount and until it issued a determination on such amount, after which the approved amount would be published. Therefore, LUMA is no longer seeking confidential treatment of this information and respectfully withdraws its request for confidential treatment of this information in the August 23rd Motion.

WHEREFORE, LUMA respectfully requests that the Energy Bureau **take notice** of the aforementioned.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 5th day of September 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 the attorney for PREPA at jmarrero@diazvaz.law; the Independent Office for Consumer Protection at hrivera@jrsp.pr.gov; and agraitfe@agraitlawpr.com, bfrench@veic.org, shanson@veic.org; evand@sunrun.com, info@sesapr.org, jordgraham@tesla.com, forest@cleanenergy.org, customerservice@sunnova.com, JavRua@sesapr.org, and mrios@arroyorioslaw.com.



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