

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

**NEPR**

**Received:**

**Nov 3, 2023**

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IN RE: PUERTO RICO ELECTRIC POWER  
AUTHORITY RATE REVIEW

CASE NO.: NEPR-AP-2023-0003

SUBJECT: Responses to First Requirement of  
Information

**MOTION SUBMITTING RESPONSES TO FIRST REQUIREMENT OF INFORMATION  
IN COMPLIANCE WITH OCTOBER 24<sup>th</sup> RESOLUTION AND ORDER**

**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 states and submits the following:

1. On June 30, 2023, the Puerto Rico Energy Bureau (the “Energy Bureau”) issued a Resolution and Order “to initiate an adjudicative process to review PREPA’s rates” (the “June 30<sup>th</sup> Order”). *See* June 30<sup>th</sup> Order at page 2.

2. To conduct such a review, the Energy Bureau divided the rate review process into three (3) separate phases. *Id.* Phase I entails an informal review of previously established filing requirements, including those established through Regulation 8720, New Regulation on Rate Filing Requirements for the Puerto Rico Electric Power Authority’s First Rate Case, Regulation 8720 of March 28, 2026 (“Regulation 8720”), that will apply to a rate order modification request filed in the instant proceeding, allocate responsibility for the various requirements across the relevant operating entities and ensure coordination among such entities. *Id.* Through Phase I, the Energy Bureau will also determine which filing requirements will apply during Phase II and which requirements would be deferred and addressed during Phase III. *Id.* at page 4.

3. Phase II entails the filing of a rate order modification request based on the applicable filing requirements adopted by the Energy Bureau as a result of Phase I. *Id* at page 2. Upon such Phase II filing, which the Energy Bureau predetermined in the June 30<sup>th</sup> Order to be “incomplete”, the Energy Bureau will begin its review of the rate order modification request and would adopt any interim decisions it deems appropriate. *Id* at pages 2-3. Finally, Phase III involves the “formal review of a complete rate filing [which] contain[s] the items addressed in an interim matter in Phase II” as well as the remaining filing requirements determined during Phase I to be deferred to Phase III. *Id* at page 4.

4. For Phase I, the Energy Bureau directed LUMA to file a report on or before October 4, 2023 describing LUMA’s understanding of the applicability of previously established filing requirements to the filing of a future rate order modification request, including, but not limited to, the current status of compliance with such requirements, whether LUMA has the capability to comply with such requirements, the timeline necessary to achieve compliance and the entities on which LUMA would rely on to comply with each filing requirement. *Id* at page 3.

5. The Energy Bureau also required LUMA to report on its progress in addressing the deficiencies in PREPA’s 2016 rate review application and described by the Energy Bureau in the 2017 Rate Order and the status of coordination activities among LUMA, Genera and PREPA in preparation for the upcoming rate review. *Id*. Finally, the Energy Bureau required LUMA to provide in its report a list of the schedules it intends to submit along with its Phase II filing, as well as a discussion on how the filing will address PREPA’s legacy debt and pension obligations. *Id*.

6. On October 4, 2023, LUMA the Rate Review Phase I Report (“Phase 1 Report”) in compliance with the June 30<sup>th</sup> Order. *See Motion in Compliance with June 30th Resolution and*

*Order*, Exhibit 1 to same and Appendix A with supporting spreadsheet with matrix on filing schedules.

7. On October 24, 2023, this Energy Bureau issued a Resolution and Order whereby it determined that LUMA's Phase I Report complied with the June 30<sup>th</sup> Order. This Energy Bureau also issued a First Requirement of Information included in Attachment A of the October 24<sup>th</sup> Order ("First ROI"). The First ROI includes request to LUMA and also to Genera PR, LLC and the Puerto Rico Electric Power Authority. Responses to the First ROI are due on November 3, 2023.

8. As *Exhibit 1* of this Motion, LUMA submits its response to the First ROI. *Exhibit 2* of this Motion includes Genera's response to the First ROI.

9. In connection with LUMA's Response to request for information five "PREB-LUMA-01-05," *see* RFI-LUMA-AP-2023-0003-20231024-PREB-LUMA-01-05, LUMA is submitting an updated Phase I Report that includes revisions to LUMA's assessment on the applicability of four of the filing schedules of Regulation 8720. As explained in RFI-LUMA-AP-2023-0003-20231024-PREB-LUMA-01-05, LUMA is submitting a revised assessment on schedules A-6, D-2, J-3 and J-4. In support thereof, LUMA is submitting an updated Phase I Report with revisions to Table 3-1 (Regulation 8720 – Assessment Summary) and Table 5-1 (Schedules LUMA intends to submit – Rate Review), and an updated Appendix A of the Phase I Report (Phase II Filing Schedules). *See Exhibit 3* of this Motion (Updated Phase 1 Report) and *Exhibit 4* of this Motion (Revised Appendix A, Phase II Filing Schedules).

10. As *Exhibit 5* of this Motion, LUMA submits a redline that compares the Phase 1 Report filed on October 4, 2023 with the updated version of the Phase 1 Report.

11. LUMA respectfully requests that this Energy Bureau accept the updated Phase 1 Report and LUMA's updated assessment of its ability to comply with filing requirements set forth

in Regulation 8720. LUMA understand that the updated Phase 1 Report furthers the intended purposes of Phase I to allow LUMA to state its position on the applicability of filing requirements, including those adopted in Regulation 8720, and propose filing requirements or amendments to prior filing requirements. The updates to the Phase 1 Report are also meant to place this Energy Bureau in a position to provide LUMA and the parties regulatory guidance on the requirements for Phases II and III and the rate review process initiated by this Energy Bureau in the June 30<sup>th</sup> Order. Given the early stage of Phase I proceedings and the fact that the Energy Bureau has requested information to review the Phase 1 Report, LUMA understands in good faith that consideration of the updated Phase 1 Report should not unduly delay proceedings.

**WHEREFORE**, LUMA respectfully requests that the honorable Energy Bureau **take notice** of the aforementioned, **deem** LUMA to be in compliance with the directives issued by the Energy Bureau in the October 24<sup>th</sup> Order, **take notice** of *Exhibit 2*, and **accept** the updated versions of the Phase 1 Report and Appendix A thereof that are included as *Exhibits 3 and 4* of this Motion. **RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 3<sup>rd</sup> day of November, 2023.

I hereby certify that this motion was filed using the electronic filing system of this Energy Bureau. I also certify that copy of this motion will be notified to the Puerto Rico Electric Power Authority, through attorneys Lionel Santa Crispín, [lionel.santa@prepa.pr.gov](mailto:lionel.santa@prepa.pr.gov); and to Genera PR LLC, through counsels of record, Jorge Fernandez-Reboredo, [jfr@sbglaw.com](mailto:jfr@sbglaw.com) and Alejandro López Rodríguez, [alopez@sbglaw.com](mailto:alopez@sbglaw.com).



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*Exhibit 1*  
*Responses to First ROI*

## Rate Review

# LUMA's Rate Review

## NEPR-AP-2023-0003

### Response: RFI-LUMA-AP-2023-0003-20231024-PREB-LUMA-01-01

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#### SUBJECT

Improving Cost-of-Service Study ("COSS")

#### REQUEST

Reference: Exhibit 1 - "2023 Rate Review Phase I Report," Section 2.0 - Progress Since 2017 Rate Order, Subsection 2.2 - Improving Cost-of-Service Study ("COSS").

On p.9, LUMA states, "As described above and because of the steps taken in the Load Forecasting Improvement Program, LUMA intends to file a partial COSS that uses direct allocation of costs, where available. This is an important advance over the previous COSS submitted by PREPA."

- a) Confirm that the partial COSS cited here is (or is not) the same as the "modified cost of service analysis" described in Appendix A for Schedules G-1, G-2, G-4, and G-6.
- b) Describe in detail how the proposed partial COSS addresses the Energy Bureau's concerns with PREPA's COSS from the 2017 Rate Order.
- c) Discuss how the partial COSS will differ from a full COSS currently projected for FY2028.
- d) Detail LUMA's timeline for drafting and finalizing the partial COSS.
- e) Does LUMA currently plan to submit a draft version of the partial COSS for review by the Energy Bureau and other stakeholders?

#### RESPONSES

- a) Confirmed. The partial COSS and the "modified cost of service analysis" are referring to the same thing.
- b) Unfortunately, many of the underlying conditions that resulted in major deficiencies in the COSS and described in the 2017 Rate Order<sup>1</sup> still exist. The partial COSS proposed in this rate review will not use any assumptions or estimates to cover for missing data. Rather, all cost allocation will

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<sup>1</sup> See pg. 110-117, Final Resolution and Order, *In re: Puerto Rico Authority Rate Review*, January 10, 2017 ("2017 Rate Order"), Case No. CEPR-AP-2015-0001.

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be done based on measurable items (customer counts, energy sales, etc.) and cost functionalization and classification will only be done to the level available in the budget process.

- c) A full COSS follows the guidance in the 1992 *NARUC Cost Allocation Manual*<sup>2</sup>, which is the industry standard for cost-of-service preparation in the United States. The partial COSS will be limited due to the pre-existing conditions of systems which are still the subject of improvement programs that are part of the System Remediation Plan. LUMA will not yet be able to derive demand allocators and cost functionalization in accordance with industry standard. As LUMA stated in the Phase 1 Report,<sup>3</sup> there is not yet a current load research sample to derive proper demand allocators, nor is there full regulatory accounting using a uniform system of accounts for proper cost functionalization. The inadequacy of the COSS in 2017 rate review was largely attributable to PREPA's attempt to create estimates for missing data and allocators, which were based on questionable assumptions.
- d) In order to develop its sales forecast, LUMA must receive macro-economic indicators such as Puerto Rico Gross National Product from the Financial Oversight and Management Board (FOMB), which are expected in January of 2024. Once the sales forecast is finalized, then LUMA can commence work on the partial COSS, which is expected to take additional time to conduct and finalize. Please refer to LUMA's timeline below:

**Table 1-01d. Timeline for Partial COSS**

Process Step	Responsible	Expected Timeline (2024)
Approve macro-economic indicators	FOMB	Mid-January
Develop and complete sales forecast	LUMA	End of January
Conduct partial COSS	LUMA	Mid-February

- e) No. LUMA is not currently planning on submitting a draft version of its partial COSS before the Phase II filing. LUMA understands that the PREB and stakeholders will have the opportunity to submit requests for information on the partial COSS when it is submitted.

<sup>2</sup> See National Association of Regulatory Utility Commissioner, "Electric Utility Cost Allocation Manual" of January, 1992, <[53A3986F-2354-D714-51BD-23412BCFEDFD \(naruc.org\)](#)>

<sup>3</sup> See Section 2.2 of LUMA's Exhibit "2023 Rate Review – Phase I Report" of October 4, 2023, Docket No. NEPR-AP-2023-0003.



## Rate Review

### LUMA's Rate Review

### NEPR-AP-2023-0003

#### Response: RFI-LUMA-AP-2023-0003-20231024-PREB-LUMA-01-02

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#### SUBJECT

Limiting Factors

#### REQUEST

Reference: Exhibit 1 - "2023 Rate Review Phase I Report," Section 3.0 - Review and Assessment of Regulation 8720 Filing Requirements, Subsection 3.2.1 - Limiting Factors.

In the section on PREPA Bankruptcy, LUMA discusses that "Unable to issue new debt, all utility capital investments must be paid for in the year they are incurred. This is commonly referred to as *cash financing*."

- a) What is LUMA's current estimate on the timeframe for PREPA to be able to issue new debt?
- b) When PREPA is capable of issuing new debt, how does LUMA anticipate updating effective rates to address this change in financing utility operations?

#### RESPONSES

- a) As acknowledged in the Energy Bureau's June 30<sup>th</sup> Order<sup>4</sup> as well as Section 5.1 of LUMA's Phase 1 Report<sup>5</sup>, there is significant uncertainty as to the outcome of the PREPA's restructuring process pursuant to Title III of PROMESA<sup>6</sup>. The Financial Oversight & Management Board (FOMB) for Puerto Rico, as PREPA's sole representative, is responsible for all aspects of Title III proceedings. As such, LUMA does not have visibility and cannot comment on the timeframe for PREPA to be able to issue new debt.
- b) Pending the outcome of PREPA restructuring and Title III matters, and assuming that reliable information on the market available for PREPA securities is available, a COSS in FY2028 could reflect PREPA's transition from a cash-financed utility to a traditional debt- and equity-financed utility.

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<sup>4</sup> See Resolution and Order of June 30, 2023, Docket No. NEPR-AP-2023-0003.

<sup>5</sup> See pg. 21 of LUMA's Exhibit 1 "2023 Rate Review Phase I Report" of October 4, 2023, Docket No. NEPR-AP-2023-0003.

<sup>6</sup> See Title III case under PROMESA pending for PREPA in the Title III Court, captioned as in *re Financial Oversight & Management Board for Puerto Rico as representative of Puerto Rico Electric Power Authority*, Case No. 17-BK-4780-LTS (D.P.R.).

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### LUMA's Rate Review

### NEPR-AP-2023-0003

#### Response: RFI-LUMA-AP-2023-0003-20231024-PREB-LUMA-01-03

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##### SUBJECT

Modification to the Test Year

##### REQUEST

In the section on Modification to the Test Year (p.18), LUMA proposes, "to use a forward looking test year; in other words, the test year, and the rate year will be the same: FY2025."

- a) Under this proposed approach, when does LUMA anticipate filing the rate review?
- b) Under this proposed approach, when does LUMA expect new rates to become effective?
- c) Provide a timeline with major milestones in the rate review for this proposal.

##### RESPONSES

- a) LUMA is currently carrying out a company-wide, bottoms-up budgeting effort to identify the level of funding needed for FY2025 and developing witness testimony to be provided as part of LUMA's Phase II filing. In order to present a complete filing, LUMA must await macro-economic indicators (e.g., Gross National Product) from the Financial Oversight and Management Board (FOMB) for Puerto Rico that factor into LUMA's sales forecast. These macro-economic indicators are not expected to be available until January of 2024. Once that data is available, additional time will be required to complete the partial COSS.
- b) Given that LUMA has proposed the test year and rate year both be FY2025, LUMA expects new rates to become effective July 1, 2024.
- c) LUMA understands from the June 30<sup>th</sup> Rate Order that the Energy Bureau will begin reviewing LUMA's Phase II filing, including accepting motions for intervention, once the Phase II report has been submitted. However, the formal review of the complete rate filing would not begin until after the Energy Bureau establishes guidelines on filing requirements and when the items that were identified as other Phase III requirements are available. As discussed in PREB-LUMA-01-02(a), the timeline and outcome of PREPA's restructuring process is uncertain at this time. LUMA is willing to work with the Energy Bureau to develop a procedural calendar for Phase III once the Energy Bureau deems the rate filing to be complete.

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Table 1-03c. Proposed Timeline

Phase	Process Step	Proposed End Date (2024)
II	LUMA Submits Phase II Filing & Testimony	April 1
II	PREB Accepts Motions for Intervention	TBD
III	Application Update – PREPA's Legacy Debt & Pension	TBD
III	PREB Determination on LUMA's Filing	TBD
III	PREB Issues a Procedural Calendar	TBD

## Rate Review

# LUMA's Rate Review

## NEPR-AP-2023-0003

### Response: RFI-LUMA-AP-2023-0003-20231024-PREB-LUMA-01-04

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#### SUBJECT

Modification to the Test Year

#### REQUEST

Reference: Exhibit 1 - "2023 Rate Review Phase I Report", in the section on Modification to the Test Year (p.17-18), LUMA proposes to use "FY2025 for the test year and the rate year" but does not describe how LUMA will estimate and support the revenue requirement in the future test year.

- a) Please describe how LUMA will develop the bottoms-up forecast for FY2025.
- b) Please describe how LUMA will validate the FY2025 forecast from recent actual financial results and Annual Budgets from NEPR-MI-2021-0004.
- c) Please describe how LUMA will reconcile the FY2025 forecast with most recent audited financial statements.

#### RESPONSES

- a) Consistent with its usual process of submitting an Annual Budget filing, LUMA will be performing a bottoms-up detailed forecast for FY2025. This process is an organizational-wide Department and sub-Department exercise within LUMA that takes multiple months to complete. The purpose is to develop the Transmission & Distribution GridCo Operating Expenditures, GridCo Non-Federally Funded Capital Expenditures, and T&D Federally Funded Capital Expenditures that are filed and supported within LUMA's Annual Budget filing. LUMA's financial budgets are included as Excel schedules in the Annual Budget Summary that supplements the Annual Budget filing. LUMA also provides supplemental information to the PREB for assessment and to facilitate understanding of LUMA's plans and the associated expenditures being requested.

LUMA's Finance Department leads the financial budgeting initiative by rolling out LUMA-wide Department Operating Expenditures, Non-Federally Funded Capital Expenditures, and Federally Funded Capital Expenditures templates that financially capture the planned expenditures for each business function. The LUMA Finance team works with each Department during the planning and budgeting process to support the buildup and costing of plans by ensuring a thorough understanding of the plans and accuracy and completeness of the projected plans and planned expenditures. The Annual Budgets are built at a sub-Department level by team leads within each Department. Each Department's plan is then reviewed and approved by the Departmental Head. Once approved by Department Heads, the sub-Department information is consolidated and

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reviewed and approved by LUMA's Leadership Team. In parallel to the approval process, the materials for filing are reviewed and prepared by the Regulatory Department, working with Finance, each Department and LUMA's Leadership Team. LUMA's Annual Budget filing is then submitted to the PREB for assessment and approval.

The same process outlined above is currently being carried out to prepare an organization-wide budget for FY2025 that will form the basis of the revenue requirement to be submitted in Phase II of this rate review. PREPA and Genera will conduct their own processes to develop the portion of the revenue requirement pertaining to their organizations and submit them to LUMA for consolidation into the total revenue requirement.

- b) LUMA relies on its current financial results, which are filed quarterly and annually with the PREB, as the most recent and relevant financial information to supplement the development of Annual Budget plans. Departments use their expertise and knowledge to develop projected plans and cost the plans appropriately. Current plan progress and financial results are used to support the development of these projected plans.
- c) As noted in response part (b) above, LUMA relies on its current financial results, which are filed quarterly and annually with the PREB, as the most recent and most relevant financial information to support the development of LUMA's Annual Budget(s). LUMA will not be validating the Annual Budget against the most recent audited financial statements because the PREPA audits are lagging in completion. The most recent audited financial statements currently available only cover up to the period ended June 30, 2021, which isn't a relevant comparison given changes in PREPA's operation and structure since this period.

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# LUMA's Rate Review

## NEPR-AP-2023-0003

### Response: RFI-LUMA-AP-2023-0003-20231024-PREB-LUMA-01-05

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#### SUBJECT

Report on Coordination

#### REQUEST

Reference: Exhibit 1 - "2023 Rate Review Phase I Report," Section 4.0 Report on Coordination

- a) Has LUMA consulted with PREPA, Genera, and FOMB on the proposed timeline provided in response to PREB-LUMA-01-04-c?
- b) Did each entity confirm they can support the proposed timeline?

#### RESPONSES

- a) Yes, the proposed timeline has been discussed with each of the entities.
- b) Yes. PREPA and Genera confirmed that they can support the proposed timeline for the Phase II filing. Information from FOMB is not required until Phase III. Due to the uncertainty in the timeline of the Title III proceeding, a timeline for Phase III has not been proposed or discussed.

As a result of ongoing collaboration among the parties, LUMA submits to the Energy Bureau minor updates to its Phase 1 Report and Appendix A – Phase II – Filing Schedules. Specifically, upon discussion with Genera subsequent to the Phase 1 filing, LUMA requests three (3) classification changes to be made to its Review and Assessment of Regulation 8720 Filing Requirements that was originally filed in the Phase 1 Report. These classification changes are intended to enhance the thoroughness of the parties' submissions in this Rate Review and to correct for a minor error. Further details are provided below:

1. The first classification change is for requirement A-6 - Detail of Types of Costs Recovered through Fuel Cost Adjustment ("FCA") and Purchased Power Cost Adjustment ("PPCA"). This is a legacy requirement relevant to the period of PREPA's first rate review, but for which the purpose is no longer necessary. Prior to the enactment of Act 57-2014, Contributions in Lieu of Taxes ("CILT") and subsidies costs were recovered through the FCA and PPCA mechanisms. Then, Act 4-2016 required that only fuel and purchased power costs be recovered through FCA and PPCA, respectively. This mandate was subsequently carried out in the 2017 Rate Order. Therefore, LUMA submits requirement A-6's purpose was satisfied by the previous rate review. As a result,

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this requirement is no longer relevant to the current rate proceeding and should be classified as *No - Not Applicable/Relevant*.

2. The second classification change is LUMA's response to requirement D-2 – Long Term Debt Detail, which is more appropriately classified as *Yes – No Alternative Proposed* rather than *Yes – Alternative proposed*. The initial rationale for this requirement in Appendix A – Phase II Filing Schedules referenced the IRP proceeding and CapEx / construction plans. This was an error by LUMA as CapEx / construction plans have no bearing on requirement D-2. LUMA submits requirement D-2 will be satisfied by the FOMB during Phase III of this rate review. The classification and rationale should be modified as described herein.
3. The third classification change is to schedule J-3 - Plan of Rider Surcharge Administration for Each Rider. Whereas it was originally classified as *Yes – No Alternative Proposed*, it should now be *Yes – Alternative Proposed*. LUMA proposes to modify the requirement description to include proposed changes to existing riders and surcharges, as well as proposed new riders and surcharges by the parties. This modification is important because it will allow for rate recovery of Genera's fuel incentive payments, and also this broader and more inclusive definition will facilitate a comprehensive rate review.

The proposed classification changes are summarized in the tables below. Table 1-05b-1 shows a redline to the original classifications provided by LUMA in Appendix A – Phase II – Filing Schedules, and Table 1-05b-2 shows a clean version of LUMA's updated classifications. LUMA refiles onto the record of this rate review as *Exhibit 3 Updated Appendix A of the Phase 1 Report* an updated version containing these classification changes.

**Table 1-05b-1. Redline Summary of Modifications to Requirements**

Schedule	Requirement Summary	Capability Classification	Updated Requirement Description for Current Rate Proceeding	Rationale
A-6	Detail of Types of Costs Recovered through FCA/PPCA	<del>Yes—No Alternative Proposed</del> No - Not Applicable	<del>Same as Regulation 8720</del> N/A	N/A This is a legacy PREPA requirement and not applicable to this Rate Proceeding.
D-2	Long Term Debt Detail	<del>Yes—Alternative Proposed</del> Yes – No Alternative Proposed	Same as Regulation 8720	<del>Classified as Partial—Alternative Proposed as PREPA's IRP proceeding is currently under review. The parties shall provide construction / Capex requirements in alignment with other long term plans or the previously approved IRP.</del> N/A

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Schedule	Requirement Summary	Capability Classification	Updated Requirement Description for Current Rate Proceeding	Rationale
J-3	Plan of Rider Surcharge Administration for Each Rider	<del>Yes – No Alternative Proposed</del> Yes – Alternative Proposed	<del>Same as Regulation 8720</del> Schedule J-3 shall contain a description of the current riders and surcharges, including any proposed modification, as well as any proposed new riders or surcharges.	N/A LUMA is broadening this requirement to include proposed modifications to all riders or proposed new riders, which contributes to a more comprehensive Rate Proceeding given PREPA's current circumstances.

Table 1-05b-2. Clean Summary of Modifications to Requirements

Schedule	Requirement Summary	Capability Classification	Updated Requirement Description for Current Rate Proceeding	Rationale
A-6	Detail of Types of Costs Recovered through FCA/PPCA	No - Not Applicable	N/A	This is a legacy PREPA requirement and not applicable to this Rate Proceeding.
D-2	Long Term Debt Detail	Yes – No Alternative Proposed	Same as Regulation 8720	N/A
J-3	Plan of Rider Surcharge Administration for Each Rider	Yes – Alternative Proposed	Schedule J-3 shall contain a description of the current riders and surcharges, including any proposed modification, as well as any proposed new riders or surcharges.	LUMA is broadening this requirement to include proposed modifications to all riders or proposed new riders, which contributes to a more comprehensive Rate Proceeding given PREPA's current circumstances.

As a result of these requirement classification changes, LUMA also submits the following changes to Table 3-1. Regulation 8720 – Assessment Summary that was included in the Phase 1 Report:

Ability to File	Schedule Count	Description
Yes – No Alternative Proposed <sup>1</sup>	<del>2</del> 420	Requirement met; no alternatives proposed
Yes – Alternative Proposed <sup>2</sup>	5	Requirement met; alternative proposed to schedule(s)



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Ability to File	Schedule Count	Description
Partial – Alternative Proposed <sup>3</sup>	19	Requirement partially met; alternative proposed because not all inputs are available
No - Not Applicable <sup>4</sup>	<del>46</del> 17	Requirement not applicable or not relevant
<b>Total</b>	<b>61</b>	
<sup>1</sup> LUMA can fulfill the requirement and does not require clarification. <sup>2</sup> LUMA can fulfill the requirement but proposes an alternative to the requirement to closer align with current circumstances. LUMA submits that these modifications result in schedules that will contribute more meaningfully to the rate review. <sup>3</sup> The requirements can be partially met and must be modified to reflect PREPA's circumstances. <sup>4</sup> The requirements are not relevant or applicable in the current rate review due to PREPA's current limitations.		

Similarly, the LUMA submits the following changes to Table 5-1. Schedules LUMA intends to submit – Rate Review that was also included in the Phase 1 Report.

Schedule
A-1: Determination of Base Rates Revenue Requirement
A-2: Test Year Result of Operations with Pro Forma Adjustments
A-5: Summary of Financial Position and Changes in Financial Position (Through End of Test Year and Projected Three Years)
<del>A-6: Detail of Types of Costs Recovered through FCA/PPCA</del>
C-1: Test Year Income Statement with Adjustments and Adjusted Results
D-4: Capital Lease detail
D-5: Long Term Purchased Power Agreements (test year and three subsequent years)
E-1: Balance Sheet (test year, two previous years, three subsequent years)
E-2: Income Statement (test year, two previous years, three subsequent years)
E-3: Statement of Changes in Financial Position (test year, two previous years, three subsequent years)
E-4: Statement of Changes in PREPA's Net Position (Deficit) (test year, two previous years, three subsequent years)
E-6: Departmental / Functional Operating Income Statements (test year, two previous years, three subsequent years)
E-7: Various Operating Statistics (i.e. debt service coverage, number of employees) (test year, two previous years, three subsequent years)
E-8: Detail of Contributions in Lieu of Taxes with each government client
E-9: Notes to the Financial Statements
F-1: Projected Income Statement at Present and Proposed Rates for three years
F-3: Projected Construction and Capital Expenditures for Three Years including alignment with IRP
F-4: Detailed Supporting Documentation for Projections
G-1: Fully Allocated Embedded Cost of Service at Present Rates
G-2: Fully Allocated Embedded Cost of Service at Proposed Rates
G-3: Revenue Allocation by Class at Proposed Rates
G-4: Expense Allocation by Class at Proposed Rates
G-5: Allocation Factors and Calculations

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Schedule
G-6: Optional: Alternative Methodologies for Calculating Embedded Cost of Service
H-1: Summary of Revenues by Class at Present and Proposed Rates
H-2: Revenue Requirement Analysis at Present and Proposed Rates (billing determinants)
H-3: Explanation of Changes between Current and Proposed Rates
H-4: Customer Bill Impact Analysis
H-5: Bill Count and Bill Frequency Analysis
H-6: Proof of Revenue
I-2: Audited Financial Statements
I-4: Business Plan for Rate Year
J-1: Proposed Tariffs
J-2: Current Tariffs Redlined
J-3: Plan of Rider Surcharge Administration for Each Rider
J-4: Energy Efficiency Rider
K-1: Description of Affiliates and Listing of Officers
L-2: Detail of Subsidies Included in Rates
M-1: Rate Design Proposal (including fixed charge, energy charge and where applicable, demand charge)
Pre-Filed Written Testimony for LUMA, Genera, and PREPA
Public Notice

LUMA refiles as *Exhibit 2 Updated Phase 1 Report* an updated version reflecting these classification changes and accompanying schedules. In addition, LUMA files *Exhibit 4 Redline comparing Phase 1 Report of October 4<sup>th</sup> with Updated Phase 1 Report*.

## Rate Review

# LUMA's Rate Review

## NEPR-AP-2023-0003

### Response: RFI-LUMA-AP-2023-0003-20231024-PREB-LUMA-01-06

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#### SUBJECT

Appendix A – Rate Review Phase I Matrix

#### REQUEST

Reference: Appendix A - "Rate Review - Phase I Matrix"

- a) Regarding Schedules A-4 and E-5, clarify whether LUMA anticipates the cost of depreciation being accounted for as an expense in the cost of service evaluated in this proceeding. If the answer is in the affirmative, please identify the schedule on which this expense will be quantified.
- b) Regarding Schedule A-4, clarify whether the requirement of this schedule would be met in part through the construction estimates under Schedule F-3.
- c) Regarding Schedules E-3 and E-4, will LUMA or other parties be able to provide information on *changes in* financial and net position over the test year and three years following the test year, even if the present or past positions are not known with certainty due to the items identified in LUMA's filing?
- d) Regarding Schedule F-2, will LUMA or other parties be able to provide information on *changes in* financial position at present and proposed rates, even if the present financial position is not known with certainty due to the items identified in LUMA's filing?
- e) Regarding Schedule M-1, does LUMA anticipate filing a rate design proposal in this proceeding that is based on the partial COSS? If not, on what foundation will LUMA base its rate design proposal?

#### RESPONSES

- a) In its Phase 1 filing<sup>7</sup>, LUMA classified both schedules A-4 - Summary of Plant in Service and Accumulated Depreciation and E-5 - Utility Plant in Service and Accumulated Depreciation by Account as *No - Not Applicable/Relevant*, indicating that the schedules would not be submitted as part of the current rate review. As stated in the Phase 1 filing, the information required in those schedules cannot be provided due to limitations of PREPA's financial reporting and the ongoing

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<sup>7</sup> See tab "Filing Requirements Appendix" of LUMA's Appendix A "Phase II – Filing Schedule" of October 4, 2023, Docket No. NEPR-AP-2023-0003.

## Rate Review

PREPA accounting and balance sheet remediation initiatives that are currently part of the Commonwealth's 2023 Fiscal Plan.<sup>8</sup>

As described in the Phase 1 Report<sup>9</sup>, because PREPA has been cash-financed for many years (i.e. capital expenditures are funded by rates charged (and cash received) in the year in which they are expended) the cost of depreciation will not be reported as an expense in the revenue requirement to be funded by rates charged in a future year because doing so would constitute double recovery of the costs in both years. Only after PREPA's bankruptcy status is resolved and it is able to raise capital by borrowing will the method of capital expenditure recovery be modified away from immediate recovery through current year rates (cash funding), to a traditional debt/equity financing and ratemaking model. In a future rate review, depreciation rates can be established, incorporated into the revenue requirement, and recovered through future rates.

Due to the limitations described above, LUMA is only able to report the cost of depreciation in the Statement of Revenues, Expenses and Changes in Net Position (Deficit) as included in the most recent audited financials, which is historical information only.

- b) In its Phase I filing, LUMA classified schedule A-4 - Summary of Plant in Service and Accumulated Depreciation as *No - Not Applicable/Relevant*, indicating that the schedule would not be submitted as part of the current rate review. As stated in the Phase I filing, the information required in that schedule cannot be provided due to limitations of PREPA's financial reporting and the ongoing PREPA accounting and balance sheet remediation initiatives that are currently part of the Commonwealth's 2023 Fiscal Plan.
- c) In its Phase I filing LUMA proposed to provide the most recent available audited financial statements to satisfy schedules E-3 - Statement of Changes in Financial Position and E-4 - Statement of Changes in PREPA's Net Position (Deficit). The audited financials include a Statement of Cash Flows, and a Statement of Revenues, Expenses and Changes in Net Position (Deficit) which generally matches the substantive financial information requested in schedules E-3 and E-4, respectively. Additionally, there is a comparative Statement of Net Position provided in the audited financial statements that allows for year-over-year analysis.

These schedules will include historical information only, while the test year in this rate review will be FY2025 with the three subsequent years being FY2026, FY2027, and FY2028. LUMA recognizes the mismatch between the time periods requested for schedules E-3 and E-4 and those presented in the most recent audited financial statements, which is why the classification by LUMA was *Partial – Alternative Proposed* for both E-3 and E-4 in its Phase I filing.

Forecasting changes in financial position for years into the future is very difficult at this time due to various factors. Among these factors are the Title III proceedings and PREPA restructuring,<sup>10</sup> which will have major impacts on PREPA's balance sheet, as well as the general uncertainty regarding the level of federal and other government funding years into the future and other

<sup>8</sup> See tab "Filing Requirements Appendix" of LUMA's Appendix A "Phase II – Filing Schedule" of October 4, 2023, Docket No. NEPR-AP-2023-0003.

<sup>9</sup> See pg.16-17 of LUMA's Exhibit "2023 Rate Review – Phase I Report" of October 4, 2023, Docket No. NEPR-AP-2023-0003.

<sup>10</sup> See Title III case under PROMESA pending for PREPA in the Title III Court, captioned as in *re Financial Oversight & Management Board for Puerto Rico as representative of Puerto Rico Electric Power Authority*, Case No. 17-BK-4780-LTS (D.P.R.).

## Rate Review

contingencies and uncertainties surrounding PREPA's financial status.<sup>11</sup> Therefore, rather than develop highly speculative projections of financial balances that ultimately may not contribute meaningfully to the rate setting process, LUMA plans to provide the most recent historical financial statements.<sup>12</sup>

- d) In its Phase I filing<sup>13</sup>, LUMA classified schedule F-2 - Projected Changes in Financial Position and Debt Service Coverage at Present and Proposed Rates for Three Years as *No - Not Applicable/Relevant*, indicating that the schedule would not be submitted as part of the current Rate Review. Generally, the major limitations described the response to part (c) apply to this requirement as well.
- e) Yes.

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<sup>11</sup> For more detail see Management's Discussion and Analysis in Puerto Rico Electric Power Authority's Audited Basic Financial Statements and Required Supplementary Information for the fiscal year ended June 30, 2021.

<sup>12</sup> It is worth noting that for the year ended June 30, 2021, the change in net position (deficit) for PREPA was \$(1,175,627,000) and the final net position (deficit) as of that date was (\$9,228,832,000).

<sup>13</sup> See tab "Filing Requirements Appendix" of LUMA's Appendix A "Phase II – Filing Schedule" of October 4, 2023, Docket No. NEPR-AP-2023-0003.

*Exhibit 2*

**In Re: Puerto Rico Electric Power Authority Rate Review**

Docket Number: NEPR-MI-2023-0003

Re: Memorandum in Compliance with October 24 Resolution and Order (subject: First Requirement of Information – Clarifying LUMA’s 2023 Rate Review –Phase 1 Report)

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**Order:**

On October 4, 2023, LUMA Energy, LLC (“LUMA”) filed a document titled *Motion in Compliance with June 30, 2023 Resolution and Order* which included various documents and exhibits.

On October 24, 2023, the Energy Bureau of the Puerto Rico Public Safety Regulatory Board (“PREB”) issued a Resolution and Order titled *First Requirement of Information – Clarifying LUMA’s 2023 Rate Review –Phase 1 Report* (“October 24<sup>th</sup> Resolution”). The October 24<sup>th</sup> Resolution ordered LUMA, the Puerto Rico Electrical Power Authority (“PREPA”) and Genera PR LLC (“Genera”) to provide responses to the Requirements of Information (“ROI”).

**Reference: Appendix A**

- a) Confirm that Genera is prepared to provide the information required to satisfy LUMA’s needs for each Schedule where PREPA is identified in Column F (“LUMA Dependency on Other Entities”)

**Response:****GPR – PREB ORDER – 10.24.2023**

Before addressing the specific ROI, it must be noted that although the October 24<sup>th</sup> Resolution states, as shown above, “(c)onfirm that Genera is prepared to provide the information required to satisfy LUMA’s needs for each Schedule where PREPA is identified in Column F (“LUMA Dependency on Other Entities”)”, it

is understood that the PREB actually requires Genera to “satisfy LUMA’s needs for each Schedule where Genera (not PREPA) is identified in Column E (not F) (“LUMA Dependency on Other Entities”).

Genera, pursuant to the updates presented in LUMA’s response to the requirements of Scheduler A-6, D2 and J3, will be ready to satisfy LUMA’s needs for each Schedule where Genera is identified in Column E (“LUMA Dependency on Other Entities”) on the agreed upon date in order to for LUMA to be in a position to file Phase 2 of the 2023 Rate Review.

Genera looks forward to working and complying with PREB for the benefit of the people of Puerto Rico.



*Exhibit 3*  
Updated Phase I Report



# Rate Review – Phase I Report

NEPR-AP-2023-0003

October 4, 2023

# 2023 Rate Review – Phase 1 Report

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# 2023 Rate Review – Phase 1 Report

## 0.0 Introduction

### PREB RESOLUTION AND ORDER INITIATING RATE REVIEW

Through Resolution and Order issued on June 30, 2023 (June 30<sup>th</sup> Order), the Puerto Rico Energy Bureau (PREB or Energy Bureau) initiated an adjudicative process to review the rates of the Puerto Rico Electric Power Authority (PREPA) and established a three-phase process to conduct its review.<sup>1</sup> Phase I entails a review of previously established rate review filing requirements after which the Energy Bureau will make a determination with regards to the particular requirements that will apply to a rate review application filed in the instant proceeding.<sup>2</sup>

The June 30<sup>th</sup> Order requires LUMA to file a report containing LUMA's understanding of the filing requirements and, in particular, to (1) describe LUMA's current understanding of the filing requirements for this rate review, (2) describe the current status for each requirement, (3) describe steps taken to address deficiencies identified in the 2017 Rate Order<sup>3</sup>, particularly the requirement for a current Cost-of-Service Study (COSS), (4) provide a list of schedules LUMA intends to submit, (5) report on the coordination between LUMA, PREPA and Genera, and (6) explain how the filing will address the proposed Legacy Debt Charge and PREPA's pension obligation costs.<sup>4</sup> It is noted that LUMA is not responsible for PREPA's legacy debt or pension obligations.

In compliance with the June 30<sup>th</sup> Order, LUMA has developed the following Report which contains its assessment and responses to the various requirements outlined in said Order. Section 1 of this Report provides an overview of historical and existing circumstances which informed LUMA's assessment of the filing requirements. Sections 2 through 5 address the information requested by the Energy Bureau in the June 30<sup>th</sup> Order.

It is important to note that LUMA is issuing this Report in response and compliance with a request by the Energy Bureau who initiated the rate review process. Under the T&D OMA, LUMA is “responsible for preparing, presenting, defending current or future [...] rate cases or other regulatory or legal matters as *they relate to the Agreement [T&D OMA]*, as the Owner's representative before the Energy Bureau and any other local, state or federal government agencies.”<sup>5</sup> [(T&D OMA Annex I, Sections I.G and I.H.) Emphasis added.) .), see also T&D OMA, Section 5.6 (g). That is, LUMA is not responsible for activities that go beyond the Operation and Maintenance (O&M) Services or are outside the O&M of the Transmission and Distribution System (T&D System). More specifically, LUMA is not responsible for regulatory and legal filings that pertain to other PREPA activities, including rates for the operation and

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<sup>1</sup> See Resolution and Order of June 30, 2023, Docket No. NEPR-AP-2023-0003.

<sup>2</sup> *Id.*

<sup>3</sup> See Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

<sup>4</sup> See page 2 of Resolution and Order of June 30, 2023, Docket No. NEPR-AP-2023-0003.

<sup>5</sup> *Id.* at ¶ I-3 of Annex 1.

# 2023 Rate Review – Phase 1 Report

maintenance of generation assets, or other PREPA activities such as Title III proceedings<sup>6</sup> under the Puerto Rico Oversight, Management, and Economic Stability Act<sup>7</sup> (PROMESA).

LUMA appreciates the opportunity to submit this Report to begin a constructive process, receive important guidance from the Energy Bureau, and support the robust electrical system that Puerto Ricans expect and deserve.

## 1.0 Background and Context

LUMA is tremendously proud of the progress it has made since assuming responsibility for the O&M of Puerto Rico's T&D System on June 1, 2021.<sup>8</sup> LUMA has made significant and measurable progress in improving electrical service across all categories in fulfillment of its mission for Puerto Rico: improved safety for employees and the public; a heightened focus on customer needs; a more reliable, resilient, and modern grid; effective emergency response; and an acceleration in the shift to renewable energy. These advances have been made in the face of the highest inflation in decades, unforeseen global events, supply chain disruptions, natural disasters, and many other challenges, both global and specific to Puerto Rico.<sup>9</sup>

While LUMA remains focused on making improvements for its customers, financial pressures that Puerto Rico and the electric system are facing have resulted in the need to be more vigilant and prudent than ever when it comes to responsibly spending and allocating resources across an improving, but still fragile system, while maintaining affordability for customers.

PREPA's current Base Rates were determined by the Energy Bureau in the 2017 Rate Order<sup>10</sup>. In its first three (3) years of operating the T&D System, LUMA has met its commitment of only using the revenues generated by the existing Base Rates<sup>11</sup>, while leveraging and maximizing federal funds for eligible capital works. Accordingly, LUMA has not sought any adjustments to PREPA's Base Rates, which are the portion of customer electric rates that fund the costs pertaining to LUMA's operation of the grid, as well as other PREPA costs, since it took over operations of the T&D System on June 1, 2021. Any, and all, adjustments made to rates over the three (3) years LUMA has operated the grid pertain to the cost of generation, fuel, and purchased power, or to other smaller adjustments to subsidies and other items, which are entirely outside of LUMA's control. As a reminder, LUMA does not generate electricity and does not determine the impact that fuel costs have on customer rates. Furthermore, LUMA does not benefit financially from any change in rates due to increased generation fuel costs and LUMA's costs to operate the T&D System are separate from the cost of fuel for generation or the cost of power purchased from private generators.

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<sup>6</sup> See Title III case under PROMESA pending for PREPA in the Title III Court, captioned as *In re Financial Oversight & Management Board for Puerto Rico as representative of Puerto Rico Electric Power Authority*, Case No. 17-BK-4780-LTS (D.P.R.).

<sup>7</sup> See [Pub. L. 114–187, §4, June 30, 2016, 130 Stat. 551](#), Known as “the Puerto Rico Oversight, Management, and Economic Stability Act” and also as “PROMESA”.

<sup>8</sup> Pursuant to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (“T&D OMA”) executed on June 22, 2020, among the Puerto Rico Electric Power Authority (“PREPA”), the Puerto Rico Public-Private Partnerships Authority (“P3A”) and LUMA Energy, LLC and LUMA Energy ServCo, LLC (collectively, “LUMA”).

<sup>9</sup> As described in Section 8 of LUMA Annual Report for Fiscal Year 2022 of October 29, 2022, Docket No. NEPR-MI-2021-0004.

<sup>10</sup> See Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

<sup>11</sup> *Id.*

## 2023 Rate Review – Phase 1 Report

Currently **LUMA's costs to operate the T&D System compose approximately 15% of the total customer rates**. The other 85% of customer rates are used to pay for generation operations (currently carried out by Genera PR for all of PREPA's thermal power plants), fuel for Genera operations, energy purchases made by PREPA from private generators including Ecoeléctrica and AES, PREPA corporate expenses (including Title III bankruptcy costs), subsidies to customers, public lighting and the Contribution-in-Lieu of Taxes to municipalities. As mentioned above, this remaining 85% of the costs are separate from LUMA's costs to operate the T&D System and are entirely outside of LUMA's control. During the first two (2) years of operation, and while meeting its commitment to stay within budget and not seek an increase to Base Rates, LUMA has improved reliability (by lowering the frequency of interruptions as measured by a 35% lower System Average Interruption Frequency Index (SAIFI), upgraded customer service (decreasing call wait times to an average below two (2) minutes), dramatically accelerated the deployment of rooftop solar (approving approximately 60,000 customers for net metering), and established effective emergency preparation and response in the face of natural disasters (restoring service to 90% of customers within 12 days after a system-wide blackout caused by Hurricane Fiona).<sup>12</sup>

During this time, LUMA has also dramatically increased the deployment of federal funding. When LUMA began operations in June 2021, PREPA had 41 projects with Initial Scopes of Work (SOW) to be submitted to the Federal Emergency Management Agency (FEMA) to rebuild the T&D System,<sup>13</sup> and only one (1) project had a Detailed SOW (DSOW). As of October 4, 2023, LUMA has initiated the approval process with FEMA for 400 projects, out of which 245 have been submitted with DSOWs. In total LUMA has \$11.3 billion of projects in the FEMA approval process. In addition, LUMA has received FEMA obligations for 122 projects representing an investment of \$613 million. Furthermore, LUMA currently has 99 projects under construction or energized with federal funding.

While reaching these milestones, LUMA has also been asked to expend significant management time and resources on broader energy system challenges, including the reorganization of PREPA and providing information and other technical assistance to the on-going Title III bankruptcy process. Finally, as part of meeting Puerto Rico's public energy policy objectives, LUMA has actively engaged in other activities that were not previously managed by PREPA, including design and launch of Energy Efficiency (EE) and Demand Response (DR) programs, Electric Vehicle (EV) infrastructure support initiatives, active support for growth and interconnection of utility-scale renewable energy including the Energy Bureau-led Requests for Proposals, and technical analysis and field work to add generation resources and reduce the risk of insufficient energy resources to meet customer demand (including the addition of 350 MW of temporary emergency generation by FEMA). PREB has also required additional reporting in multiple areas.

## 2.0 Progress Since 2017 Rate Order

### 2.1 Background

Among the determinations made in the 2017 Rate Order, the Energy Bureau found that "the gaps in data and the numerous subjective and debatable judgements in PREPA's COSS, leave us without confidence

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<sup>12</sup> See In Re: The Performance of the Puerto Rico Electric Power Authority, Docket No. NEPR-MI-2019-0007.

<sup>13</sup> See PREB Resolution and Order dated June 8, 2021 In Re: Review of the Puerto Rico Electric Power Authority's 10-Year Infrastructure Plan – December 2020.

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that the filed COSS describes cost causation accurately.”<sup>14</sup> The Energy Bureau found multiple problems with PREPA’s COSS, including (i) unreliable load data, (ii) lack of information with which to allocate demand amongst customer classes, and (iii) problems with functionalization and classification of costs.<sup>15</sup> Given these deficiencies, the Energy Bureau determined to “view PREPA’s COSS as a guide”<sup>16</sup> and set rates based on the information made available to the Energy Bureau at that point in time.<sup>17</sup> Accordingly, the Energy Bureau focused on setting PREPA’s revenue requirement, allocating the revenue requirement among the customer classes, determining permanent rates based on rate design, and reconciling permanent rates with provisional rates.

On April 24, 2017, the Energy Bureau opened a Notice of Investigation<sup>18</sup> to address the issues that were not addressed in the 2017 Rate Order. These topics were related to PREPA’s data limitations and COSS, “including the cost of service, marginal cost and rate design.”<sup>19</sup> Said proceeding has remained stayed since September 18, 2017.

This Section of the Report responds to item (c) of Part II a.i of the June 30<sup>th</sup> Order<sup>20</sup> and discusses the progress achieved to date in connection with the issues identified by the Energy Bureau in the 2017 Rate Order, and the status of ongoing efforts to achieve full remediation.

### 2.2 Improving the Cost-of-Service Study

The Energy Bureau stated that the COSS submitted in PREPA’s petition was “insufficient for the Energy Bureau to determine the reasonableness of the results.”<sup>21</sup> The Energy Bureau was concerned with the inputs used by PREPA to develop its proposed COSS, particularly the load data and PREPA’s functionalization and classification determinations.

#### LOAD DATA AND DEMAND ALLOCATORS

A load profile for a customer class is a graphic display of that customer’s load shape depicting how the demand for that particular customer class varies over time. Load shape is crucial information for procuring generation sufficient to meet expected load throughout each day and over the course of the year. The Energy Bureau noted that PREPA did not implement a load research program,<sup>22</sup> had load shapes that came from inconsistent years and data sources, were the same for large and small customers in the

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<sup>14</sup> See page 325 of Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

<sup>15</sup> See page 319-324 of Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

<sup>16</sup> *Id.* at ¶327.

<sup>17</sup> *Id.* at ¶¶326 – 329.

<sup>18</sup> See Resolution and Order of April 24, 2017, Docket No. CEPR-IN-2017-0001.

<sup>19</sup> See Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

<sup>20</sup> See page 3 of Resolution and Order of June 30, 2023, Docket No. NEPR-AP-2023-0003.

<sup>21</sup> See page 3 of Resolution and Order of November 3, 2016, Docket No. CEPR-AP-2015-0001.

<sup>22</sup> See page 112 of Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.



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same class and were “simulated” rather than observed.<sup>23</sup> The Energy Bureau also stated that additional information to facilitate a reasonable review of the load shapes was not included.<sup>24</sup>

### LUMA Progress

LUMA’s findings after conducting its gap assessment during the Front-End Transition Services period aligned with the determinations made by the Energy Bureau, in that the root cause of the problems with PREPA’s load data and demand allocators was the lack of a formal load research program that applied industry standard methodologies to forecast total system load. The data presented by PREPA was simulated and did not accurately reflect customers’ usage patterns and costs, and, consequently, was deemed by the Energy Bureau as insufficient to inform a COSS.<sup>25</sup> At the time of its 2016 rate review filing, PREPA had not performed load research and study activities since 2014 and PREPA stated that it lacked the necessary data and information to produce a reliable COSS.<sup>26</sup>

To address the load data and demand deficiencies, LUMA developed a Regulatory Long-Term Load Forecast Review<sup>27</sup> (hereafter referred to as the Load Forecasting Improvement Plan) to deliver a more accurate and useful forecast of monthly class-level consumption and annual peak demand. Many improvements to the Load Forecasting Improvement Plan have already been implemented, including but not limited to data remediation, regression model updates, and load research sample development. These enhancements implemented by LUMA support the use of improved data on load and demand allocators and will provide greater accuracy and a more reliable data set for review by the Energy Bureau.

LUMA’s Load Forecasting Improvement Plan contains five (5) phases<sup>28</sup>:

- 1) Internal Governance and Organization Design
- 2) Review Current and Future Methodologies
- 3) Establish Data Needs
- 4) Process Design
- 5) Build Capabilities

LUMA completed Phases 1 through 3 in 2022. For Phase 1, a Load Forecasting Governance Committee was formed and tasked with overseeing the load forecasting improvement process.<sup>29</sup> For phases 2 and 3, LUMA conducted an assessment of the current state and planned future state methodologies for load forecasting and established the data requirements necessary for the program. Phases 4 and 5 entail

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<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> See Verified Petition for Approval of 1) Permanent Rate and 2) Temporary Rates of May 27, 2016, Docket No. CEPR-AP-2015-0001.

<sup>26</sup> *Id.*

<sup>27</sup> See LUMA’s Motion on Submission of Regulatory Long-Term Load Forecast Review of June 30, 2022, Docket NEPR-MI-2021-0001.

<sup>28</sup> *Id.* at ¶¶41-42.

<sup>29</sup> See page 45 of LUMA’s Motion on Submission of Regulatory Long-Term Load Forecast Review of June 30, 2022, Docket NEPR-MI-2021-0001.

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designing processes and building load forecasting capabilities within the LUMA organization. Phases 4 and 5 are currently ongoing and are expected to be completed by December of 2023 on a timeline that can inform the Fiscal Year (FY) 2025 load forecast.

Some of the immediate improvements that LUMA has accomplished because of the Load Forecasting Improvement Plan are as follows:

- LUMA developed and implemented computer program code to correct historical anomalies in aggregate consumption data.
- LUMA applied a rigorous model testing approach and undertook several ancillary analyses to deliver a more robust unadjusted forecast of class-level consumption.
- LUMA is developing a load research sample by choosing a representative group of customers from each class, whose interval data can be collected. Their electrical demand will be measured hourly or every 15 minutes. LUMA anticipates that the data collection phase will begin in the third quarter (Q3) of calendar year (CY) 2023 and last at least a year. The goal of this sampling process is to find groupings of customers that accurately reflect the consumption patterns of the customers in each rate class, and other characterizations such as net metering.

All these improvements help to refine load forecasting accuracy.

In addition to the Load Forecasting Improvement Plan, LUMA's Automated Metering Infrastructure (AMI) Implementation Improvement Program will improve future COSS input by enabling reliable data inputs from the wider customer group. The AMI Implementation Program establishes two-way, remote meter reading reporting and control capabilities, which offer granular consumption data, bi-directional metering, outage notifications, and power quality measurements.<sup>30</sup>

As stated in the AMI Implementation Program brief in LUMA's FY2024 Annual Budget filing<sup>31</sup>, LUMA has begun the business process workshops and vendor RFI, and implementation is estimated to begin by the first quarter (Q1) of FY2025. Once LUMA's AMI Implementation Program is complete, LUMA will be able to collect detailed customer usage information on an hourly basis, identify system losses with system energy balances and electric consumption analysis, and enhance operational and financial performance.

With LUMA's Load Forecasting Improvement Program and AMI Implementation Program in place, LUMA will be able to collect granular customer consumption data to be used to model more accurate and data driven demand allocators in a future COSS.

As described above and because of the steps taken in the Load Forecasting Improvement Program, LUMA intends to file a partial COSS that uses direct allocation of costs, where available. This is an important advance over the previous COSS submitted by PREPA.

Going forward, LUMA expects that as the remaining programs in the Load Forecasting Improvement Program outlined above are implemented and their impacts are realized, the quality of the COSS it performs will further improve. LUMA expects to collect load data and develop demand allocators in line

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<sup>30</sup> See page 55 of LUMA's FY2024 Annual Budgets Filing of May 16, 2023, Docket No. NEPR-MI-2021-0004.

<sup>31</sup> *Id.* at ¶¶79-84.

## 2023 Rate Review – Phase 1 Report

with industry standard methodologies by FY2025, once the Load Forecasting Improvement Program has been fully completed, and that the quality of input data used to develop demand allocators will continue to increase as customer meters are replaced with automated metering technology.

### PREPA'S FUNCTIONALIZATION AND CLASSIFICATION DECISIONS

In the 2017 Rate Order, PREB identified five (5) key issues<sup>32</sup> with PREPA's decisions on cost functionalization and classification: incorrectly assigning fixed generation costs as demand-related, ignoring transmission that should have been classified to generation, incorrectly sub-classifying distribution as primary and secondary, allocating customer-costs based on meter cost, and assigning overhead costs based on labor.

The Energy Bureau stated that PREPA's inability to separate costs into the correct functions and categories stemmed from problems in PREPA's functionalization and classification of specific costs. PREPA, as a vertically integrated utility, did not track its actual costs in a manner that could be leveraged to determine cost causation by function or class. As a result, PREPA was unable to classify and functionalize costs in its COSS to the Energy Bureau's satisfaction.

PREPA's costs have yet to be unbundled, with balance sheet remediation activities currently underway to establish unbundled costs and baselines. Until such time when these activities are completed, LUMA does not have the benefit of meaningful balance sheet accounts representing historical information that can be used as a starting point to establish a uniform system of accounts to allow full and proper functionalization of costs by functions.

Puerto Rico's Financial Oversight and Management Board (FOMB) has allocated \$25 million to Puerto Rico's Public-Private Partnership Authority (P3A) in the FY2024 Certified Fiscal Plan for the Commonwealth of Puerto Rico for asset reconciliation and accounting remediation work.<sup>33</sup> This work is necessary to properly unbundle PREPA's historic costs into the generation, transmission, distribution, customer service, and other functions, such that baseline costs can be established and used to form rate design decisions. LUMA is not responsible for these activities and is unable to impact the remediation of financial information that existed before June 2021. LUMA's ability to operate in line with industry standards, including, but not limited to, the development of a fulsome embedded COSS, is dependent on PREPA completing its accounting and balance sheet remediation efforts.

The introduction of the T&D System Operator (LUMA) and the Legacy Generation Assets Operator (Genera) facilitates the functionalization of accounting information, as each function will be recorded and reported separately as per its Operating and Maintenance Agreement (OMA) requirements.<sup>34</sup> LUMA is only able to influence the manner in which it records its costs and the quality of the data that it creates. To

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<sup>32</sup> See page 110-111 of Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

<sup>33</sup> See page 46 of Fiscal Plan for Commonwealth of Puerto Rico, *Volume 1 Transformation Plan, Restoring Growth and Prosperity*, certified as of April 3, 2023 by the Financial Oversight and Management Board for Puerto Rico (last seen, October 4, 2023).

<sup>34</sup> Pursuant to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement ("T&D OMA") executed on June 22, 2020, among the Puerto Rico Electric Power Authority ("PREPA"), the Puerto Rico Public-Private Partnerships Authority ("P3A") and LUMA Energy, LLC and LUMA Energy ServCo, LLC (collectively, "LUMA") and Pursuant to the Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement executed on January 24, 2023, among the Puerto Rico Electric Power Authority ("PREPA"), the Puerto Rico Public-Private Partnerships Authority ("P3A") and Genera PR, LLC (Genera).

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that end, in its System Remediation Plan (SRP), LUMA explained that its Critical Financial Controls and Critical Financial Systems programs,<sup>35</sup> which are expected to be in a remediated state in FY2027, will improve and remediate the financial management systems and technology to enable LUMA to better functionalize and classify its financial information going forward, and to unbundle the costs of the T&D System. The delineation of the GenCo entity will effectuate functionalized generation costs for use in a future COSS.

### LUMA Progress

LUMA has made significant progress on the planned activities for the Critical Financial Controls Program. Of the 63 critical gaps that were identified prior to Commencement, seven (7) have been fully remediated, 52 have been partially remediated, and only four (4) remain open.<sup>36</sup> Although many improvements pertaining to the Critical Financial Systems Program are in progress, LUMA was able to make progressive changes in a short period of time. In FY2022, LUMA implemented an online budgeting and forecasting system that links to the actual operation and maintenance expenses in Oracle and fully remediated the gap pertaining to the manual timecard process by implementing an automated system where employee expenses can be recorded to a project and task structure.<sup>37</sup>

Based on the foregoing, PREPA, LUMA and Genera continue to work toward unbundling the financial records of the utility through several initiatives. LUMA is encouraged by the allocation of funding for the remediation of PREPA's balance sheet as this represents a critical step in unbundling the costs of the utility and improving the data that supports functionalization and classification decisions.

#### 2.2.1 Projected Timing for Cost of Service Study

As with any study, the quality of the COSS will improve over time as the quality of inputs improves. Properly developed load forecasts and remediated financial records will facilitate a meaningful COSS that can be relied upon for cost causation and used to inform rate design.

While there are many moving parts to perform a COSS in accordance with best practices, LUMA has determined that based on the schedule for financial controls and financial systems programs in FY2027 and assuming completion by other parties of their financial remediation activities, a full COSS could be performed in FY2028. This schedule also depends on availability of audited results for the first year of PREPA's operations as a transformed utility (FY2024) and completion of the balance sheet remediation activities funded through the 2024 Certified Fiscal Plan.

The timing of the COSS also depends on completion of Phase 5 of the Load Forecasting Improvement Plan (currently scheduled for completion in December 2023 to inform the FY2025 load forecast). The AMI Implementation Program will further improve the quality and granularity of customer consumption data, but its completion is not required for LUMA to deliver a COSS.

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<sup>35</sup> See LUMA's Motion on Submittal and Request for Approval of System Remediation Plan of February 24, 2021, Docket No. NEPR-MI-2020-0019.

<sup>36</sup> *Id.* at ¶¶273-275.

<sup>37</sup> *Id.* at ¶¶282-283.

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### 2.3 Improving Rate Design

In its Notice of Investigation,<sup>38</sup> the Energy Bureau outlined several deficiencies with PREPA's proposed rate design and deferred these discussions to a subsequent proceeding, also initiated in the Notice of Investigation. As previously mentioned, this investigation proceeding remains stayed and has not been reopened by the Energy Bureau.<sup>39</sup>

#### LUMA Progress

Generally, LUMA determined that rate design deficiencies were most likely attributed to data limitations and the inappropriate estimation of the marginal cost of generation (further addressed in the next section). The successful execution of LUMA's Load Forecasting Improvement Program and AMI Implementation Program, described above, will enable the development of a robust load forecast research study and detailed data collection to support effective rate design. These elements will enable LUMA to address many of the deficiencies/concerns raised by the Energy Bureau in both the Rate Order and the Notice of Investigation. The Load Forecasting Improvement Program will allow LUMA to identify and track various metrics (energy usage over time, demand at various times, number of customers of various types) across customer classes and at a granular level of detail that can be leveraged for rate design. The AMI Implementation Program will allow the collection of granular data surrounding customer consumption behavior that was not available in the prior rate case and can be used to inform rate design in a future COSS.

### 2.4 Marginal Costs

Marginal cost refers to the incremental cost of producing or serving one more unit (kWh of energy, or one more customer served etc.). Utility marginal cost studies are used to determine these incremental costs. In the 2017 Rate Order, the Energy Bureau determined that PREPA's marginal cost studies were unreliable.<sup>40</sup> The Energy Bureau identified various deficiencies, including but not limited to: under-estimating fuel prices, ignoring renewable resource costs, assuming load-related distribution plant would not increase O&M costs, and failing to distinguish between marginal and average losses.<sup>41</sup> PREPA's data limitations impede full recording of the marginal cost of generation.

#### LUMA Progress

LUMA has implemented several measures to improve its ability to estimate costs until verifiable data is available. Since LUMA took over operations in June 2021 up until the introduction of Genera as the GenCo operator, LUMA has been able to estimate system average hourly costs. As was reported to the Energy Bureau, LUMA required access to the OSI-PI data software in order to enable the calculation of more accurate hourly marginal energy costs. LUMA made multiple attempts to obtain access from PREPA to the OSI-PI fuel data to better understand each plant's hourly fuel consumption and electric

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<sup>38</sup> See Resolution and Order of April 24, 2017, Docket No. CEPR-IN-2017-0001.

<sup>39</sup> See Resolution and Order of October 5, 2023, Docket No. CEPR-MI-2017-0007.

<sup>40</sup> See page 118-119 of Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

<sup>41</sup> *Id.*

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production to be able to perform marginal cost analyses. PREPA refused on multiple occasions to provide this data. Despite the Energy Bureau ordering them to share the OSI-PI data requested by LUMA, PREPA ultimately stalled until Genera assumed operation and maintenance of PREPA's power plants on July 1, 2023.<sup>42</sup> Genera has since provided LUMA with access to this data.

PREPA's loudest objection to allowing access to the data was their statements that the data was unreliable and incomplete. LUMA is currently assessing the data quality.<sup>43</sup> Once the OSI-PI data is analyzed and to the extent that the data from OSI PI is reliable, LUMA anticipates having better information to estimate fuel prices in a future marginal cost study. Implementation of the new Energy Management System (EMS) will allow provide more complete, real-time generation plant fuel data that can be used to inform marginal cost studies. This implementation is documented in the SRP Program: *Critical Energy Management System Upgrades*<sup>44</sup>, which is expected to reach its remediated state in FY2025.

Due to the low effective availability of generation resources, System Operations was rarely faced with dispatch decisions that absolutely depended on accurate marginal cost information. With very low resource adequacy most dispatch decisions during recent years have been based on dispatching enough generation to meet customer demand and to avoid load shed. At the same time LUMA was responding<sup>45</sup> to PREPA's refusal to provide the OSI-PI data, LUMA undertook several actions to improve the precision of the generation fleet estimated cost structure. This helped improve decision-making but also helped explain retrospectively, what had happened to production costs over the previous period. The improvement steps LUMA has undertaken are listed below for reference:

1. Several exercises to run PROMOD analysis retrospectively over several months to improve LUMA's understanding of estimated heat rates. Heat rate is not a single, static measure, but is modeled using a "heat rate curve" which reflects how efficiency changes with small increases in production. PREPA did not perform a heat rate test on its units in over 10 years<sup>46</sup>, but Genera has already presented its plan to perform these tests on an annual basis which is more consistent with Prudent Utility Practices.
2. LUMA worked across the System Operations and analytical teams to ensure consistency of data and analysis of actuals across different software tools (including PROMOD as well as other more operationally focused software). This effort included review of heat rate data, but also ramp times, production costs, start-stop limitations, and several other variables. These assumptions are now consistently applied in all models.

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<sup>42</sup> See page 2 of Resolution and Order of March 24, 2023, Docket No. NEPR-MI-2023-0001.

<sup>43</sup> See PREPA's Motion to Inform PREPA's Position in Regard to the OSI PI Data of March 31, 2023, Docket No. NEPR-MI-2023-0001.

<sup>44</sup> See page 46 of LUMA's Motion of August 23, 2023, Docket No. NEPR-MI-2021-0001.

<sup>45</sup> See LUMA's Response to PREPA's Motion to Inform PREPA's Position in the Regard to the OSI PI Data of April 27, 2023, Docket No. NEPR-MI-2023-0001.

<sup>46</sup> See PREPA's Motion to Inform PREPA's Position in Regard to the OSI PI Data of March 31, 2023, Docket No. NEPR-MI-2023-0001.



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3. LUMA procured a license for Plexos to run in conjunction with PROMOD. The two models are similar, but Plexos enables faster analysis of what-if scenarios that can assist diagnostic analysis. After the LUMA Plexos model was built, LUMA had to install the system variables to support the model and to calibrate Plexos output with PROMOD analysis to ensure consistency of analysis and assumptions.
4. LUMA updated the data in the EMS module for Systems Operations' control room personnel to support decision-making with automated data. This involved training personnel on new procedures, integrating more SCADA data directly into the EMS module, as well as repairs or modifications to hardware to allow various data collection devices to operate automatically.
5. Installed Automatic Generation Control (AGC) capability to several more individual units at San Juan and Palo Seco as part of a longer-term implementation of AGC to all units. Prior to June 2021 commencement, AGC was only available at Ecoelectrica, and some of the units at Aguirre.
6. Developed a single set of all planning data variables in Plexos such that it could be shared with research teams, including personnel from the National Laboratories and the technical consultant supporting the Integrated Resource Plan (IRP) preparation. A single set of data allows for consistent operating and cost data assumptions to avoid multiple, conflicting planning studies (as occurred prior to LUMA).

Regarding the impact of renewable resource costs, LUMA is implementing a multi-phase, comprehensive process to develop a new IRP.<sup>47</sup> LUMA expects to deliver an updated IRP in 2024, at which time the estimated impact of renewable resource costs as well as other resource costs will be available and will better represent the current and future system. Typically, utilities and planning entities utilize outputs and other data from the integrated resource plan process to inform a rate review. Scheduling a rate review soon after the conclusion of an IRP proceeding would allow for incorporation of more current and more accurate marginal cost and general resource cost data in the rate review process.

Finally, similar to the COSS and rate design sections above, root causes for challenges with determining the marginal cost of generation can be traced to PREPA's lack of formal load forecasting and the consolidation of costs as an integrated utility company, without detailed functional cost data.

## 2.5 Conclusion

In conclusion, since starting operations, LUMA has taken significant steps to address the deficiencies and flaws in PREPA's review process identified by the Energy Bureau in the 2017 Rate Order<sup>48</sup> and the Notice of Investigation<sup>49</sup>. The impacts of the quality of data and the system controls that LUMA inherited continue to hinder full preparation of cost of service and comprehensive rate design. LUMA is currently advancing the key programs to overcome the inherited deficiencies. These programs include: **Load Forecasting Improvement Plan, AMI Implementation Program, Critical Financial Controls Program,**

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<sup>47</sup> See In Re: Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modifies Action Plan, Docket No. NEPR-MI-2020-0012.

<sup>48</sup> See Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

<sup>49</sup> See Resolution and Order of April 24, 2017, Docket No. CEPR-IN-2017-0001.

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**Critical Financial Systems Program, and Critical Energy Management System Upgrades Program.**<sup>50</sup> Prudently completing the implementation of these programs will take years.

### 3.0 Review and Assessment of Regulation 8720 Filing Requirements

In this section, LUMA will respond to items (a) and (b) of Part II.a.i. of the Energy Bureau's June 30<sup>th</sup> Order.<sup>51</sup>

It must be noted at the outset that the filing requirements of Regulation 8720<sup>52</sup> reflected PREPA's specific operational, financial, and organizational circumstances at that point in time. Subsequent to issuance of the filing requirements in Regulation 8720<sup>53</sup> and the 2017 Rate Order,<sup>54</sup> PREPA filed for bankruptcy<sup>55</sup> under Title III of PROMESA and implemented a system-wide transformation, having separated its T&D and Generation operations, transferred O&M responsibility over to separate entities and reorganized its operations into separate subsidiaries, including GenCo, HydroCo and PropertyCo.<sup>56</sup> As a result of these changes, limitations exist in LUMA's ability to meet certain requirements of Regulation 8720<sup>57</sup>. The filing requirements applicable to this proceeding must be modified to align with PREPA's current structure and challenges as outlined below.

#### 3.1 Assessment Summary

LUMA has fully assessed the requirements from Regulation 8720<sup>58</sup> and grouped them into one of four (4) categories depending on whether the capability to fulfill the requirement exists. A summary is provided in Table 3.1 below along with a brief explanation of requirements. LUMA has consulted with PREPA and Genera on its Assessment Summary and LUMA understands that they are supportive of LUMA's proposal(s).

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<sup>50</sup> See LUMA's FY2024 Annual Budgets Filing of May 16, 2023, Docket No. NEPR-MI-2021-0004.

<sup>51</sup> See page 3 of Resolution and Order of June 30, 2023, Docket No. NEPR-AP-2023-0003.

<sup>52</sup> See Regulation 8720, known as "New Regulation on Rate Filing Requirement for the Puerto Rico Electric Power Authority's First-Rate Case" of March 28, 2016.

<sup>53</sup> See Regulation 8720, known as "New Regulation on Rate Filing Requirement for the Puerto Rico Electric Power Authority's First-Rate Case" of March 28, 2016.

<sup>54</sup> See Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

<sup>55</sup> See Title III case under PROMESA pending for PREPA in the Title III Court, captioned as *In re Financial Oversight & Management Board for Puerto Rico as representative of Puerto Rico Electric Power Authority*, Case No. 17-BK-4780-LTS (D.P.R.).

<sup>56</sup> Pursuant to the Puerto Rico PREPA-GENCO-HYDROCO Operating Agreement ("Hydroco") executed on June 16, 2023, among the Puerto Rico Electric Power Authority ("PREPA"), PREPA Genco LLC, PREPA Hyrodco LLC, LUMA Energy ServCo, LLC ("LUMA"), and the Puerto Rico Public-Private Partnership Authority ("P3A").

<sup>57</sup> See Regulation 8720, known as "New Regulation on Rate Filing Requirement for the Puerto Rico Electric Power Authority's First-Rate Case" of March 28, 2016.

<sup>58</sup> See Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.



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**Table 3-1. Regulation 8720 – Assessment Summary**

Ability to File	Schedule Count	Description
Yes – No Alternative Proposed <sup>1</sup>	20	Requirement met; no alternatives proposed
Yes – Alternative Proposed <sup>2</sup>	5	Requirement met; alternative proposed to schedule(s)
Partial – Alternative Proposed <sup>3</sup>	19	Requirement partially met; alternative proposed because not all inputs are available
No - Not Applicable <sup>4</sup>	17	Requirement not applicable or not relevant
<b>Total</b>	<b>61</b>	
<sup>1</sup> LUMA can fulfill the requirement and does not require clarification. <sup>2</sup> LUMA can fulfill the requirement but proposes an alternative to the requirement to closer align with current circumstances. LUMA submits that these modifications result in schedules that will contribute more meaningfully to the rate review. <sup>3</sup> The requirements can be partially met and must be modified to reflect PREPA's circumstances. <sup>4</sup> The requirements are not relevant or applicable in the current rate review due to PREPA's current limitations.		

### 3.2 Assessment Detail

#### 3.2.1 Limiting Factors

##### PREPA'S BANKRUPTCY

In the context of a healthy utility, the rate base/rate of return ratemaking model is used for assessment. The revenue requirement includes expenditures required to serve the utility's customers at a reasonable cost plus a positive return based on capital investments and coverage of utility debt, and an allowance to recognize the risk of such investments. For example, a return on equity component recognizes the cost of attracting investors. The cost of debt is based upon the (weighted average) cost of debt issuances. It is called the "rate base approach" because the capital expenditures become the base on which investors who finance those expenditures earn a return.

The revenue requirement must allow the utility to cover its O&M expenses, depreciation, taxes, and interest on long-term debt. Rate cases are warranted when utility revenues result in net income that does not allow the utility the opportunity to earn the authorized overall rate of return (ROR). This is the model widely used in the mainland U.S. (and Canada) to set rates for investor-owned utilities and some public power entities. Both investor-owned and government-owned utilities require rates sufficient to generate positive cash flow, or net income, to provide dividends to owners and maintain cash reserves to handle unforeseen situations. Additionally, a history of stable, positive cash flow is one of the factors rating agencies use for evaluating the debt issuances of utilities; the better financial health a utility is in, the lower the cost of borrowing, which reduces costs to customers.

In the 2017 Rate Order, the Energy Bureau already noted that PREPA's weak financial condition meant its only source of funding for long-term capital expenditures was from customers.<sup>59</sup> As PREPA remains under

<sup>59</sup> See Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

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Title III bankruptcy, that is still true today.<sup>60</sup> Unable to issue new debt, all utility capital investments must be paid for in the year they are incurred. This is commonly referred to as *cash financing*. Utilities that cash finance their operations have revenue requirements that are the sum of the regular O&M expenses, taxes, and capital expenditures in the test year. By not financing some of the capital investment with debt, the debt service coverage amount – adopted by the Energy Bureau in the 2017 Rate Order<sup>61</sup> – is not a relevant factor for establishing a net income component for the revenue requirement. Instead, the net income to the utility is some percentage of the capital spend.

### BALANCE SHEET REMEDIATION

When PREPA can issue new debt, the utility can convert to traditional regulatory financing using a combination of debt and equity to fund capital investment. In preparation for this eventuality, PREPA's balance sheet must be restored, and a set of regulatory accounting books needs to be established for each of the operating companies. These regulatory books will show the amount of gross plant investment, the accumulated depreciation, and the authorized depreciation rates for each type of plant. This will allow LUMA to present regulatory income statements which will form the basis of future rate reviews. Despite this balance sheet remediation receiving some funding in the FY2024 Certified Fiscal Plan, LUMA, PREPA and Genera will not be positioned to establish robust a Federal Energy Regulatory Commission (FERC) Uniform System of Accounts until FY2027.

### MODIFICATION TO THE “TEST YEAR”

Regulation 8720 defines a “Test Year” as a “one-year historical period used to determine rate base, operating income, interest coverage ratio and debt service coverage ratio. The historical test year to be used in the formal application is the most recent 12-month period for which audited financial statements exist.”<sup>62</sup> In the prior rate review, PREPA proposed to use FY2014 as a test year because it was the most recent 12-months for which audited information was available, and then adjusted that data to take into account: the Restructuring Support Agreement between PREPA and certain bondholders, internal PREPA restructuring, budgets for FY2015 and FY2016, the actual spending for those two (2) years, and actual spending for the beginning of FY2017.<sup>63</sup> The PREB found 2014 to be outdated and an inaccurate representation for predicting the FY2017 revenue requirement. In the absence of current audited data, the Energy Bureau relied on:

1. PREPA's unaudited operating results for the 12 months ended June 30<sup>th</sup>, 2016.
2. PREPA's approved budget for FY2017.
3. PREPA's business plan (May 2016).

It is LUMA's understanding that in the 2017 Rate Order, the Energy Bureau directed that future rate proceedings include the most recent fiscal year, adjusted for known and measurable changes from that

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<sup>60</sup> See Title III case under PROMESA pending for PREPA in the Title III Court, captioned as *In re Financial Oversight & Management Board for Puerto Rico as representative of Puerto Rico Electric Power Authority*, Case No. 17-BK-4780-LTS (D.P.R.).

<sup>61</sup> See Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

<sup>62</sup> See Regulation 8720, known as “*New Regulation on Rate Filing Requirement for the Puerto Rico Electric Power Authority's First-Rate Case*” of March 28, 2016.

<sup>63</sup> See page 30 of Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

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year. As of the date of this filing, PREPA and its auditors are still working on the FY2022 audit. The most recent available audited financial statements are for FY2021 and were prepared according to Generally Accepted Accounting Principles (GAAP). However, even if the audited financials were available, LUMA, PREPA and Genera are in the process of making significant changes to transform Puerto Rico's electric system and as a result FY2022 will not be a good cost indicator for FY2025 and beyond. On this basis, it would be insufficient for ratemaking.

Accordingly, LUMA proposes to use a forward-looking test year; in other words, the test year, and the rate year<sup>64</sup> will be the same: FY2025. This approach has the advantage of setting rates to forecasted costs in a bottom-up approach consistent with the Energy Bureau's June 30<sup>th</sup> Order. The revenue requirement in the rate review will be based on the true costs of providing service in Puerto Rico in the test year.

This approach is not unusual in North America. A 2013 research paper by the National Regulatory Institute surveyed 21 state utility commissions and concluded that commissions using forward-looking test years in setting utility rates have had an overall positive experience with no intention to discard forward-looking test years in subsequent rate cases.<sup>65</sup>

In addition, the pace at which the activities performed by the utility are transforming means that a well-developed future outlook is a more accurate depiction of spend profile than historical information. This was confirmed in a 2010 study prepared for the Edison Electric Institute. Although the study focused on investor-owned utilities, the essential conclusion was that shifting to a future test year is a prime strategy when cost increases are being stimulated by the need to rebuild and expand legacy infrastructure to meet environmental and public policy goals.<sup>66</sup> As described throughout this section, that is the situation LUMA, and the Energy Bureau find themselves in.

For these reasons, LUMA respectfully submits it will use FY2025 for the test year and the rate year.

### 3.3 Conclusion

For convenience and to facilitate review, LUMA submits as Appendix A, an Excel workbook containing detailed assessments of the requirements set out in Regulation 8720<sup>67</sup>, which include: whether LUMA requires clarifications, whether LUMA has the capacity to fulfill the requirement, and whether meeting the requirement will depend on any other entity. For each of the requirements that LUMA proposes to include in Phase II and Phase III of the rate review, the current status is "under development." Finally, LUMA has provided updated descriptions for each requirement that more closely match the current PREPA operating structure and capabilities (Column F of Appendix A). These updated schedule descriptions are submitted as the applicable filing requirements for this rate review.

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<sup>64</sup> The Energy Bureau considers the "rate year" the first 12-month period in which the new rates will be in effect.

<sup>65</sup> See K. Costello, National Regulatory Research Institute "[Alternative Rate Mechanisms and Their Compatibility with State Utility Commission Objectives](#)" at page 74, April 2014 (last seen September 21, 2023).

<sup>66</sup> See M.N. Lowry, D. Hovde, L. Getachew, M. Makos, Edison Electric Institute "[Forward Test Years for US Electric Utilities](#)" at page 1, August 2010, (last seen September 21, 2023)

<sup>67</sup> See Regulation 8720, known as "New Regulation on Rate Filing Requirement for the Puerto Rico Electric Power Authority's First-Rate Case" of March 28, 2016.

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This information provides requirement level detail supporting the information provided in Section 3 of this filing, in a format that is user friendly and allows for line-by-line analysis and explanation.

### 4.0 Report on Coordination

In this Section, LUMA will respond to item (e) of Part II.a.i of the June 30<sup>th</sup> Order<sup>68</sup>.

LUMA requires input from Genera and PREPA to complete 12 of the 61 filing requirements in Regulation 8720<sup>69</sup>. LUMA hosted a virtual workshop with Genera and PREPA on September 12, 2023, to discuss these requirements and establish key contacts to engage for future collaboration.

In Table 4-1 below, LUMA provides its preliminary witness list, with the caveat that the list is subject to change. Similar preliminary witness lists for Genera and PREPA are attached herewith as Appendices B and C, respectively.

**Table 4-1. Preliminary Witness List - LUMA**

Witness Name	Position	Organization	Issues Covered
Mario Hurtado	Chief Regulatory Officer	LUMA	<ul style="list-style-type: none"> <li>• PREPA's Structure</li> <li>• Revenue Requirement</li> </ul>
Corey Schneider	Chief Financial Officer	LUMA	<ul style="list-style-type: none"> <li>• Revenue Requirement</li> <li>• Test Year</li> </ul>
Joseline Estrada	Manager, Load Forecasting & Research	LUMA	<ul style="list-style-type: none"> <li>• Load Forecast</li> </ul>
Shay Bahramirad	Senior Vice President, Capital Programs	LUMA	<ul style="list-style-type: none"> <li>• Non-Federally Funded Capital Expenditures</li> </ul>
Donato Cortez	Vice President, Special Projects	LUMA	<ul style="list-style-type: none"> <li>• Operating &amp; Maintenance Expenditures</li> </ul>
Sam Shannon	Associate Director	Guidehouse	<ul style="list-style-type: none"> <li>• Rate Design</li> <li>• Cost of Service</li> </ul>

### 5.0 Preliminary List of Schedules

In this Section, LUMA responds to items (d) and (f) of Part II.a.i. of the Energy Bureau's June 30<sup>th</sup> Order<sup>70</sup>.

<sup>68</sup> See page 3 of Resolution and Order of June 30, 2023, Docket No. NEPR-AP-2023-0003.

<sup>69</sup> See Regulation 8720, known as "New Regulation on Rate Filing Requirement for the Puerto Rico Electric Power Authority's First-Rate Case" of March 28, 2016.

<sup>70</sup> See page 3 of Resolution and Order of June 30, 2023, Docket No. NEPR-AP-2023-0003.

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As detailed in Regulation 8720<sup>71</sup>, as well as Appendix A of this Report, LUMA intends to submit the following schedules in its Phase II Filing:

**Table 5-1. Schedules LUMA Intends to Submit – Rate Review**

Schedule
A-1: Determination of Base Rates Revenue Requirement
A-2: Test Year Result of Operations with Pro Forma Adjustments
A-5: Summary of Financial Position and Changes in Financial Position (Through End of Test Year and Projected Three Years)
C-1: Test Year Income Statement with Adjustments and Adjusted Results
D-4: Capital Lease detail
D-5: Long Term Purchased Power Agreements (test year and three subsequent years)
E-1: Balance Sheet (test year, two previous years, three subsequent years)
E-2: Income Statement (test year, two previous years, three subsequent years)
E-3: Statement of Changes in Financial Position (test year, two previous years, three subsequent years)
E-4: Statement of Changes in PREPA's Net Position (Deficit) (test year, two previous years, three subsequent years)
E-6: Departmental / Functional Operating Income Statements (test year, two previous years, three subsequent years)
E-7: Various Operating Statistics (i.e. debt service coverage, number of employees) (test year, two previous years, three subsequent years)
E-8: Detail of Contributions in Lieu of Taxes with each government client
E-9: Notes to the Financial Statements
F-1: Projected Income Statement at Present and Proposed Rates for three years
F-3: Projected Construction and Capital Expenditures for Three Years including alignment with IRP
F-4: Detailed Supporting Documentation for Projections
G-1: Fully Allocated Embedded Cost of Service at Present Rates
G-2: Fully Allocated Embedded Cost of Service at Proposed Rates
G-3: Revenue Allocation by Class at Proposed Rates
G-4: Expense Allocation by Class at Proposed Rates
G-5: Allocation Factors and Calculations
G-6: Optional: Alternative Methodologies for Calculating Embedded Cost of Service
H-1: Summary of Revenues by Class at Present and Proposed Rates
H-2: Revenue Requirement Analysis at Present and Proposed Rates (billing determinants)
H-3: Explanation of Changes between Current and Proposed Rates
H-4: Customer Bill Impact Analysis

<sup>71</sup> See Regulation 8720, known as “New Regulation on Rate Filing Requirement for the Puerto Rico Electric Power Authority's First-Rate Case” of March 28, 2016.

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Schedule
H-5: Bill Count and Bill Frequency Analysis
H-6: Proof of Revenue
I-2: Audited Financial Statements
I-4: Business Plan for Rate Year
J-1: Proposed Tariffs
J-2: Current Tariffs Redlined
J-3: Plan of Rider Surcharge Administration for Each Rider
J-4: Energy Efficiency Rider
K-1: Description of Affiliates and Listing of Officers
L-2: Detail of Subsidies Included in Rates
M-1: Rate Design Proposal (including fixed charge, energy charge and where applicable, demand charge)
Pre-Filed Written Testimony for LUMA, Genera, and PREPA
Public Notice

### 5.1 PREPA Legacy Debt Charge and Pension Obligations

PREPA's Legacy Debt and Pension obligations are currently under a restructuring process pursuant to Title III of PROMESA.<sup>72</sup> The FOMB for Puerto Rico, as PREPA's sole representative in PREPA's Title III case, is responsible for all aspects of PREPA's Title III proceedings, including developing and proposing a Plan of Adjustment (POA) to the Title III court. The FOMB filed its Third Amendment POA for PREPA on August 25, 2023. The Third Amended POA contains the FOMB's proposed approach for restructuring PREPA's Legacy Debt and Pension obligations, including certain economic terms related to the overall recovery available to different classes of creditors, annual debt service costs to PREPA and proposed rates to be added to PREPA customer bills. The Third Amended POA is subject to confirmation by the Title III court and, therefore, there is significant uncertainty as to its outcome, including its particular impact on PREPA and its customers.

Once a POA for PREPA is confirmed by the Title III court, LUMA understands that PREPA and/or the FOMB will develop and submit to the PREB – either within the current proceeding or separately – the materials, information, and documentation necessary and in support of any request for the calculation and inclusion of any charges in customer bills designed to collect revenues for payment of PREPA's Legacy Debt and Pension obligations.

Upon coordination with the FOMB, a preliminary list of witnesses, issues to be addressed by each witness and schedules to be submitted by PREPA and/or the FOMB is attached herewith as Appendix D.

<sup>72</sup> See Title III case under PROMESA pending for PREPA in the Title III Court, captioned as *In re Financial Oversight & Management Board for Puerto Rico as representative of Puerto Rico Electric Power Authority*, Case No. 17-BK-4780-LTS (D.P.R.).

## 2023 Rate Review – Phase 1 Report

### Appendix A: Phase II Filing Schedules

Please refer to the attached Excel workbook.



Via electronic mail

Ms. Robin Kostek  
Manager, Tariffs and Budget  
LUMA Energy, LLC  
Email: [robin.kostek@lumapr.com](mailto:robin.kostek@lumapr.com)

**Re: NEPR-AP-2023-0003  
June 30, 2023, Resolution and Order**

Dear Ms. Kostek,

Pursuant to the requirements set forth under Section II (a)(i)(e)(ii) of the June 30, 2023, Resolution and Order ("June 30<sup>th</sup> Order") of the Puerto Rico Energy Bureau's ("PREB") Resolution and Order Initiating Rate Review, Case No.: NEPR-AP-2023-0003 Genera PR LLC hereby submits its preliminary and subject-to-change witness list and related issues and topics each witness will address in their testimony.

1. Brannen McElmurray – Chief Executive Officer
  - Testimony of overall rate case process, reasonability and prudence of the revenue requirements and associated costs, in accordance with from paragraph (C) of Section 2.17 of Regulation 8720.
2. Ron Lewis – Chief Financial Officer
  - Accounting, and
  - Finance-related topics.
3. Cesar A Figueroa Diez – Director of Fuel Management
  - Fuel costs,
  - Fuel procurement,
  - Fuel Optimization Plan,
  - Projected savings, and
  - Fuel cost recovery mechanisms.



4. Daniel Hernández Morales – Vice President of Operations

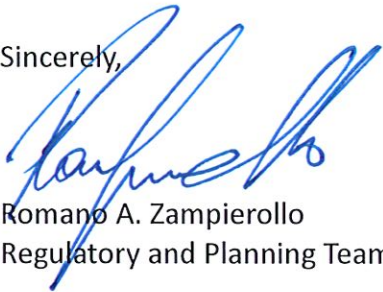
- Capital expenditures and projections,
- Construction, and
- Operations.

As stated above, this preliminary list is provided to comply with the June 30<sup>th</sup> Order. The officers named herein, and the related issues and topics associated with them, are all subject to change and provided on a conditional basis.

Should you have any questions or require further clarification, please do not hesitate to contact the undersigned, Romano Zampierollo, at [rzampierollo@genera-pr.com](mailto:rzampierollo@genera-pr.com).

Genera looks forward to continuing working with LUMA for the benefit of the people of Puerto Rico and in compliance with orders from PREB.

Sincerely,

A handwritten signature in blue ink, appearing to read "Romano A. Zampierollo".

Romano A. Zampierollo  
Regulatory and Planning Team

Exhibit 3  
Updated Phase 1 Report



GOVERNMENT OF PUERTO RICO  
PUERTO RICO ELECTRIC POWER AUTHORITY

Executive Director | Josué A. Colón Ortiz | [director\\_ejecutivo@prepa.com](mailto:director_ejecutivo@prepa.com)

September 28, 2023

BY ELECTRONIC MAIL  
[Robin.kostek@lumapr.com](mailto:Robin.kostek@lumapr.com)

Ms. Robin Kostek  
Manager, Tariffs and Budget  
LUMA Energy, LLC and  
LUMA Energy ServCo, LLC (LUMA)  
PO Box 363508  
San Juan, Puerto Rico

Dear Ms. Kostek:

**Re.: PREPA Submission of Witness List and Sponsored Testimony for 2024 Rate Review**

The Puerto Rico Electric Power Authority ("PREPA") hereby submits to LUMA Energy, LLC ("LUMA"), PREPA's preliminary witness list, and the topics to which each witness will sponsor testimony for inclusion in LUMA's Phase I filing as it relates to the 2024 Rate Review. PREPA's preliminary witness list is as follows:

Witness	Title	Topics for Sponsored Testimony
Josué A. Colón Ortiz	PREPA Executive Director	<ul style="list-style-type: none"><li>• Discuss and describe HoldCo and HydroCo structure (i.e. Org Chart) and operations.</li><li>• Provide overview of PREPA responsibilities / functions, challenges, and proposed solutions / improvements.</li><li>• Provide high level overview and support for budgetary requirements.</li></ul>
Jaime Umpierre Montalvo	PREPA Director of HydroCo and Operations	<ul style="list-style-type: none"><li>• Support and justify revenue requirement for HydroCo.</li></ul>



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Exhibit 3  
Updated Phase 1 Report

Ms. Robin Kostek  
Page 2 of 2

Witness	Title	Topics for Sponsored Testimony
Nelson Morales	PREPA Finance Director	Discuss and describe the following: <ul style="list-style-type: none"><li>• PREPA Finance operational and contractual responsibilities, including consolidated financial reporting and audits, finance department function needs for future bond issuances post-T3 (e.g., investor roadshows, disclosure requirements)</li><li>• Justify revenue requirement for HoldCo budget.</li><li>• Necessary funding for service accounts.</li><li>• Necessary funding for pension obligations.</li></ul>
Lionel Santa Crispín	PREPA General Counsel	Discuss and describe other key PREPA areas and responsibilities with significant funding needs (e.g., legal).
Juan C. Rivera Burgos	PREPA IT/OT Administrator	
Lucas Porter	Ankura Senior Director	Provide overall expert support for discussions on budget, revenue requirements, and rate structure, among other.

Note that the list of witnesses above and topics remains subject to change in all respects.

PREPA team looks forward to continuing work with LUMA and Genera PR, LLC, representatives in the ongoing effort in advancing energy sector transformation initiatives in the most transparent, and responsible way possible for the benefit of the people of Puerto Rico.

Cordially,



Josué A. Colón-Ortiz  
Executive Director

- c Lionel Santa Crispin, PREPA General Counsel, [lionel.santa@prepa.pr.gov](mailto:lionel.santa@prepa.pr.gov)  
Nelson Morales, PREPA Finance Director, [nelson.rivera@prepa.pr.gov](mailto:nelson.rivera@prepa.pr.gov)  
Jaime Umpierre, PREPA HydroCo Director, [jaime.umpierre@prepa.pr.gov](mailto:jaime.umpierre@prepa.pr.gov)  
Juan C. Rivera Burgos, PREPA IT/OT Administrator, [juan.rivera@prepa.pr.gov](mailto:juan.rivera@prepa.pr.gov)

Exhibit 3  
Updated Phase 1 Report

MEMORANDUM FOR:

Mr. Mario Hurtado  
Chief Regulatory Officer  
LUMA Energy

Ms. Rachel Ehrlich Albanese  
Counsel for LUMA Energy  
DLA Piper

Please be advised that the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), in relation to PREPA’s upcoming consolidated rate review proceeding, is hereby providing the following required information:

- I. Schedule List**
  - A. Legacy Debt Charge**
- II. Witness List & Topics List**

*Mr. William Zarakas*, a principal at The Brattle Group, an advisor for the Oversight Board, will provide pre-filed direct testimony regarding the proposed **Legacy Charge** rates and present supporting information.

The supporting information may include the proposed Legacy Charge rates by customer class; the customer bill impact analysis and other assumptions and modeling methodology considered in developing the Legacy Charge rates and supporting workpapers; and other information the Puerto Rico Energy Bureau may reasonably request in connection therewith.

The Oversight Board understands LUMA will work with PREPA and other operating entities to provide the witnesses and supporting information for all operational expenses and corresponding rate requests, including those relating to pension expenses, as owners of such information.

Exhibit 3  
Updated Phase 1 Report

*Exhibit 4*  
Updated Appendix A of Phase I Report  
to be submitted via email

*Exhibit 5*

Redline comparing Phase 1 Report of October 4<sup>th</sup> with Updated Phase I Report





# Rate Review – Phase I Report

NEPR-AP-2023-0003

October 4, 2023



# 2023 Rate Review – Phase 1 Report

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# 2023 Rate Review – Phase 1 Report

## 0.0 Introduction

### PREB RESOLUTION AND ORDER INITIATING RATE REVIEW

Through Resolution and Order issued on June 30, 2023 (June 30<sup>th</sup> Order), the Puerto Rico Energy Bureau (PREB or Energy Bureau) initiated an adjudicative process to review the rates of the Puerto Rico Electric Power Authority (PREPA) and established a three-phase process to conduct its review.<sup>1</sup> Phase I entails a review of previously established rate review filing requirements after which the Energy Bureau will make a determination with regards to the particular requirements that will apply to a rate review application filed in the instant proceeding.<sup>2</sup>

The June 30<sup>th</sup> Order requires LUMA to file a report containing LUMA's understanding of the filing requirements and, in particular, to (1) describe LUMA's current understanding of the filing requirements for this rate review, (2) describe the current status for each requirement, (3) describe steps taken to address deficiencies identified in the 2017 Rate Order<sup>3</sup>, particularly the requirement for a current Cost-of-Service Study (COSS), (4) provide a list of schedules LUMA intends to submit, (5) report on the coordination between LUMA, PREPA and Genera, and (6) explain how the filing will address the proposed Legacy Debt Charge and PREPA's pension obligation costs.<sup>4</sup> It is noted that LUMA is not responsible for PREPA's legacy debt or pension obligations.

In compliance with the June 30<sup>th</sup> Order, LUMA has developed the following Report which contains its assessment and responses to the various requirements outlined in said Order. Section 1 of this Report provides an overview of historical and existing circumstances which informed LUMA's assessment of the filing requirements. Sections 2 through 5 address the information requested by the Energy Bureau in the June 30<sup>th</sup> Order.

It is important to note that LUMA is issuing this Report in response and compliance with a request by the Energy Bureau who initiated the rate review process. Under the T&D OMA, LUMA is “responsible for preparing, presenting, defending current or future [...] rate cases or other regulatory or legal matters as *they relate to the Agreement [T&D OMA]*, as the Owner's representative before the Energy Bureau and any other local, state or federal government agencies.”<sup>5</sup> [(T&D OMA Annex I, Sections I.G and I.H.) Emphasis added.) .), see also T&D OMA, Section 5.6 (g). That is, LUMA is not responsible for activities that go beyond the Operation and Maintenance (O&M) Services or are outside the O&M of the Transmission and Distribution System (T&D System). More specifically, LUMA is not responsible for regulatory and legal filings that pertain to other PREPA activities, including rates for the operation and

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<sup>1</sup> See Resolution and Order of June 30, 2023, Docket No. NEPR-AP-2023-0003.

<sup>2</sup> *Id.*

<sup>3</sup> See Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

<sup>4</sup> See page 2 of Resolution and Order of June 30, 2023, Docket No. NEPR-AP-2023-0003.

<sup>5</sup> *Id.* at ¶ I-3 of Annex 1.

## 2023 Rate Review – Phase 1 Report

maintenance of generation assets, or other PREPA activities such as Title III proceedings<sup>6</sup> under the Puerto Rico Oversight, Management, and Economic Stability Act<sup>7</sup> (PROMESA).

LUMA appreciates the opportunity to submit this Report to begin a constructive process, receive important guidance from the Energy Bureau, and support the robust electrical system that Puerto Ricans expect and deserve.

### 1.0 Background and Context

LUMA is tremendously proud of the progress it has made since assuming responsibility for the O&M of Puerto Rico's T&D System on June 1, 2021.<sup>8</sup> LUMA has made significant and measurable progress in improving electrical service across all categories in fulfillment of its mission for Puerto Rico: improved safety for employees and the public; a heightened focus on customer needs; a more reliable, resilient, and modern grid; effective emergency response; and an acceleration in the shift to renewable energy. These advances have been made in the face of the highest inflation in decades, unforeseen global events, supply chain disruptions, natural disasters, and many other challenges, both global and specific to Puerto Rico.<sup>9</sup>

While LUMA remains focused on making improvements for its customers, financial pressures that Puerto Rico and the electric system are facing have resulted in the need to be more vigilant and prudent than ever when it comes to responsibly spending and allocating resources across an improving, but still fragile system, while maintaining affordability for customers.

PREPA's current Base Rates were determined by the Energy Bureau in the 2017 Rate Order<sup>10</sup>. In its first three (3) years of operating the T&D System, LUMA has met its commitment of only using the revenues generated by the existing Base Rates<sup>11</sup>, while leveraging and maximizing federal funds for eligible capital works. Accordingly, LUMA has not sought any adjustments to PREPA's Base Rates, which are the portion of customer electric rates that fund the costs pertaining to LUMA's operation of the grid, as well as other PREPA costs, since it took over operations of the T&D System on June 1, 2021. Any, and all, adjustments made to rates over the three (3) years LUMA has operated the grid pertain to the cost of generation, fuel, and purchased power, or to other smaller adjustments to subsidies and other items, which are entirely outside of LUMA's control. As a reminder, LUMA does not generate electricity and does not determine the impact that fuel costs have on customer rates. Furthermore, LUMA does not benefit financially from any change in rates due to increased generation fuel costs and LUMA's costs to operate the T&D System are separate from the cost of fuel for generation or the cost of power purchased from private generators.

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<sup>6</sup> See Title III case under PROMESA pending for PREPA in the Title III Court, captioned as *In re Financial Oversight & Management Board for Puerto Rico as representative of Puerto Rico Electric Power Authority*, Case No. 17-BK-4780-LTS (D.P.R.).

<sup>7</sup> See [Pub. L. 114–187, §4, June 30, 2016, 130 Stat. 551](#), Known as “the Puerto Rico Oversight, Management, and Economic Stability Act” and also as “PROMESA”.

<sup>8</sup> Pursuant to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (“T&D OMA”) executed on June 22, 2020, among the Puerto Rico Electric Power Authority (“PREPA”), the Puerto Rico Public-Private Partnerships Authority (“P3A”) and LUMA Energy, LLC and LUMA Energy ServCo, LLC (collectively, “LUMA”).

<sup>9</sup> As described in Section 8 of LUMA Annual Report for Fiscal Year 2022 of October 29, 2022, Docket No. NEPR-MI-2021-0004.

<sup>10</sup> See Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

<sup>11</sup> *Id.*

## 2023 Rate Review – Phase 1 Report

Currently **LUMA's costs to operate the T&D System compose approximately 15% of the total customer rates**. The other 85% of customer rates are used to pay for generation operations (currently carried out by Genera PR for all of PREPA's thermal power plants), fuel for Genera operations, energy purchases made by PREPA from private generators including Ecoeléctrica and AES, PREPA corporate expenses (including Title III bankruptcy costs), subsidies to customers, public lighting and the Contribution-in-Lieu of Taxes to municipalities. As mentioned above, this remaining 85% of the costs are separate from LUMA's costs to operate the T&D System and are entirely outside of LUMA's control. During the first two (2) years of operation, and while meeting its commitment to stay within budget and not seek an increase to Base Rates, LUMA has improved reliability (by lowering the frequency of interruptions as measured by a 35% lower System Average Interruption Frequency Index (SAIFI), upgraded customer service (decreasing call wait times to an average below two (2) minutes), dramatically accelerated the deployment of rooftop solar (approving approximately 60,000 customers for net metering), and established effective emergency preparation and response in the face of natural disasters (restoring service to 90% of customers within 12 days after a system-wide blackout caused by Hurricane Fiona).<sup>12</sup>

During this time, LUMA has also dramatically increased the deployment of federal funding. When LUMA began operations in June 2021, PREPA had 41 projects with Initial Scopes of Work (SOW) to be submitted to the Federal Emergency Management Agency (FEMA) to rebuild the T&D System,<sup>13</sup> and only one (1) project had a Detailed SOW (DSOW). As of October 4, 2023, LUMA has initiated the approval process with FEMA for 400 projects, out of which 245 have been submitted with DSOWs. In total LUMA has \$11.3 billion of projects in the FEMA approval process. In addition, LUMA has received FEMA obligations for 122 projects representing an investment of \$613 million. Furthermore, LUMA currently has 99 projects under construction or energized with federal funding.

While reaching these milestones, LUMA has also been asked to expend significant management time and resources on broader energy system challenges, including the reorganization of PREPA and providing information and other technical assistance to the on-going Title III bankruptcy process. Finally, as part of meeting Puerto Rico's public energy policy objectives, LUMA has actively engaged in other activities that were not previously managed by PREPA, including design and launch of Energy Efficiency (EE) and Demand Response (DR) programs, Electric Vehicle (EV) infrastructure support initiatives, active support for growth and interconnection of utility-scale renewable energy including the Energy Bureau-led Requests for Proposals, and technical analysis and field work to add generation resources and reduce the risk of insufficient energy resources to meet customer demand (including the addition of 350 MW of temporary emergency generation by FEMA). PREB has also required additional reporting in multiple areas.

## 2.0 Progress Since 2017 Rate Order

### 2.1 Background

Among the determinations made in the 2017 Rate Order, the Energy Bureau found that "the gaps in data and the numerous subjective and debatable judgements in PREPA's COSS, leave us without confidence

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<sup>12</sup> See In Re: The Performance of the Puerto Rico Electric Power Authority, Docket No. NEPR-MI-2019-0007.

<sup>13</sup> See PREB Resolution and Order dated June 8, 2021 In Re: Review of the Puerto Rico Electric Power Authority's 10-Year Infrastructure Plan – December 2020.

## 2023 Rate Review – Phase 1 Report

that the filed COSS describes cost causation accurately.”<sup>14</sup> The Energy Bureau found multiple problems with PREPA’s COSS, including (i) unreliable load data, (ii) lack of information with which to allocate demand amongst customer classes, and (iii) problems with functionalization and classification of costs.<sup>15</sup> Given these deficiencies, the Energy Bureau determined to “view PREPA’s COSS as a guide”<sup>16</sup> and set rates based on the information made available to the Energy Bureau at that point in time.<sup>17</sup> Accordingly, the Energy Bureau focused on setting PREPA’s revenue requirement, allocating the revenue requirement among the customer classes, determining permanent rates based on rate design, and reconciling permanent rates with provisional rates.

On April 24, 2017, the Energy Bureau opened a Notice of Investigation<sup>18</sup> to address the issues that were not addressed in the 2017 Rate Order. These topics were related to PREPA’s data limitations and COSS, “including the cost of service, marginal cost and rate design.”<sup>19</sup> Said proceeding has remained stayed since September 18, 2017.

This Section of the Report responds to item (c) of Part II a.i of the June 30<sup>th</sup> Order<sup>20</sup> and discusses the progress achieved to date in connection with the issues identified by the Energy Bureau in the 2017 Rate Order, and the status of ongoing efforts to achieve full remediation.

### 2.2 Improving the Cost-of-Service Study

The Energy Bureau stated that the COSS submitted in PREPA’s petition was “insufficient for the Energy Bureau to determine the reasonableness of the results.”<sup>21</sup> The Energy Bureau was concerned with the inputs used by PREPA to develop its proposed COSS, particularly the load data and PREPA’s functionalization and classification determinations.

#### LOAD DATA AND DEMAND ALLOCATORS

A load profile for a customer class is a graphic display of that customer’s load shape depicting how the demand for that particular customer class varies over time. Load shape is crucial information for procuring generation sufficient to meet expected load throughout each day and over the course of the year. The Energy Bureau noted that PREPA did not implement a load research program,<sup>22</sup> had load shapes that came from inconsistent years and data sources, were the same for large and small customers in the

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<sup>14</sup> See page 325 of Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

<sup>15</sup> See page 319-324 of Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

<sup>16</sup> *Id.* at ¶327.

<sup>17</sup> *Id.* at ¶¶326 – 329.

<sup>18</sup> See Resolution and Order of April 24, 2017, Docket No. CEPR-IN-2017-0001.

<sup>19</sup> See Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

<sup>20</sup> See page 3 of Resolution and Order of June 30, 2023, Docket No. NEPR-AP-2023-0003.

<sup>21</sup> See page 3 of Resolution and Order of November 3, 2016, Docket No. CEPR-AP-2015-0001.

<sup>22</sup> See page 112 of Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

Exhibit 5  
Redline of Updated Phase 1 Report

## 2023 Rate Review – Phase 1 Report

same class and were “simulated” rather than observed.<sup>23</sup> The Energy Bureau also stated that additional information to facilitate a reasonable review of the load shapes was not included.<sup>24</sup>

### LUMA Progress

LUMA’s findings after conducting its gap assessment during the Front-End Transition Services period aligned with the determinations made by the Energy Bureau, in that the root cause of the problems with PREPA’s load data and demand allocators was the lack of a formal load research program that applied industry standard methodologies to forecast total system load. The data presented by PREPA was simulated and did not accurately reflect customers’ usage patterns and costs, and, consequently, was deemed by the Energy Bureau as insufficient to inform a COSS.<sup>25</sup> At the time of its 2016 rate review filing, PREPA had not performed load research and study activities since 2014 and PREPA stated that it lacked the necessary data and information to produce a reliable COSS.<sup>26</sup>

To address the load data and demand deficiencies, LUMA developed a Regulatory Long-Term Load Forecast Review<sup>27</sup> (hereafter referred to as the Load Forecasting Improvement Plan) to deliver a more accurate and useful forecast of monthly class-level consumption and annual peak demand. Many improvements to the Load Forecasting Improvement Plan have already been implemented, including but not limited to data remediation, regression model updates, and load research sample development. These enhancements implemented by LUMA support the use of improved data on load and demand allocators and will provide greater accuracy and a more reliable data set for review by the Energy Bureau.

LUMA’s Load Forecasting Improvement Plan contains five (5) phases<sup>28</sup>:

- 1) Internal Governance and Organization Design
- 2) Review Current and Future Methodologies
- 3) Establish Data Needs
- 4) Process Design
- 5) Build Capabilities

LUMA completed Phases 1 through 3 in 2022. For Phase 1, a Load Forecasting Governance Committee was formed and tasked with overseeing the load forecasting improvement process.<sup>29</sup> For phases 2 and 3, LUMA conducted an assessment of the current state and planned future state methodologies for load forecasting and established the data requirements necessary for the program. Phases 4 and 5 entail

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<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> See Verified Petition for Approval of 1) Permanent Rate and 2) Temporary Rates of May 27, 2016, Docket No. CEPR-AP-2015-0001.

<sup>26</sup> *Id.*

<sup>27</sup> See LUMA’s Motion on Submission of Regulatory Long-Term Load Forecast Review of June 30, 2022, Docket NEPR-MI-2021-0001.

<sup>28</sup> *Id.* at ¶¶41-42.

<sup>29</sup> See page 45 of LUMA’s Motion on Submission of Regulatory Long-Term Load Forecast Review of June 30, 2022, Docket NEPR-MI-2021-0001.



Exhibit 5  
Redline of Updated Phase 1 Report

## 2023 Rate Review – Phase 1 Report

designing processes and building load forecasting capabilities within the LUMA organization. Phases 4 and 5 are currently ongoing and are expected to be completed by December of 2023 on a timeline that can inform the Fiscal Year (FY) 2025 load forecast.

Some of the immediate improvements that LUMA has accomplished because of the Load Forecasting Improvement Plan are as follows:

- LUMA developed and implemented computer program code to correct historical anomalies in aggregate consumption data.
- LUMA applied a rigorous model testing approach and undertook several ancillary analyses to deliver a more robust unadjusted forecast of class-level consumption.
- LUMA is developing a load research sample by choosing a representative group of customers from each class, whose interval data can be collected. Their electrical demand will be measured hourly or every 15 minutes. LUMA anticipates that the data collection phase will begin in the third quarter (Q3) of calendar year (CY) 2023 and last at least a year. The goal of this sampling process is to find groupings of customers that accurately reflect the consumption patterns of the customers in each rate class, and other characterizations such as net metering.

All these improvements help to refine load forecasting accuracy.

In addition to the Load Forecasting Improvement Plan, LUMA's Automated Metering Infrastructure (AMI) Implementation Improvement Program will improve future COSS input by enabling reliable data inputs from the wider customer group. The AMI Implementation Program establishes two-way, remote meter reading reporting and control capabilities, which offer granular consumption data, bi-directional metering, outage notifications, and power quality measurements.<sup>30</sup>

As stated in the AMI Implementation Program brief in LUMA's FY2024 Annual Budget filing<sup>31</sup>, LUMA has begun the business process workshops and vendor RFI, and implementation is estimated to begin by the first quarter (Q1) of FY2025. Once LUMA's AMI Implementation Program is complete, LUMA will be able to collect detailed customer usage information on an hourly basis, identify system losses with system energy balances and electric consumption analysis, and enhance operational and financial performance.

With LUMA's Load Forecasting Improvement Program and AMI Implementation Program in place, LUMA will be able to collect granular customer consumption data to be used to model more accurate and data driven demand allocators in a future COSS.

As described above and because of the steps taken in the Load Forecasting Improvement Program, LUMA intends to file a partial COSS that uses direct allocation of costs, where available. This is an important advance over the previous COSS submitted by PREPA.

Going forward, LUMA expects that as the remaining programs in the Load Forecasting Improvement Program outlined above are implemented and their impacts are realized, the quality of the COSS it performs will further improve. LUMA expects to collect load data and develop demand allocators in line

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<sup>30</sup> See page 55 of LUMA's FY2024 Annual Budgets Filing of May 16, 2023, Docket No. NEPR-MI-2021-0004.

<sup>31</sup> *Id.* at ¶¶79-84.



## 2023 Rate Review – Phase 1 Report

with industry standard methodologies by FY2025, once the Load Forecasting Improvement Program has been fully completed, and that the quality of input data used to develop demand allocators will continue to increase as customer meters are replaced with automated metering technology.

### PREPA'S FUNCTIONALIZATION AND CLASSIFICATION DECISIONS

In the 2017 Rate Order, PREB identified five (5) key issues<sup>32</sup> with PREPA's decisions on cost functionalization and classification: incorrectly assigning fixed generation costs as demand-related, ignoring transmission that should have been classified to generation, incorrectly sub-classifying distribution as primary and secondary, allocating customer-costs based on meter cost, and assigning overhead costs based on labor.

The Energy Bureau stated that PREPA's inability to separate costs into the correct functions and categories stemmed from problems in PREPA's functionalization and classification of specific costs. PREPA, as a vertically integrated utility, did not track its actual costs in a manner that could be leveraged to determine cost causation by function or class. As a result, PREPA was unable to classify and functionalize costs in its COSS to the Energy Bureau's satisfaction.

PREPA's costs have yet to be unbundled, with balance sheet remediation activities currently underway to establish unbundled costs and baselines. Until such time when these activities are completed, LUMA does not have the benefit of meaningful balance sheet accounts representing historical information that can be used as a starting point to establish a uniform system of accounts to allow full and proper functionalization of costs by functions.

Puerto Rico's Financial Oversight and Management Board (FOMB) has allocated \$25 million to Puerto Rico's Public-Private Partnership Authority (P3A) in the FY2024 Certified Fiscal Plan for the Commonwealth of Puerto Rico for asset reconciliation and accounting remediation work.<sup>33</sup> This work is necessary to properly unbundle PREPA's historic costs into the generation, transmission, distribution, customer service, and other functions, such that baseline costs can be established and used to form rate design decisions. LUMA is not responsible for these activities and is unable to impact the remediation of financial information that existed before June 2021. LUMA's ability to operate in line with industry standards, including, but not limited to, the development of a fulsome embedded COSS, is dependent on PREPA completing its accounting and balance sheet remediation efforts.

The introduction of the T&D System Operator (LUMA) and the Legacy Generation Assets Operator (Genera) facilitates the functionalization of accounting information, as each function will be recorded and reported separately as per its Operating and Maintenance Agreement (OMA) requirements.<sup>34</sup> LUMA is only able to influence the manner in which it records its costs and the quality of the data that it creates. To

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<sup>32</sup> See page 110-111 of Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

<sup>33</sup> See page 46 of Fiscal Plan for Commonwealth of Puerto Rico, *Volume 1 Transformation Plan, Restoring Growth and Prosperity*, certified as of April 3, 2023 by the Financial Oversight and Management Board for Puerto Rico (last seen, October 4, 2023).

<sup>34</sup> Pursuant to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement ("T&D OMA") executed on June 22, 2020, among the Puerto Rico Electric Power Authority ("PREPA"), the Puerto Rico Public-Private Partnerships Authority ("P3A") and LUMA Energy, LLC and LUMA Energy ServCo, LLC (collectively, "LUMA") and Pursuant to the Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement executed on January 24, 2023, among the Puerto Rico Electric Power Authority ("PREPA"), the Puerto Rico Public-Private Partnerships Authority ("P3A") and Genera PR, LLC (Genera).

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that end, in its System Remediation Plan (SRP), LUMA explained that its Critical Financial Controls and Critical Financial Systems programs,<sup>35</sup> which are expected to be in a remediated state in FY2027, will improve and remediate the financial management systems and technology to enable LUMA to better functionalize and classify its financial information going forward, and to unbundle the costs of the T&D System. The delineation of the GenCo entity will effectuate functionalized generation costs for use in a future COSS.

### LUMA Progress

LUMA has made significant progress on the planned activities for the Critical Financial Controls Program. Of the 63 critical gaps that were identified prior to Commencement, seven (7) have been fully remediated, 52 have been partially remediated, and only four (4) remain open.<sup>36</sup> Although many improvements pertaining to the Critical Financial Systems Program are in progress, LUMA was able to make progressive changes in a short period of time. In FY2022, LUMA implemented an online budgeting and forecasting system that links to the actual operation and maintenance expenses in Oracle and fully remediated the gap pertaining to the manual timecard process by implementing an automated system where employee expenses can be recorded to a project and task structure.<sup>37</sup>

Based on the foregoing, PREPA, LUMA and Genera continue to work toward unbundling the financial records of the utility through several initiatives. LUMA is encouraged by the allocation of funding for the remediation of PREPA's balance sheet as this represents a critical step in unbundling the costs of the utility and improving the data that supports functionalization and classification decisions.

#### 2.2.1 Projected Timing for Cost of Service Study

As with any study, the quality of the COSS will improve over time as the quality of inputs improves. Properly developed load forecasts and remediated financial records will facilitate a meaningful COSS that can be relied upon for cost causation and used to inform rate design.

While there are many moving parts to perform a COSS in accordance with best practices, LUMA has determined that based on the schedule for financial controls and financial systems programs in FY2027 and assuming completion by other parties of their financial remediation activities, a full COSS could be performed in FY2028. This schedule also depends on availability of audited results for the first year of PREPA's operations as a transformed utility (FY2024) and completion of the balance sheet remediation activities funded through the 2024 Certified Fiscal Plan.

The timing of the COSS also depends on completion of Phase 5 of the Load Forecasting Improvement Plan (currently scheduled for completion in December 2023 to inform the FY2025 load forecast). The AMI Implementation Program will further improve the quality and granularity of customer consumption data, but its completion is not required for LUMA to deliver a COSS.

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<sup>35</sup> See LUMA's Motion on Submittal and Request for Approval of System Remediation Plan of February 24, 2021, Docket No. NEPR-MI-2020-0019.

<sup>36</sup> *Id.* at ¶¶273-275.

<sup>37</sup> *Id.* at ¶¶282-283.

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### 2.3 Improving Rate Design

In its Notice of Investigation,<sup>38</sup> the Energy Bureau outlined several deficiencies with PREPA's proposed rate design and deferred these discussions to a subsequent proceeding, also initiated in the Notice of Investigation. As previously mentioned, this investigation proceeding remains stayed and has not been reopened by the Energy Bureau.<sup>39</sup>

#### LUMA Progress

Generally, LUMA determined that rate design deficiencies were most likely attributed to data limitations and the inappropriate estimation of the marginal cost of generation (further addressed in the next section). The successful execution of LUMA's Load Forecasting Improvement Program and AMI Implementation Program, described above, will enable the development of a robust load forecast research study and detailed data collection to support effective rate design. These elements will enable LUMA to address many of the deficiencies/concerns raised by the Energy Bureau in both the Rate Order and the Notice of Investigation. The Load Forecasting Improvement Program will allow LUMA to identify and track various metrics (energy usage over time, demand at various times, number of customers of various types) across customer classes and at a granular level of detail that can be leveraged for rate design. The AMI Implementation Program will allow the collection of granular data surrounding customer consumption behavior that was not available in the prior rate case and can be used to inform rate design in a future COSS.

### 2.4 Marginal Costs

Marginal cost refers to the incremental cost of producing or serving one more unit (kWh of energy, or one more customer served etc.). Utility marginal cost studies are used to determine these incremental costs. In the 2017 Rate Order, the Energy Bureau determined that PREPA's marginal cost studies were unreliable.<sup>40</sup> The Energy Bureau identified various deficiencies, including but not limited to: under-estimating fuel prices, ignoring renewable resource costs, assuming load-related distribution plant would not increase O&M costs, and failing to distinguish between marginal and average losses.<sup>41</sup> PREPA's data limitations impede full recording of the marginal cost of generation.

#### LUMA Progress

LUMA has implemented several measures to improve its ability to estimate costs until verifiable data is available. Since LUMA took over operations in June 2021 up until the introduction of Genera as the GenCo operator, LUMA has been able to estimate system average hourly costs. As was reported to the Energy Bureau, LUMA required access to the OSI-PI data software in order to enable the calculation of more accurate hourly marginal energy costs. LUMA made multiple attempts to obtain access from PREPA to the OSI-PI fuel data to better understand each plant's hourly fuel consumption and electric

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<sup>38</sup> See Resolution and Order of April 24, 2017, Docket No. CEPR-IN-2017-0001.

<sup>39</sup> See Resolution and Order of October 5, 2023, Docket No. CEPR-MI-2017-0007.

<sup>40</sup> See page 118-119 of Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

<sup>41</sup> *Id.*

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production to be able to perform marginal cost analyses. PREPA refused on multiple occasions to provide this data. Despite the Energy Bureau ordering them to share the OSI-PI data requested by LUMA, PREPA ultimately stalled until Genera assumed operation and maintenance of PREPA's power plants on July 1, 2023.<sup>42</sup> Genera has since provided LUMA with access to this data.

PREPA's loudest objection to allowing access to the data was their statements that the data was unreliable and incomplete. LUMA is currently assessing the data quality.<sup>43</sup> Once the OSI-PI data is analyzed and to the extent that the data from OSI PI is reliable, LUMA anticipates having better information to estimate fuel prices in a future marginal cost study. Implementation of the new Energy Management System (EMS) will allow provide more complete, real-time generation plant fuel data that can be used to inform marginal cost studies. This implementation is documented in the SRP Program: *Critical Energy Management System Upgrades*<sup>44</sup>, which is expected to reach its remediated state in FY2025.

Due to the low effective availability of generation resources, System Operations was rarely faced with dispatch decisions that absolutely depended on accurate marginal cost information. With very low resource adequacy most dispatch decisions during recent years have been based on dispatching enough generation to meet customer demand and to avoid load shed. At the same time LUMA was responding<sup>45</sup> to PREPA's refusal to provide the OSI-PI data, LUMA undertook several actions to improve the precision of the generation fleet estimated cost structure. This helped improve decision-making but also helped explain retrospectively, what had happened to production costs over the previous period. The improvement steps LUMA has undertaken are listed below for reference:

1. Several exercises to run PROMOD analysis retrospectively over several months to improve LUMA's understanding of estimated heat rates. Heat rate is not a single, static measure, but is modeled using a "heat rate curve" which reflects how efficiency changes with small increases in production. PREPA did not perform a heat rate test on its units in over 10 years<sup>46</sup>, but Genera has already presented its plan to perform these tests on an annual basis which is more consistent with Prudent Utility Practices.
2. LUMA worked across the System Operations and analytical teams to ensure consistency of data and analysis of actuals across different software tools (including PROMOD as well as other more operationally focused software). This effort included review of heat rate data, but also ramp times, production costs, start-stop limitations, and several other variables. These assumptions are now consistently applied in all models.

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<sup>42</sup> See page 2 of Resolution and Order of March 24, 2023, Docket No. NEPR-MI-2023-0001.

<sup>43</sup> See PREPA's Motion to Inform PREPA's Position in Regard to the OSI PI Data of March 31, 2023, Docket No. NEPR-MI-2023-0001.

<sup>44</sup> See page 46 of LUMA's Motion of August 23, 2023, Docket No. NEPR-MI-2021-0001.

<sup>45</sup> See LUMA's Response to PREPA's Motion to Inform PREPA's Position in the Regard to the OSI PI Data of April 27, 2023, Docket No. NEPR-MI-2023-0001.

<sup>46</sup> See PREPA's Motion to Inform PREPA's Position in Regard to the OSI PI Data of March 31, 2023, Docket No. NEPR-MI-2023-0001.

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3. LUMA procured a license for Plexos to run in conjunction with PROMOD. The two models are similar, but Plexos enables faster analysis of what-if scenarios that can assist diagnostic analysis. After the LUMA Plexos model was built, LUMA had to install the system variables to support the model and to calibrate Plexos output with PROMOD analysis to ensure consistency of analysis and assumptions.
4. LUMA updated the data in the EMS module for Systems Operations' control room personnel to support decision-making with automated data. This involved training personnel on new procedures, integrating more SCADA data directly into the EMS module, as well as repairs or modifications to hardware to allow various data collection devices to operate automatically.
5. Installed Automatic Generation Control (AGC) capability to several more individual units at San Juan and Palo Seco as part of a longer-term implementation of AGC to all units. Prior to June 2021 commencement, AGC was only available at Ecoelectrica, and some of the units at Aguirre.
6. Developed a single set of all planning data variables in Plexos such that it could be shared with research teams, including personnel from the National Laboratories and the technical consultant supporting the Integrated Resource Plan (IRP) preparation. A single set of data allows for consistent operating and cost data assumptions to avoid multiple, conflicting planning studies (as occurred prior to LUMA).

Regarding the impact of renewable resource costs, LUMA is implementing a multi-phase, comprehensive process to develop a new IRP.<sup>47</sup> LUMA expects to deliver an updated IRP in 2024, at which time the estimated impact of renewable resource costs as well as other resource costs will be available and will better represent the current and future system. Typically, utilities and planning entities utilize outputs and other data from the integrated resource plan process to inform a rate review. Scheduling a rate review soon after the conclusion of an IRP proceeding would allow for incorporation of more current and more accurate marginal cost and general resource cost data in the rate review process.

Finally, similar to the COSS and rate design sections above, root causes for challenges with determining the marginal cost of generation can be traced to PREPA's lack of formal load forecasting and the consolidation of costs as an integrated utility company, without detailed functional cost data.

## 2.5 Conclusion

In conclusion, since starting operations, LUMA has taken significant steps to address the deficiencies and flaws in PREPA's review process identified by the Energy Bureau in the 2017 Rate Order<sup>48</sup> and the Notice of Investigation<sup>49</sup>. The impacts of the quality of data and the system controls that LUMA inherited continue to hinder full preparation of cost of service and comprehensive rate design. LUMA is currently advancing the key programs to overcome the inherited deficiencies. These programs include: **Load Forecasting Improvement Plan, AMI Implementation Program, Critical Financial Controls Program,**

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<sup>47</sup> See In Re: Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modifies Action Plan, Docket No. NEPR-MI-2020-0012.

<sup>48</sup> See Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

<sup>49</sup> See Resolution and Order of April 24, 2017, Docket No. CEPR-IN-2017-0001.

**Critical Financial Systems Program, and Critical Energy Management System Upgrades Program.**<sup>50</sup> Prudently completing the implementation of these programs will take years.

## 3.0 Review and Assessment of Regulation 8720 Filing Requirements

In this section, LUMA will respond to items (a) and (b) of Part II.a.i. of the Energy Bureau's June 30<sup>th</sup> Order.<sup>51</sup>

It must be noted at the outset that the filing requirements of Regulation 8720<sup>52</sup> reflected PREPA's specific operational, financial, and organizational circumstances at that point in time. Subsequent to issuance of the filing requirements in Regulation 8720<sup>53</sup> and the 2017 Rate Order,<sup>54</sup> PREPA filed for bankruptcy<sup>55</sup> under Title III of PROMESA and implemented a system-wide transformation, having separated its T&D and Generation operations, transferred O&M responsibility over to separate entities and reorganized its operations into separate subsidiaries, including GenCo, HydroCo and PropertyCo.<sup>56</sup> As a result of these changes, limitations exist in LUMA's ability to meet certain requirements of Regulation 8720<sup>57</sup>. The filing requirements applicable to this proceeding must be modified to align with PREPA's current structure and challenges as outlined below.

### 3.1 Assessment Summary

LUMA has fully assessed the requirements from Regulation 8720<sup>58</sup> and grouped them into one of four (4) categories depending on whether the capability to fulfill the requirement exists. A summary is provided in Table 3.1 below along with a brief explanation of requirements. LUMA has consulted with PREPA and Genera on its Assessment Summary and LUMA understands that they are supportive of LUMA's proposal(s).

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<sup>50</sup> See LUMA's FY2024 Annual Budgets Filing of May 16, 2023, Docket No. NEPR-MI-2021-0004.

<sup>51</sup> See page 3 of Resolution and Order of June 30, 2023, Docket No. NEPR-AP-2023-0003.

<sup>52</sup> See Regulation 8720, known as "New Regulation on Rate Filing Requirement for the Puerto Rico Electric Power Authority's First-Rate Case" of March 28, 2016.

<sup>53</sup> See Regulation 8720, known as "New Regulation on Rate Filing Requirement for the Puerto Rico Electric Power Authority's First-Rate Case" of March 28, 2016.

<sup>54</sup> See Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

<sup>55</sup> See Title III case under PROMESA pending for PREPA in the Title III Court, captioned as *In re Financial Oversight & Management Board for Puerto Rico as representative of Puerto Rico Electric Power Authority*, Case No. 17-BK-4780-LTS (D.P.R.).

<sup>56</sup> Pursuant to the Puerto Rico PREPA-GENCO-HYDROCO Operating Agreement ("Hydroco") executed on June 16, 2023, among the Puerto Rico Electric Power Authority ("PREPA"), PREPA Genco LLC, PREPA Hyrodco LLC, LUMA Energy ServCo, LLC ("LUMA"), and the Puerto Rico Public-Private Partnership Authority ("P3A").

<sup>57</sup> See Regulation 8720, known as "New Regulation on Rate Filing Requirement for the Puerto Rico Electric Power Authority's First-Rate Case" of March 28, 2016.

<sup>58</sup> See Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.



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**Table 3-1. Regulation 8720 – Assessment Summary**

Ability to File	Schedule Count	Description
Yes – No Alternative Proposed <sup>1</sup>	<del>24</del> 20	Requirement met; no alternatives proposed
Yes – Alternative Proposed <sup>2</sup>	5	Requirement met; alternative proposed to schedule(s)
Partial – Alternative Proposed <sup>3</sup>	19	Requirement partially met; alternative proposed because not all inputs are available
No - Not Applicable <sup>4</sup>	<del>46</del> 17	Requirement not applicable or not relevant
<b>Total</b>	<b>61</b>	
<sup>1</sup> LUMA can fulfill the requirement and does not require clarification. <sup>2</sup> LUMA can fulfill the requirement but proposes an alternative to the requirement to closer align with current circumstances. LUMA submits that these modifications result in schedules that will contribute more meaningfully to the rate review. <sup>3</sup> The requirements can be partially met and must be modified to reflect PREPA's circumstances. <sup>4</sup> The requirements are not relevant or applicable in the current rate review due to PREPA's current limitations.		

### 3.2 Assessment Detail

#### 3.2.1 Limiting Factors

##### PREPA'S BANKRUPTCY

In the context of a healthy utility, the rate base/rate of return ratemaking model is used for assessment. The revenue requirement includes expenditures required to serve the utility's customers at a reasonable cost plus a positive return based on capital investments and coverage of utility debt, and an allowance to recognize the risk of such investments. For example, a return on equity component recognizes the cost of attracting investors. The cost of debt is based upon the (weighted average) cost of debt issuances. It is called the "rate base approach" because the capital expenditures become the base on which investors who finance those expenditures earn a return.

The revenue requirement must allow the utility to cover its O&M expenses, depreciation, taxes, and interest on long-term debt. Rate cases are warranted when utility revenues result in net income that does not allow the utility the opportunity to earn the authorized overall rate of return (ROR). This is the model widely used in the mainland U.S. (and Canada) to set rates for investor-owned utilities and some public power entities. Both investor-owned and government-owned utilities require rates sufficient to generate positive cash flow, or net income, to provide dividends to owners and maintain cash reserves to handle unforeseen situations. Additionally, a history of stable, positive cash flow is one of the factors rating agencies use for evaluating the debt issuances of utilities; the better financial health a utility is in, the lower the cost of borrowing, which reduces costs to customers.

In the 2017 Rate Order, the Energy Bureau already noted that PREPA's weak financial condition meant its only source of funding for long-term capital expenditures was from customers.<sup>59</sup> As PREPA remains under

<sup>59</sup> See Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

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Title III bankruptcy, that is still true today.<sup>60</sup> Unable to issue new debt, all utility capital investments must be paid for in the year they are incurred. This is commonly referred to as *cash financing*. Utilities that cash finance their operations have revenue requirements that are the sum of the regular O&M expenses, taxes, and capital expenditures in the test year. By not financing some of the capital investment with debt, the debt service coverage amount – adopted by the Energy Bureau in the 2017 Rate Order<sup>61</sup> – is not a relevant factor for establishing a net income component for the revenue requirement. Instead, the net income to the utility is some percentage of the capital spend.

### BALANCE SHEET REMEDIATION

When PREPA can issue new debt, the utility can convert to traditional regulatory financing using a combination of debt and equity to fund capital investment. In preparation for this eventuality, PREPA's balance sheet must be restored, and a set of regulatory accounting books needs to be established for each of the operating companies. These regulatory books will show the amount of gross plant investment, the accumulated depreciation, and the authorized depreciation rates for each type of plant. This will allow LUMA to present regulatory income statements which will form the basis of future rate reviews. Despite this balance sheet remediation receiving some funding in the FY2024 Certified Fiscal Plan, LUMA, PREPA and Genera will not be positioned to establish robust a Federal Energy Regulatory Commission (FERC) Uniform System of Accounts until FY2027.

### MODIFICATION TO THE “TEST YEAR”

Regulation 8720 defines a “Test Year” as a “one-year historical period used to determine rate base, operating income, interest coverage ratio and debt service coverage ratio. The historical test year to be used in the formal application is the most recent 12-month period for which audited financial statements exist.”<sup>62</sup> In the prior rate review, PREPA proposed to use FY2014 as a test year because it was the most recent 12-months for which audited information was available, and then adjusted that data to take into account: the Restructuring Support Agreement between PREPA and certain bondholders, internal PREPA restructuring, budgets for FY2015 and FY2016, the actual spending for those two (2) years, and actual spending for the beginning of FY2017.<sup>63</sup> The PREB found 2014 to be outdated and an inaccurate representation for predicting the FY2017 revenue requirement. In the absence of current audited data, the Energy Bureau relied on:

1. PREPA's unaudited operating results for the 12 months ended June 30<sup>th</sup>, 2016.
2. PREPA's approved budget for FY2017.
3. PREPA's business plan (May 2016).

It is LUMA's understanding that in the 2017 Rate Order, the Energy Bureau directed that future rate proceedings include the most recent fiscal year, adjusted for known and measurable changes from that

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<sup>60</sup> See Title III case under PROMESA pending for PREPA in the Title III Court, captioned as *In re Financial Oversight & Management Board for Puerto Rico as representative of Puerto Rico Electric Power Authority*, Case No. 17-BK-4780-LTS (D.P.R.).

<sup>61</sup> See Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.

<sup>62</sup> See Regulation 8720, known as “*New Regulation on Rate Filing Requirement for the Puerto Rico Electric Power Authority's First-Rate Case*” of March 28, 2016.

<sup>63</sup> See page 30 of Final Resolution and Order of January 10, 2017, Docket No. CEPR-AP-2015-0001.



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year. As of the date of this filing, PREPA and its auditors are still working on the FY2022 audit. The most recent available audited financial statements are for FY2021 and were prepared according to Generally Accepted Accounting Principles (GAAP). However, even if the audited financials were available, LUMA, PREPA and Genera are in the process of making significant changes to transform Puerto Rico's electric system and as a result FY2022 will not be a good cost indicator for FY2025 and beyond. On this basis, it would be insufficient for ratemaking.

Accordingly, LUMA proposes to use a forward-looking test year; in other words, the test year, and the rate year<sup>64</sup> will be the same: FY2025. This approach has the advantage of setting rates to forecasted costs in a bottom-up approach consistent with the Energy Bureau's June 30<sup>th</sup> Order. The revenue requirement in the rate review will be based on the true costs of providing service in Puerto Rico in the test year.

This approach is not unusual in North America. A 2013 research paper by the National Regulatory Institute surveyed 21 state utility commissions and concluded that commissions using forward-looking test years in setting utility rates have had an overall positive experience with no intention to discard forward-looking test years in subsequent rate cases.<sup>65</sup>

In addition, the pace at which the activities performed by the utility are transforming means that a well-developed future outlook is a more accurate depiction of spend profile than historical information. This was confirmed in a 2010 study prepared for the Edison Electric Institute. Although the study focused on investor-owned utilities, the essential conclusion was that shifting to a future test year is a prime strategy when cost increases are being stimulated by the need to rebuild and expand legacy infrastructure to meet environmental and public policy goals.<sup>66</sup> As described throughout this section, that is the situation LUMA, and the Energy Bureau find themselves in.

For these reasons, LUMA respectfully submits it will use FY2025 for the test year and the rate year.

### 3.3 Conclusion

For convenience and to facilitate review, LUMA submits as Appendix A, an Excel workbook containing detailed assessments of the requirements set out in Regulation 8720<sup>67</sup>, which include: whether LUMA requires clarifications, whether LUMA has the capacity to fulfill the requirement, and whether meeting the requirement will depend on any other entity. For each of the requirements that LUMA proposes to include in Phase II and Phase III of the rate review, the current status is "under development." Finally, LUMA has provided updated descriptions for each requirement that more closely match the current PREPA operating structure and capabilities (Column F of Appendix A). These updated schedule descriptions are submitted as the applicable filing requirements for this rate review.

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<sup>64</sup> The Energy Bureau considers the "rate year" the first 12-month period in which the new rates will be in effect.

<sup>65</sup> See K. Costello, National Regulatory Research Institute "[Alternative Rate Mechanisms and Their Compatibility with State Utility Commission Objectives](#)" at page 74, April 2014 (last seen September 21, 2023).

<sup>66</sup> See M.N. Lowry, D. Hovde, L. Getachew, M. Makos, Edison Electric Institute "[Forward Test Years for US Electric Utilities](#)" at page 1, August 2010, (last seen September 21, 2023)

<sup>67</sup> See Regulation 8720, known as "New Regulation on Rate Filing Requirement for the Puerto Rico Electric Power Authority's First-Rate Case" of March 28, 2016.

This information provides requirement level detail supporting the information provided in Section 3 of this filing, in a format that is user friendly and allows for line-by-line analysis and explanation.

## 4.0 Report on Coordination

In this Section, LUMA will respond to item (e) of Part II.a.i of the June 30<sup>th</sup> Order<sup>68</sup>.

LUMA requires input from Genera and PREPA to complete 12 of the 61 filing requirements in Regulation 8720<sup>69</sup>. LUMA hosted a virtual workshop with Genera and PREPA on September 12, 2023, to discuss these requirements and establish key contacts to engage for future collaboration.

In Table 4-1 below, LUMA provides its preliminary witness list, with the caveat that the list is subject to change. Similar preliminary witness lists for Genera and PREPA are attached herewith as Appendices B and C, respectively.

**Table 4-1. Preliminary Witness List - LUMA**

Witness Name	Position	Organization	Issues Covered
Mario Hurtado	Chief Regulatory Officer	LUMA	<ul style="list-style-type: none"><li>• PREPA's Structure</li><li>• Revenue Requirement</li></ul>
Corey Schneider	Chief Financial Officer	LUMA	<ul style="list-style-type: none"><li>• Revenue Requirement</li><li>• Test Year</li></ul>
Joseline Estrada	Manager, Load Forecasting & Research	LUMA	<ul style="list-style-type: none"><li>• Load Forecast</li></ul>
Shay Bahramirad	Senior Vice President, Capital Programs	LUMA	<ul style="list-style-type: none"><li>• Non-Federally Funded Capital Expenditures</li></ul>
Donato Cortez	Vice President, Special Projects	LUMA	<ul style="list-style-type: none"><li>• Operating &amp; Maintenance Expenditures</li></ul>
Sam Shannon	Associate Director	Guidehouse	<ul style="list-style-type: none"><li>• Rate Design</li><li>• Cost of Service</li></ul>

## 5.0 Preliminary List of Schedules

In this Section, LUMA responds to items (d) and (f) of Part II.a.i. of the Energy Bureau's June 30<sup>th</sup> Order<sup>70</sup>.

<sup>68</sup> See page 3 of Resolution and Order of June 30, 2023, Docket No. NEPR-AP-2023-0003.

<sup>69</sup> See Regulation 8720, known as "New Regulation on Rate Filing Requirement for the Puerto Rico Electric Power Authority's First-Rate Case" of March 28, 2016.

<sup>70</sup> See page 3 of Resolution and Order of June 30, 2023, Docket No. NEPR-AP-2023-0003.

Exhibit 5  
Redline of Updated Phase 1 Report

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As detailed in Regulation 8720<sup>71</sup>, as well as Appendix A of this Report, LUMA intends to submit the following schedules in its Phase II Filing:

**Table 5-1. Schedules LUMA Intends to Submit – Rate Review**

Schedule
A-1: Determination of Base Rates Revenue Requirement
A-2: Test Year Result of Operations with Pro Forma Adjustments
A-5: Summary of Financial Position and Changes in Financial Position (Through End of Test Year and Projected Three Years)
<del>A-6: Detail of Types of Costs Recovered through FCA/PPCA</del>
C-1: Test Year Income Statement with Adjustments and Adjusted Results
D-4: Capital Lease detail
D-5: Long Term Purchased Power Agreements (test year and three subsequent years)
E-1: Balance Sheet (test year, two previous years, three subsequent years)
E-2: Income Statement (test year, two previous years, three subsequent years)
E-3: Statement of Changes in Financial Position (test year, two previous years, three subsequent years)
E-4: Statement of Changes in PREPA's Net Position (Deficit) (test year, two previous years, three subsequent years)
E-6: Departmental / Functional Operating Income Statements (test year, two previous years, three subsequent years)
E-7: Various Operating Statistics (i.e. debt service coverage, number of employees) (test year, two previous years, three subsequent years)
E-8: Detail of Contributions in Lieu of Taxes with each government client
E-9: Notes to the Financial Statements
F-1: Projected Income Statement at Present and Proposed Rates for three years
F-3: Projected Construction and Capital Expenditures for Three Years including alignment with IRP
F-4: Detailed Supporting Documentation for Projections
G-1: Fully Allocated Embedded Cost of Service at Present Rates
G-2: Fully Allocated Embedded Cost of Service at Proposed Rates
G-3: Revenue Allocation by Class at Proposed Rates
G-4: Expense Allocation by Class at Proposed Rates
G-5: Allocation Factors and Calculations
G-6: Optional: Alternative Methodologies for Calculating Embedded Cost of Service
H-1: Summary of Revenues by Class at Present and Proposed Rates
H-2: Revenue Requirement Analysis at Present and Proposed Rates (billing determinants)
H-3: Explanation of Changes between Current and Proposed Rates

<sup>71</sup> See Regulation 8720, known as "New Regulation on Rate Filing Requirement for the Puerto Rico Electric Power Authority's First-Rate Case" of March 28, 2016.

## 2023 Rate Review – Phase 1 Report

Schedule
H-4: Customer Bill Impact Analysis
H-5: Bill Count and Bill Frequency Analysis
H-6: Proof of Revenue
I-2: Audited Financial Statements
I-4: Business Plan for Rate Year
J-1: Proposed Tariffs
J-2: Current Tariffs Redlined
J-3: Plan of Rider Surcharge Administration for Each Rider
J-4: Energy Efficiency Rider
K-1: Description of Affiliates and Listing of Officers
L-2: Detail of Subsidies Included in Rates
M-1: Rate Design Proposal (including fixed charge, energy charge and where applicable, demand charge)
Pre-Filed Written Testimony for LUMA, Genera, and PREPA
Public Notice

### 5.1 PREPA Legacy Debt Charge and Pension Obligations

PREPA's Legacy Debt and Pension obligations are currently under a restructuring process pursuant to Title III of PROMESA.<sup>72</sup> The FOMB for Puerto Rico, as PREPA's sole representative in PREPA's Title III case, is responsible for all aspects of PREPA's Title III proceedings, including developing and proposing a Plan of Adjustment (POA) to the Title III court. The FOMB filed its Third Amendment POA for PREPA on August 25, 2023. The Third Amended POA contains the FOMB's proposed approach for restructuring PREPA's Legacy Debt and Pension obligations, including certain economic terms related to the overall recovery available to different classes of creditors, annual debt service costs to PREPA and proposed rates to be added to PREPA customer bills. The Third Amended POA is subject to confirmation by the Title III court and, therefore, there is significant uncertainty as to its outcome, including its particular impact on PREPA and its customers.

Once a POA for PREPA is confirmed by the Title III court, LUMA understands that PREPA and/or the FOMB will develop and submit to the PREB – either within the current proceeding or separately – the materials, information, and documentation necessary and in support of any request for the calculation and inclusion of any charges in customer bills designed to collect revenues for payment of PREPA's Legacy Debt and Pension obligations.

Upon coordination with the FOMB, a preliminary list of witnesses, issues to be addressed by each witness and schedules to be submitted by PREPA and/or the FOMB is attached herewith as Appendix D.

<sup>72</sup> See Title III case under PROMESA pending for PREPA in the Title III Court, captioned as *In re Financial Oversight & Management Board for Puerto Rico as representative of Puerto Rico Electric Power Authority*, Case No. 17-BK-4780-LTS (D.P.R.).

## 2023 Rate Review – Phase 1 Report

### Appendix A: Phase II Filing Schedules

Please refer to the attached Excel workbook.

Via electronic mail

Ms. Robin Kostek  
Manager, Tariffs and Budget  
LUMA Energy, LLC  
Email: [robin.kostek@lumapr.com](mailto:robin.kostek@lumapr.com)

**Re: NEPR-AP-2023-0003  
June 30, 2023, Resolution and Order**

Dear Ms. Kostek,

Pursuant to the requirements set forth under Section II (a)(i)(e)(ii) of the June 30, 2023, Resolution and Order ("June 30<sup>th</sup> Order") of the Puerto Rico Energy Bureau's ("PREB") Resolution and Order Initiating Rate Review, Case No.: NEPR-AP-2023-0003 Genera PR LLC hereby submits its preliminary and subject-to-change witness list and related issues and topics each witness will address in their testimony.

1. Brannen McElmurray – Chief Executive Officer
  - Testimony of overall rate case process, reasonability and prudence of the revenue requirements and associated costs, in accordance with from paragraph (C) of Section 2.17 of Regulation 8720.
2. Ron Lewis – Chief Financial Officer
  - Accounting, and
  - Finance-related topics.
3. Cesar A Figueroa Diez – Director of Fuel Management
  - Fuel costs,
  - Fuel procurement,
  - Fuel Optimization Plan,
  - Projected savings, and
  - Fuel cost recovery mechanisms.

4. Daniel Hernández Morales – Vice President of Operations

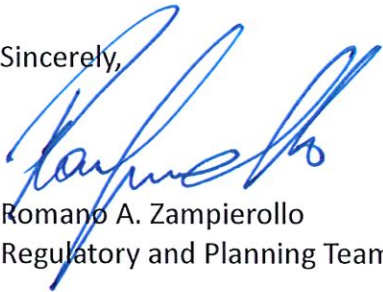
- Capital expenditures and projections,
- Construction, and
- Operations.

As stated above, this preliminary list is provided to comply with the June 30<sup>th</sup> Order. The officers named herein, and the related issues and topics associated with them, are all subject to change and provided on a conditional basis.

Should you have any questions or require further clarification, please do not hesitate to contact the undersigned, Romano Zampierollo, at [rzampierollo@genera-pr.com](mailto:rzampierollo@genera-pr.com).

Genera looks forward to continuing working with LUMA for the benefit of the people of Puerto Rico and in compliance with orders from PREB.

Sincerely,

A handwritten signature in blue ink, appearing to read "Romano A. Zampierollo".

Romano A. Zampierollo  
Regulatory and Planning Team



Exhibit 5  
Redline of Updated Phase 1 Report



GOVERNMENT OF PUERTO RICO  
PUERTO RICO ELECTRIC POWER AUTHORITY

Executive Director | Josué A. Colón Ortiz | [director\\_ejecutivo@prepa.com](mailto:director_ejecutivo@prepa.com)

September 28, 2023

BY ELECTRONIC MAIL  
[Robin.kostek@lumapr.com](mailto:Robin.kostek@lumapr.com)

Ms. Robin Kostek  
Manager, Tariffs and Budget  
LUMA Energy, LLC and  
LUMA Energy ServCo, LLC (LUMA)  
PO Box 363508  
San Juan, Puerto Rico

Dear Ms. Kostek:

**Re.: PREPA Submission of Witness List and Sponsored Testimony for 2024 Rate Review**

The Puerto Rico Electric Power Authority ("PREPA") hereby submits to LUMA Energy, LLC ("LUMA"), PREPA's preliminary witness list, and the topics to which each witness will sponsor testimony for inclusion in LUMA's Phase I filing as it relates to the 2024 Rate Review. PREPA's preliminary witness list is as follows:

Witness	Title	Topics for Sponsored Testimony
Josué A. Colón Ortiz	PREPA Executive Director	<ul style="list-style-type: none"><li>Discuss and describe HoldCo and HydroCo structure (i.e. Org Chart) and operations.</li><li>Provide overview of PREPA responsibilities / functions, challenges, and proposed solutions / improvements.</li><li>Provide high level overview and support for budgetary requirements.</li></ul>
Jaime Umpierre Montalvo	PREPA Director of HydroCo and Operations	<ul style="list-style-type: none"><li>Support and justify revenue requirement for HydroCo.</li></ul>



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Exhibit 5  
Redline of Updated Phase 1 Report


Ms. Robin Kostek  
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Witness	Title	Topics for Sponsored Testimony
Nelson Morales	PREPA Finance Director	Discuss and describe the following: <ul style="list-style-type: none"><li>• PREPA Finance operational and contractual responsibilities, including consolidated financial reporting and audits, finance department function needs for future bond issuances post-T3 (e.g., investor roadshows, disclosure requirements)</li><li>• Justify revenue requirement for HoldCo budget.</li><li>• Necessary funding for service accounts.</li><li>• Necessary funding for pension obligations.</li></ul>
Lionel Santa Crispín	PREPA General Counsel	Discuss and describe other key PREPA areas and responsibilities with significant funding needs (e.g., legal).
Juan C. Rivera Burgos	PREPA IT/OT Administrator	
Lucas Porter	Ankura Senior Director	Provide overall expert support for discussions on budget, revenue requirements, and rate structure, among other.

Note that the list of witnesses above and topics remains subject to change in all respects.

PREPA team looks forward to continuing work with LUMA and Genera PR, LLC, representatives in the ongoing effort in advancing energy sector transformation initiatives in the most transparent, and responsible way possible for the benefit of the people of Puerto Rico.

Cordially,



Josué A. Colón-Ortiz  
Executive Director

- c Lionel Santa Crispin, PREPA General Counsel, [lionel.santa@prepa.pr.gov](mailto:lionel.santa@prepa.pr.gov)  
Nelson Morales, PREPA Finance Director, [nelson.rivera@prepa.pr.gov](mailto:nelson.rivera@prepa.pr.gov)  
Jaime Umpierre, PREPA HydroCo Director, [jaime.umpierre@prepa.pr.gov](mailto:jaime.umpierre@prepa.pr.gov)  
Juan C. Rivera Burgos, PREPA IT/OT Administrator, [juan.rivera@prepa.pr.gov](mailto:juan.rivera@prepa.pr.gov)

Exhibit 5  
Redline of Updated Phase 1 Report

MEMORANDUM FOR:

Mr. Mario Hurtado  
Chief Regulatory Officer  
LUMA Energy

Ms. Rachel Ehrlich Albanese  
Counsel for LUMA Energy  
DLA Piper

Please be advised that the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), in relation to PREPA’s upcoming consolidated rate review proceeding, is hereby providing the following required information:

- I. Schedule List**
  - A. Legacy Debt Charge**
- II. Witness List & Topics List**

*Mr. William Zarakas*, a principal at The Brattle Group, an advisor for the Oversight Board, will provide pre-filed direct testimony regarding the proposed **Legacy Charge** rates and present supporting information.

The supporting information may include the proposed Legacy Charge rates by customer class; the customer bill impact analysis and other assumptions and modeling methodology considered in developing the Legacy Charge rates and supporting workpapers; and other information the Puerto Rico Energy Bureau may reasonably request in connection therewith.

The Oversight Board understands LUMA will work with PREPA and other operating entities to provide the witnesses and supporting information for all operational expenses and corresponding rate requests, including those relating to pension expenses, as owners of such information.

Exhibit 5  
Redline of Updated Phase 1 Report