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

IN RE:	**CASE NO. NEPR-MI-2021-0002**
IN RE: REVIEW OF THE PUERTO RICO ELECTRIC POWER AUTHORITY'S 10-YEAR INFRASTRUCTURE PLAN-DECEMBER 2020	**SUBJECT: Submission of One Scope of Work, Request for Confidentiality and Supporting Memorandum of Law**

MOTION SUBMITTING ONE SCOPE OF WORK, REQUEST FOR CONFIDENTIALITY AND SUPPORTING MEMORANDUM OF LAW

TO THE PUERTO RICO ENERGY BUREAU:

COME NOW LUMA Energy, LLC[1], and **LUMA Energy ServCo, LLC**[2] (jointly referred to as "LUMA"), through the undersigned legal counsel, respectfully submit the following:

I. Submittal of Scope of Work and Request for Confidentiality

1. On March 26, 2021, this Puerto Rico Energy Bureau ("Energy Bureau") issued a Resolution and Order in the instant proceeding (the "March 26 Order"), ordering, in pertinent part, that the Puerto Rico Electric Power Authority ("PREPA") submit to the Energy Bureau the specific projects to be funded with Federal Emergency Management Agency ("FEMA") funds or any other federal funds at least thirty (30) calendar days prior to submitting these projects to the Puerto Rico Central Office for Recovery, Reconstruction and Resiliency ("COR3"), FEMA or any other federal agency. *See* March 26 Order on pages 18-19. This Energy Bureau thereafter determined that this directive applied to both PREPA and LUMA. *See* Resolution and Order of August 20, 2021 ("August 20 Order") on page 3.

[1] Register No. 439372.
[2] Register No. 439373.

2. Consequently, LUMA has submitted to this Energy Bureau several Transmission and Distribution projects ("T&D Projects") on July 8, 2021 (twenty-eight (28) Scopes of Work and an itemized list of T&D Projects), August 30, 2021 (twenty-nine (29) SOWs and an updated list of T&D Projects) and October 4, 2021 (thirty-eight (38) SOWs and an updated list of T&D Projects), February 2, 2022 (three (3) SOWs and an updated list of T&D Projects), May 20, 2022 (one (1) SOW and an updated list of T&D Projects), July 29, 2022 (four (4) SOWs and an updated list of T&D projects), August 10, 2022 (two (2) SOWs and an updated list of T&D projects), November 11, 2022 (sixty (60) SOWs and an updated list of T&D projects), November 16, 2022 (one (1) SOW and an updated list of T&D Projects), January 30, 2023 (one (1) SOW and an updated list of T&D projects), March 29, 2023 (two (2) SOWs and an updated list of T&D projects), April 24, 2023 (one (1) SOW), April 27, 2023 (three (3) SOWs), and August 25, 2023 (one (1) SOW). The Energy Bureau has approved all the T&D Project SOWs submitted by LUMA as of August 25, 2023.

3. On July 29, 2022, LUMA filed a *Motion Submitting Four Scopes of Work and Updated List of Projects and Request for Confidentiality and Supporting Memorandum of Law*. Therein, LUMA submitted four (4) SOWs for T&D Projects for its review and approval before submitting them to COR3 and FEMA ("July 29th Motion"). Among the SOWs submitted to this Energy Bureau was the "Transmission and Distribution Automation Program Installation of Reclosers, Single Phase Reclosers and Fault Current Indicators" T&D Project.

4. Then, on August 25, 2022, the Energy Bureau entered a Resolution and Order in which it determined that SOWs for T&D projects submitted by LUMA were necessary to improve the system's reliability ("August 25th Order"). Therefore, it approved all the projects presented in

the August 25th Motion, including the "Transmission and Distribution Automation Program Installation of Reclosers, Single Phase Reclosers and Fault Current Indicators" T&D Project SOW. Further, the Energy Bureau ordered LUMA to seek the Energy Bureau's approval immediately should the scope of the approved project change.

5. Recently, LUMA has determined that it is in the best interest of the efficiency of the T&D System to develop a new scope of work and/or cost estimate that supplements a T&D Project SOW that the Energy Bureau has already approved. LUMA states that the "Transmission and Distribution Automation Program Installation of Reclosers, Single Phase Reclosers and Fault Current Indicators" T&D Project SOW was developed based on a near-term reliability improvement solution for LUMA's Distribution and Transmission system. This included a total of 2,400 three-phase reclosers, 4,500 single-phase reclosers and 5,000 FCIs. After initial deployment and additional engineering analysis, it was determined that many devices and automation technologies were needed to achieve proper segmentation, protection, visibility, and automation for LUMA's Distribution and Transmission system. The engineering process also revealed that the existing substation devices limit the performance that must be achieved from the deployment of the reclosers.

6. A new SOWwas developed to complement and capture the additional requirements needed at the distribution, substation, and transmission level for this program to be successful. For distribution, this includes 2100 three-phase reclosers, 10,500 single-phase reclosers, and 6,000 fault circuit indicators for a total of 4500 three-phase reclosers, 15000 single-phase reclosers, 11000 communicating fault current indicators. For substation, new microprocessor-based feeder

headend relays. Finally, for transmission, over 250 38kv reclosers and enhanced fault detection system for 115 kV/230 kV system.

7. The strategic objective could not be achieved by installing the equipment on 177 out of 1228 feeders to improve distribution performance and reduce the number of service interruptions, while aligning the distribution system with regulation/law, specifically Act 17-2019, Subsection 1.15 (o). A system-wide deployment on all LUMA distribution feeders is required to ensure LUMA can meet accepted reliability and resiliency standards, including the improvement of the LUMA disaster recovery response.

9. Therefore, in accordance with the March 26 Order issued in this instant proceeding, LUMA hereby submits to the Energy Bureau a new SOW for the T&D Projects for this Energy Bureau's review and approval prior to submittal to COR3 and FEMA in thirty (30) days for the following project: "Transmission and Distribution Automation Program Installation of Three Phase Reclosers, Single Phase Reclosers and Fault Circuit Indicators and Feeder Headend Protection Devices," dated September 12, 2023. As explained before, the above-described SOW reflects the supplements to the original SOW for the T&D project.

11. Section 428 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (known as the "Stafford Act"), administered by FEMA, provides funding through grants to states, local, tribal, and territorial governments through its Public Assistance Program to help communities respond to and recover from major disasters. LUMA has presented and received approval from the Energy Bureau for 208 initial SOWs for projects under Section 428 as of this date. The Energy Bureau's approval of these SOWs allows LUMA to engage with COR3 and federal agencies to seek different federal funding sources. These include FEMA Hazard Mitigation

funding under Section 406 of the Stafford Act. Section 406 provides FEMA with discretionary authority to fund mitigation measures and repair disaster-damaged facilities. The application for and determination of Section 406 funding is part of the preliminary design phase for projects approved by the Energy Bureau and the assignment of FAASt numbers by FEMA to award Section 428 funding. At the time of submission of the initial SOW to the Energy Bureau, it is unknown whether and in what amounts funding through Section 406 will be available, if any. LUMA develops proposals for additional hazard mitigation measures consistent with the damages. The proposals are reviewed and approved by FEMA and COR3. LUMA's efforts to add mitigation measures under Section 406 comply with the Energy Bureau directives and are consistent with LUMA's commitment to pursue federal funding from all potential sources, maximize available funds, and efficiently execute proposed projects.

12. LUMA hereby requests that *Exhibit 1* be maintained confidential and is submitting a redacted version for public disclosure and an unredacted non-public version under seal of confidentiality. LUMA submits below its Memorandum of Law stating the legal basis for which the unredacted version of *Exhibit 1* should be filed under seal of confidentiality. As will be explained below, portions of the SOW in *Exhibit 1* should be protected from public disclosure per the Energy Bureau's Policy on Management of Confidential Information, CEPR-MI-2016-0009 ("Policy on Management of Confidential Information"), issued on August 31, 2016, as amended by the Resolution dated September 20, 2016. This, because the SOW includes personal identifying information of individuals who are LUMA staff or contractors protected under Puerto Rico's legal framework on privacy emanating from the Puerto Rico Constitution and should also be protected pursuant to the Energy Bureau's Policy on Management of Confidential Information.

II. Memorandum of Law in Support of Request for Confidentiality

A. Applicable Laws and Regulations to Submit Information Confidentially Before the Energy Bureau

13. The bedrock provision on the management of confidential information filed before this Energy Bureau is Section 6.15 of Act 57-2014, known as the "Puerto Rico Energy Transformation and Relief Act.". It provides, in pertinent part, that: "[i]f any person who is required to submit information to the [Energy Bureau] believes that the information to be submitted has any confidentiality privilege, such person may request the [Energy Bureau] to treat such information as such […]" 22 LPRA §1054n. If the Energy Bureau determines, after appropriate evaluation, that the information should be protected, "it shall grant such protection in a manner that least affects the public interest, transparency, and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted." *Id.* §1054n(a).

14. Access to confidential information shall be provided "only to the lawyers and external consultants involved in the administrative process after the execution of a confidentiality agreement." *Id.* §1054n(b). Finally, Act 57-2014 provides that this Energy Bureau "shall keep the documents submitted for its consideration out of public reach only in exceptional cases. In these cases, the information shall be duly safeguarded and delivered exclusively to the personnel of the [Energy Bureau] who needs to know such information under nondisclosure agreements. However, the [Energy Bureau] shall direct that a non-confidential copy be furnished for public review." *Id.* §1054n(c).

15. Relatedly, in connection with the duties of electric power service companies, Section 1.10 (i) of Act 17-2019 provides that electric power service companies shall provide the

information requested by customers, except for confidential information in accordance with the Puerto Rico Rules of Evidence.

16. Moreover, the Energy Bureau's Policy on Management of Confidential Information details the procedures a party should follow to request that a document or portion thereof be afforded confidential treatment. In essence, the referenced Policy requires identifying confidential information and filing a memorandum of law explaining the legal basis and support for a request to file information confidentially. *See* CEPR-MI-2016-0009, Section A, as amended by the Resolution of September 20, 2016, CEPR-MI-2016-0009. The memorandum should also include a table that identifies the confidential information, a summary of the legal basis for the confidential designation, and why each claim or designation conforms to the applicable legal basis of confidentiality. *Id.* at ⁋ 3. The party who seeks confidential treatment of information filed with the Energy Bureau must also file both a "redacted" or "public version" and an "unredacted" or "confidential" version of the document that contains confidential information. *Id.* at ⁋ 6.

17. Energy Bureau Regulation No. 8543, *Regulation on Adjudicative, Notice of Noncompliance, Rate Review, and Investigation Proceedings*, also includes a provision for filing confidential information in proceedings before this Energy Bureau. To wit, Section 1.15 provides that "a person has the duty to disclose information to the [Energy Bureau] considered to be privileged pursuant to the Rules of Evidence, said person shall identify the allegedly privileged information, request the [Energy Bureau] the protection of said information, and provide supportive arguments, in writing, for a claim of information of privileged nature. The [Energy Bureau] shall evaluate the petition and, if it understands [that] the material merits protection, proceed according to […] Article 6.15 of Act No. 57-2015, as amended." *See also* Energy Bureau

Regulation No. 9137 on *Performance Incentive Mechanisms*, § 1.13 (addressing disclosure before the Energy Bureau of Confidential Information and directing compliance with Resolution CEPR-MI-2016-0009).

B. Request for Confidentiality

18. The SOW in *Exhibit 1* contains the name, signature, and role of an individual who is a LUMA employee and a contractor, respectively, who reviewed the SOW as part of LUMA's internal review and approval of each document.[3] LUMA respectfully requests that information on the names, signatures, and roles of these individuals be maintained confidentially in the context that these reveal details of their employment duties and that their protection is in the public interest and aligned with Puerto Rico's legal framework on privacy which protects from the disclosure of personal information. *See, e.g.*, Const. ELA, Art. II, Sections 8 and 10 protect the right to control personal information and distinctive traits, which applies *ex proprio vigore* and against private parties. *See also e.g. Vigoreaux v. Quiznos*, 173 D.P.R. 254, 262 (2008); *Bonilla Medina v. P.N.P.*, 140 D.P.R. 294, 310-11 (1996), *Pueblo v. Torres Albertorio*, 115 D.P.R. 128, 133-34 (1984). *See also* Act 122-2019, Article 4(vi) (which provides, as an exception to the rule on public disclosure, information the disclosure of which could invade the privacy of third parties or affect their fundamental rights); and Article 3(c) of Act 122-2019 (stating that personnel files and similar information does not constitute public information subject to disclosure). It is respectfully submitted that the redaction of the aforementioned information does not affect the public's or the Energy Bureau's review of the SOW nor interferes with processes before this Energy Bureau.

[3] This employee and contractor are different from the top tier employees who have in the past signed these documents and who may be publicly known.

Therefore, on balance, the public interest to protect privacy weighs in favor of protecting the relevant portions of the SOW.

C. Identification of Confidential Information

19. In compliance with the Energy Bureau's Policy on Management of Confidential Information, CEPR-MI-2016-0009, below, find a table summarizing the hallmarks of this request for confidential treatment.

Document	**Name**	**Pages in which Confidential Information is Found, if applicable**	**Summary of Legal Basis for Confidentiality Protection, if applicable**	**Date Filed**
Exhibit 1	Transmission and Distribution Automation Program Installation of Three Phase Reclosers, Single Phase Reclosers and Fault Circuit Indicators and Feeder Headend Protection Devices	Page 1	Right to privacy (*see, e.g.*, Const. ELA, Art. II, Sections 8 and 10)	November 7, 2023

WHEREFORE, LUMA respectfully requests that the Energy Bureau **take notice** of the aforementioned; **approve** the SOW for T&D Projects submitted as *Exhibit 1* to this Motion; and **grant** the request for confidential treatment of *Exhibit 1*.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on this 7th of November, 2023

I hereby certify that I filed this Motion using the electronic filing system of this Energy Bureau and that I will send an electronic copy of this Motion to PREPA's General Counsel, Lionel Santa, lionel.santa@prepa.pr.gov.

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Exhibit 1

FEMA Project Scope of Work

Project Name:
Transmission and Distribution Automation Program
Installation of Three Phase Reclosers, Single Phase Reclosers and Fault Circuit Indicators and feeder headend protection devices.
Revision: 0
Date: 12 SEP 2023

APPROVALS

The signatures below formally approve the FEMA Project Scope of Work.

Grant Manager's Name	Signature	Date
[redacted]	[redacted]	09/12/2023
Department VP's Name	**Signature**	**Date**
[redacted]	[redacted]	09/12/2023

Document Change Control

This table contains a history of the revisions made to this document.

Rev.	Date of Issue	Brief Description of Change
0	12SEP2023	FINAL FOR SUBMISSION

Contents

Contents

Overview

Project Name:	Transmission and Distribution Automation Program - Installation of Three Phase Reclosers, Single Phase Reclosers, Fault Circuit Indicators and Feeder Headend Protection devices.
Project Type:	Restoration to Codes and Standards
Region:	All
Damage Number:	
Damaged Inventory/Asset Category:	Island Wide Distribution and Island Wide 38 kV Lines
FEMA Project Number: *(formerly Project Worksheet)*	<Provided by FEMA>

Introduction

The purpose of this document is to present and update an Initial Project Scope of Work (ISOW) with Cost Estimates to be submitted to the Puerto Rico Central Office for Recovery (COR3) and the Federal Emergency Management Agency (FEMA) for projects under DR-4339-PR Public Assistance. The completed document will be reviewed by COR3 and FEMA to create and version a specific project worksheet and post fixed-cost estimates to repair, restore, or replace eligible facilities including Section 406 hazard mitigation for a specific project.

LUMA Energy provides the Operations and Maintenance of the electric service to Puerto Rico. Puerto Rico Electric Power Authority (PREPA) is the agency that owns the facilities, sites, and systems identified in this Scope of Work that are eligible as critical services facilities as defined in the PAAP (Section 428) and BBA 2018 guidance documents.

This document will be updated with information developed during the initial design and engineering phase through the construction phase.

Facilities

Facilities List

Specific details about the equipment to be installed will be identified during field evaluations, surveys and engineering studies to be conducted. The facilities addressed in this project include all distribution lines and 38 kV transmission Lines in the electrical grid system of Puerto Rico.

Facilities Description

The specific facilities included in this project are: substation feeder headend protection, poles and structures (including their foundations), framing and insulators, load break switches (manual and automated), transformers (including lightning arresters and fuse cut-outs), conductors, guy wires, anchoring, grounding assemblies, fault interrupting equipment (fuses, reclosers, and sectionalizers), and any other associated components.

Project Scope

Scope of Work Description (e.g., Plan for Repair)

The scope of the program consists of installation of communications ready smart reclosers with microprocessor-based controllers for remote monitoring, and control. Scope of work will vary per feeder and location may include the following per installations.

- Poles and structures (including their foundations),
- Framing and insulators,
- Load break switches (including hardware),
- Transformers (including lightning arresters and fuse cut-outs),
- Conductors,
- Guy wires, anchoring,
- Grounding assemblies,
- Reclosers / Fault interrupting equipment (and any other associated components on distribution feeders)

Any new structure foundations will be designed and engineered to confirm structural soundness and stability. Damaged structures/poles will be replaced with higher-class (strength) structures/poles made of steel or concrete to comply with codes and standards.

To comply with all applicable codes and standards and to allow for construction access, vegetation removal will be considered in the SOW. The scope of vegetation removal will be defined when scheduling the repairs. When possible, facilities will remain along their existing route and within the existing right-of-way.

The final SOW (plans and specifications) and construction dates will be completed as assessments are completed. Dates will established upon the preparation of detailed project schedules.

The program scope includes communication devices for the reclosers and all associated networking upgrades to provide SCADA operators remote control and visibility of the recloser status. Fleet Management Software is included to provide stakeholders visibility of operations to improve fault analysis and response times to feeder outage restoration.

The program scope includes the upgrading of outdated protection devices at the feeder head in the substations to modern digital devices that can be used in conjunction with the reclosers.

The program scope includes the installation of communicating Fault Circuit Indicators in strategic locations. The Fault circuit indicators will be placed at locations to provide more granularity to operators as to the location of faults on a feeder to speed up restoration actions. The program includes the communication integration required including networking devices to communicate the fault locations to SCADA and Outage Management Systems (OMS).

The engineering team will study and select the optimal locations for the installations of the three phase reclosers(T&D), fault circuit indicators and single phase reclosers to improve reliability of the feeders. The location of reclosers will ensure required coordination of substation circuit breakers, reclosers and fuses. The intent of the reclosers is to minimize permanent outages for temporary faults on the distribution feeders. The engineering philosophy and standards will be established to ensure long term continuation of feeder protection and control designs.

The program includes the Automation of Distribution feeders and 38 kV lines to further improve feeder reliability.

Grid Automatic switching schemes will leverage the reclosers to tie two feeders through an open tie recloser. The intent of the feeder automation schemes is to provide feeder segments between reclosers with redundant power sources. The feeder automation schemes will automatically isolate faulted feeder segments and restore power to healthy feeder segments form an alternate power source.

The program includes the replacement of outdated protection devices at the 38 kV lines headend including engineering and construction. The new protection devices will provide required functionality to better coordinate with the reclosers.

Type of Project

Choose One (Restoration, Improved or Alternate) If improved, provide the changes in facility size, capacity, dimension, or footprint. If alternate, provide rationale for recommendation.
Restoration to Codes and Standards
This work will be in compliance with FEMA (Public Assistance Alternative Procedures (Section 428) Guide for Permanent Work FEMA-4339-DR-PR February 2020)

Note: If preliminary A&E work has not been completed, the type of work designation is considered initial and is based on currently available information. The type of work designation may be revised based on the results of the completed preliminary A&E work.

Preliminary Engineering

Is architectural and engineering funding required to help define the intended scope of work?
Yes

Codes and Standards

Which of the following types of codes, specifications, and standards apply to the restoration, replacement, relocation, or alternate scope of work?

The following will be referenced when applying specific codes, specifications, and standards to the project design:

1. Consensus-based codes, per FEMA (Public Assistance Alternative Procedures (Section 428) Guide for Permanent Work FEMA-4339-DR-PR February 2020).
2. Industry standards per FEMA Recovery Policy FP-104-009-5, Version 2, Implementing Section 20601 of the 2018 Bipartisan Budget Act through the Public Assistance Program.
3. FEMA Recovery Interim Policy FP-104-009-11 Version 2.1, Consensus-Based Codes, Specifications, and Standards for Public Assistance.
4. LUMA's latest Design Criteria Document (DCD) which aggregates the design considerations of the vast majority of the consensus-based codes, specifications, and standards listed in FEMA Recovery Interim Policy 104-009-11 Version 2.1 (December 20, 2019).

Codes, Specifications, and Standards

Yes
Applicable codes and standards will be identified and incorporated into the plans and specifications.

Industry Standards

Yes
Applicable industry standards will be identified and incorporated into the plans and specifications.

Cost Estimate

Cost estimates to complete the work have been generated at a class 5 level, which is between -50% and +100% of the final project cost. The estimate includes materials, construction labor and equipment, engineering, management, and contingencies.

Estimated Budget for Architectural & Engineering Design:	$83.16M*
Estimated Budget for Procurement & Construction:	$386.46M*
Estimated Overall Budget for the Project:	$469.63M*

406 Hazard Mitigation Proposal

406 Mitigation Opportunity Scope of Work

As part of the grid restoration, LUMA proposes the integration of the Transmission and Distribution Automation Program as an essential component that effectively improves the reliability of the transmission and distribution power infrastructure. This program is being proposed as a 406 Hazard Mitigation (HM) measure that will facilitate the ability to provide a looped transmission and distribution service to reduce the potential loss of service and related interruptions. In addition, this mitigation measure will prevent future and similar damages as a result of extended outages further reducing the need for Emergency Protective Measures and/or temporary facilities. Also, LUMA is basing this proposal for 406 funding on the precedence with Long Island Power Authority (LIPA) after Hurricane Sandy in 2012, where a 100% of the new installed reclosers on damaged circuits were funded through HM.

The technical working group affirms a functional interdependence among all the structures/poles and related components comprising a site. It is recognized that one structure/pole cannot function in isolation, but rather is functionally dependent on (functionally interdependent with) other structures/poles supporting the feeder.

This proposal will be documented with BCAs.

406 Mitigation Opportunity Cost Estimate

Estimated Budget for Architectural & Engineering to Design:	TBD
Estimated Budget for Procurement:	TBD
Estimated Budget for Construction:	TBD
Estimated Overall Budget for the Project:	TBD

Note: If available, detailed engineering cost estimates will be included as an attachment.

Environmental & Historic Preservation Requirements

EHP considerations will be identified and evaluated during the preliminary design phase and submitted to FEMA for review. Requirements will be incorporated into the final design and construction documents to be approved by FEMA prior to construction activities.

Attachments

Attachments will be provided after High Level Assessments (HLA) are completed.

Document Name	Description
Grid Automation Program Facilities	LUMA Distribution Feeder and 38 kV line list