

**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:** Informative Motion Regarding  
Aggregation Agreements

**INFORMATIVE MOTION REGARDING AGGREGATION AGREEMENTS**

**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 11, 2023, the Puerto Rico Energy Bureau of the Public Service Regulatory Board (“Energy Bureau”) issued a Resolution and Order (“August 11<sup>th</sup> Order”) in which, among others, it ordered LUMA to file: (a) on or before August 23, 2023, for the Energy Bureau’s approval, the associated cost related to the compensation to be offered to the Demand Response (“DR”) Aggregators and/or ratepayers that participate in the Emergency DR Program under LUMA’s Energy Efficiency and DR Transition Period Plan<sup>1</sup> that was considered, amended and approved by the Energy Bureau on February 16, 2023<sup>2</sup> (the “Approved TPP”) to be recovered through the Purchased Power Charge Adjustment (“PPCA”); (b) within two weeks of the Energy Bureau's approval of the compensation to the participants, proof it has published Emergency DR

<sup>1</sup> LUMA filed this document with the Energy Bureau on June 21, 2022 in case NEPR-MI-2021-0006, *In Re: Demand Response Plan Review, Implementation and Monitoring*.

<sup>2</sup> Via Resolution and Order of that date in the instant proceeding.

Program terms, established agreements with DR Aggregators, and enrolled customers in the program; and (c) within two weeks thereafter, proof of customer enrollment and documentation showing that LUMA has the capability to call Emergency DR events. *See* August 11<sup>th</sup> Order on page 3.

2. In compliance with the August 11<sup>th</sup> Order, on August 23, 2023, LUMA submitted to the Energy Bureau the proposed estimated costs associated with the Emergency Battery DR Program (“BEDRP”) that forms part of the Emergency DR Program, including the cost related to the compensation to be offered to the DR Aggregators that participate in the BEDRP to be recovered through the PPCA. *See Motion to Submit Costs Associated with Emergency DR Program In Compliance with Resolution and Order of August 11, 2023, and Request for Confidential Treatment* filed August 23, 2023 (“August 23<sup>rd</sup> Motion”) and Exhibit 1. In addition, LUMA provided a proposed timeline to achieve the various tasks related to the implementation of the BEDRP and indicated it might not be able to meet the deadlines established by the Energy Bureau for some of these tasks given the time needed to complete certain intervening steps before the execution of the aggregator agreements, including the issuance of a Request of Acquisition to notify potential DR Aggregators about the opportunity of enrolling in the program and to gather qualifications to identify eligible DR Aggregators. *See id.* on page 11 and Exhibit 1, page 9. LUMA also indicated that some of the milestones in the August 11<sup>th</sup> Order may not be reached by the timeframes established by the Energy Bureau and are contingent on additional factors outside LUMA’s control. *See id.* Exhibit 1 at page 9.

3. On August 29, 2023, the Energy Bureau issued a Resolution and Order (“August 29<sup>th</sup> Resolution and Order”) determining, among other matters, that a separate qualification step for the DR Aggregators is not contemplated in the DR Regulation and is not required to achieve

the objectives of the Emergency DR Program, stated that it expected LUMA to be able to publish program terms without delay, and amended the timeline for certain Emergency DR Program milestones. *See* August 29<sup>th</sup> Resolution and Order at pages 4-5. Specifically, the Energy Bureau ordered LUMA to file, on or before September 22, 2023, proof of executed aggregation agreements for the Emergency DR Program and file, on or before October 13, 2023, proof of customer enrollment and the capacity to call Emergency DR events. *See id.* at page 5.

4. On September 20<sup>th</sup> 2023, LUMA filed an *Informative Motion and Request for Extension of Deadline To File Proof of Execution of Aggregation Agreements and Approval of Revised Emergency DR Program Budget* (“September 20<sup>th</sup> Motion”) whereby LUMA informed the Energy Bureau that it had launched the BEDRP webpage, published the BEDRP Guidelines and submitted the form of the Master Aggregation Agreements to interested DR Aggregators, and that DR Aggregators had posed questions regarding some of the provisions of the Master Aggregation Agreement which LUMA was then working on resolving. *See* September 20<sup>th</sup> Motion on pages 7-8. LUMA also indicated that it would likely need an additional week to execute the final Master Aggregation Agreements, barring any unforeseen complications with the DR Aggregators (*see id.* at page 8) and requested an extension of seven (7) days to resolve these questions and proceed with the execution of the Master Aggregation Agreement (*see id.*). In the September 20<sup>th</sup> Motion, LUMA also provided a revised timeline for the activities to implement the BEDRP. *See id.* Exhibit 1. In doing so, LUMA emphasized that it did not have certainty about when the DR Aggregators would be able to begin enrolling customers and dispatching events, as those activities are beyond LUMA’s control; that the revised timelines provided were LUMA’s then best estimates; and that the actual timeline is beyond LUMA’s control. *See id.* at page 8.

5. LUMA herein informs that, after the September 20<sup>th</sup> Motion, LUMA continued to receive questions and comments from interested DR Aggregators on the terms of the Master Aggregation Agreement. LUMA diligently continued to discuss and/or exchange communications with these DR Aggregators regarding their questions and concerns, which covered subjects relating to the clarity of some provisions of the Master Aggregation Agreement, conformity of some of its terms with industry practice, and practical application issues, among others. A total of six potential DR Aggregators have been engaging with LUMA to consider executing the Master Aggregation Agreement. During this process, LUMA understands that it has answered all substantive questions posed by DR Aggregators. With the benefit of the input obtained in this process, LUMA revised the Master Aggregation Agreement so as to address reasonable concerns, while ensuring that the document continues to be consistent with industry standards and meets the BEDRP and other applicable requirements. LUMA submitted the final Master Aggregation Agreement to each of the six interested DR Aggregators for signature, and the execution of the agreement is pending the DR Aggregators' signature.

6. At this point, LUMA respectfully submits it has taken all reasonable steps in its power to get the Master Aggregation Agreement executed by interested DR Aggregators, but getting the DR Aggregators to execute it is beyond LUMA's reasonable control. As informed in the September 20<sup>th</sup>, 2023 Motion, LUMA reiterates that the subsequent deadlines are also contingent on the DR Aggregators. LUMA will continue to engage with DR Aggregators to facilitate and expedite the process and commits to file proof of execution of these agreements as soon as at least one DR Aggregator has executed it. LUMA respectfully emphasizes that, as anticipated in the August 23<sup>rd</sup> Motion and September 20<sup>th</sup> Motion, this aggregator agreement execution deadline and the October 13<sup>th</sup> enrollment/event calling deadline are contingent on factors

outside LUMA's control and, therefore, LUMA does not have control over the achievement of these deadlines.

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

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 29<sup>th</sup> 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](mailto:jmarrero@diazvaz.law); the Independent Office for Consumer Protection at [hrivera@jrsp.pr.gov](mailto:hrivera@jrsp.pr.gov); and [agraitfe@agraitlawpr.com](mailto:agraitfe@agraitlawpr.com), [info@sesapr.org](mailto:info@sesapr.org), [bfrench@veic.org](mailto:bfrench@veic.org), [shanson@veic.org](mailto:shanson@veic.org), [evand@sunrun.com](mailto:evand@sunrun.com), [jordgraham@tesla.com](mailto:jordgraham@tesla.com), [forest@cleanenergy.org](mailto:forest@cleanenergy.org), [customerservice@sunnova.com](mailto:customerservice@sunnova.com), [javrua@sesapr.org](mailto:javrua@sesapr.org), and [mrios@arroyorioslaw.com](mailto:mrios@arroyorioslaw.com).



**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/ Laura T. Rozas  
Laura T. Rozas  
RUA Núm. 10,398  
[laura.rozas@us.dlapiper.com](mailto:laura.rozas@us.dlapiper.com)