

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

**IN RE:**

ENERGY EFFICIENCY AND DEMAND  
RESPONSE TRANSITION PERIOD  
PLAN

**CASE NO.:** NEPR-MI-2022-0001

**SUBJECT:** Request to Extend by One  
Year the Deadline to File the Three-Year Plan,  
Concomitant Deadlines, and Extend the Term of  
the Transition Period Plan for an Additional  
Fiscal Year

**REQUEST TO EXTEND BY ONE ADDITIONAL YEAR THE DEADLINE TO FILE  
THE THREE-YEAR PLAN, CONCOMITANT DEADLINES AND EXTEND THE TERM  
OF THE TRANSITION PERIOD PLAN FOR AN ADDITIONAL FISCAL YEAR**

**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 requests the following:

**I. Relevant Background and Procedural History**

1. On December 10, 2020, the honorable Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) adopted the Regulation for Demand Response (“DR Regulation”)<sup>1</sup> requiring, among others, that the Puerto Rico Electric Power Authority (“PREPA”) or its successor, LUMA, file with the Energy Bureau a Three-Year Demand Response Plan (“Three-Year DR Plan”) by a specified date. *See* DR Regulation, Section 3.02(C)(1)(a).

<sup>1</sup> DR Regulation, December 21, 2020, Regulation 9246.

2. On April 21, 2021, the Energy Bureau issued a Resolution and Order commencing the proceeding in docket (“DR Proceeding”) and ordering PREPA and LUMA to attend a Technical Conference, among others.

3. On January 21, 2022, the Energy Bureau published the final version of the Regulation for Energy Efficiency (“EE Regulation”)<sup>2</sup>, requiring, among others, that PREPA or its successor, LUMA, file with the Energy Bureau a plan to implement “quick start” EE programs during a two-year transition period (“Transition Period Plan”) by a specified date. *See* EE Regulation, Section 2.01.

4. On February 1, 2022, the Energy Bureau issued a Resolution and Order in the DR Proceeding (“February 1<sup>st</sup> Resolution and Order”) in which it, among others, expanded the scope of the DR Proceeding to include EE alongside DR (*see* February 1<sup>st</sup> Resolution and Order, page 2).

5. On June 21, 2022, LUMA filed with the Energy Bureau, in the DR Proceeding, a proposed Energy Efficiency (“EE”) and Demand Response (“DR”) Transition Period Plan containing the description of various EE and DR Programs to be implemented by LUMA during the Transition Period and associated budgets for Fiscal Years (“FY”) 2023 and 2024 (“Proposed TPP”). *See Motion Submitting Proposed EE/DR Transition Period Plan* in Case No. NEPR-MI-2021-0006, *In Re: Demand Response Plan Review, Implementation and Monitoring* of that date and its *Exhibit 1* (this Exhibit 1, the “Proposed TPP”). The EE and DR Programs in the TPP include an Education and Outreach Program (*see* Proposed TPP on pages 28-31); a Residential EE Rebate Program, providing a prescriptive incentive to customers purchasing energy efficient equipment

---

<sup>2</sup> The EE Regulation was at the time assigned the number 9354 by the Puerto Rico State Department. Regulation number 9354 was subsequently annulled, and the EE Regulation was resubmitted to and approved by the Puerto Rico Department of State on March 25, 2022, being assigned number 9367.

from a list of qualified measures, including air conditioners, solar and tankless water heaters, and refrigerators (*see id.* at pages 32-36); a Business EE Rebate Program, offering incentives to businesses for eligible measures, such as efficient lighting, HVAC, and water heating equipment (*see id.* at pages 37-41); an In-Store EE Discount Program, providing a point-of-sale discount for eligible energy efficiency measures and geo-targeting of stores in low-income areas to provide low-income customers with greater access to energy efficiency opportunities (*see id.* at pages 42-46); an Economic Demand Response Program, including voluntary load reduction and/or load shifting during DR events triggered by economic conditions (*see id.* at pages 57-61); an Emergency DR Program, targeting commercial and industrial customers for customers to voluntarily reduce load and/or shift load to back up generators during DR events (*see id.* at 52-56); and a Battery DR Response Program targeting residential customers with behind the meter batteries and providing incentives for load shifting to batteries during DR event periods (*see id.* at pages 37-41).

6. In the Proposed TPP LUMA proposed a budget of \$9.9 million in FY 2023 (for which it had allocated \$4.6 million from its base budget for initial program startup costs in FY2023) and \$20.5 million in FY2024. *See id.* at page 10.

7. In addition, in the Proposed TPP, LUMA explained that: (i) the proposed TPP was designed to build market readiness and customer awareness prior to the launch of full-scale EE and DR programs (*see id.* at page 10); (ii) quick-start programs and initiatives would be expanded following the TPP when full-scale program implementation begins (*see id.* at page 17); and (iii) the Proposed TPP is meant to test and refine programs before full-scale implementation, to provide greater understanding of customer preferences and market readiness (such as contactor and equipment availability) and to help LUMA understand internal organization and operational requirements required to effectively administer EE and DR programs (*see id.*).

8. Following other procedural events, on February 16, 2023, the Energy Bureau issued a Resolution and Order (the “February 16<sup>th</sup> Resolution and Order”) in the instant proceeding where it considered, amended, and approved the Proposed TPP (the Proposed TPP, as approved by the Energy Bureau, the “Approved TPP”). In the February 16<sup>th</sup> Resolution and Order, the Energy Bureau ordered LUMA to administer a lower budget for FY 2023 EE and DR programs of \$4.57 million and fund the FY2024 of the TPP using the EE Rider funding obtained by other means. *See* February 16<sup>th</sup> Resolution and Order on page 27. In addition, the Energy Bureau established deadlines or milestones for various activities under the Approved TPP, including, among others, the deadlines of April 1, 2023 for filing the EE Rider (*see id.* at pages 27 and 30), July 1, 2023 for the EE Rider to enter into effect (*see id.* at page 27)<sup>3</sup>, December 2, 2023 for preparation of a draft FY2025-2027 Three-Year Plan (*see id.* at page 27), December 2023 to conduct a stakeholder meeting to discuss the Three-Year Plan and the TPP annual report (for FY 2023) and March 1, 2024 to file the FY2025-2027 Three-Year Plan (*see id.* at page 18).

9. On March 8, 2023, LUMA filed a motion requesting reconsideration of certain requirements or determinations in the February 16<sup>th</sup> Resolution and Order. *See Motion for Reconsideration of Resolution and Order of February 16, 2023, and Request to Vacate Deadlines* of that date (“March 8<sup>th</sup> Motion”).

10. On April 3, 2023, the Energy Bureau issued a Resolution and Order (“April 3<sup>rd</sup> Resolution and Order”) in which it made several determinations regarding LUMA’s March 8<sup>th</sup> Motion and, among others, ordered LUMA to file a petition for approval of the EE Rider on or before April 11, 2023.

---

<sup>3</sup> In this regard, the Energy Bureau also indicates that the process for implementing the EE Rider is not contingent on the achievement of LUMA's milestones for program launch and that the EE Rider must enter into effect no later than July 1, 2023, in order to maintain program funding.

11. On April 11, 2023, LUMA submitted a petition for approval of the EE Rider (“EE Rider Petition”). *See Motion to Submit EE Rider* filed on that date. In the EE Rider Petition, LUMA provided a budget for the EE and DR Programs for FY2024 for a total budget of \$20,534,875. *See id.* Exhibit 1 at page 7.

12. On May 19, 2023, in compliance with a Bench Order issued during a Technical Conference held on May 5, 2023, LUMA filed revised Exhibits 1 and 2 of the EE Rider Petition (these along with the April 11<sup>th</sup> Motion, the “Revised EE Rider Petition”). *See Motion to Submit Revised Exhibit 1 to EE Rider Petition and Translation Thereof, in Compliance with Bench Order of May 5, 2023* (“May 19<sup>th</sup> Motion”).

13. On June 5, 2023, LUMA filed an *Informative Motion and Urgent Request for Clarification Regarding Requirements Applicable to the Emergency DR Program and Extension to Meet Program Enrollment Deadline in Resolution and Order of April 3, 2023* (“June 5<sup>th</sup> Motion”) requesting the Energy Bureau to issue a clarification regarding the applicability of certain provisions of Regulation 8701, Amendment to Regulation No. 8618 on Certification, Annual Fees and Operational Plans for Electric Service Companies in Puerto Rico, as amended (“Regulation 8701”) and of the Regulation for Demand Response, Regulation 9246 (“DR Regulation”), with respect to the DR Aggregators or the Emergency DR Program and explaining that the uncertainty surrounding the applicability of these provisions presented a barrier for the third-party DR Aggregators to proceed with enrollment and could delay the execution of the aggregation agreements between LUMA and the third-party DR Aggregators.

14. On June 15, 2023, the Energy Bureau issued a Resolution and Order (“June 15<sup>th</sup> Order”) addressing LUMA’s June 5<sup>th</sup> Motion clarifying the issues regarding the applicability of certain provisions of Regulation 8701 and the DR Regulation and ordering LUMA to file, on or

before July 14, 2023, proof that it has enrolled customers in an Emergency DR program and file, on or before July 31, 2023, documentation showing that LUMA has the capability to call Emergency DR events.

15. On June 29, 2023, LUMA filed with the Energy Bureau motion expressing concerns regarding the lack of funding to implement the Approved TPP and requesting the Energy Bureau urgently issue a determination regarding the Revised EE Rider Petition. *See Urgent Motion Requesting Determination Regarding the Revised EE Rider Petition and Clarifying the Calculated Factor in the Revised EE Rider Petition and Clarifying the Calculated Factor in the Revised EE Rider Petition Submitted on May 19, 2023.*

16. On June 30, 2023, the Energy Bureau issued a Resolution and Order in Case No. NEPR-MI-2020-0001, *In Re: Permanent Rate of the Puerto Rico Electric Power Authority* (“Permanent Rate Case”) (“June 30<sup>th</sup> Resolution and Order”) wherein it determined, among others, to suspend the EE Charge [EE Rider] for the month of July 2023 given the “great probability that the costs associated with [EE] programs will be paid with funds not associated with the EE Charge [EE Rider].” *See June 30<sup>th</sup> Resolution and Order, page 11.*

17. On July 14, 2023, LUMA filed a motion requesting the Energy Bureau suspend the deadlines to submit proof of customers enrolled in an Emergency DR program and documentation showing that LUMA has the capability to call Emergency DR events for the same time period during which the EE Rider is in suspense. *See Response to Orders Staying Approval and Implementation of EE Rider and Request for Suspension of Deadlines to Submit Proof of Customer Enrollment and Documentation on Capability to Call Events Related to Emergency DR Program of that date (“July 14<sup>th</sup> Motion”) on pages 10-11.*

18. On July 31, 2023, the Energy Bureau issued a Resolution and Order in Case No. NEPR-MI-2020-0001, *In Re: Permanent Rate of the Puerto Rico Electric Power Authority*, (“July 31<sup>st</sup> Order”), in which it determined, among others, that the cost of DR programs will not be part of the EE rider and ordered LUMA to contemplate the DR programs as part of the proposal of factors corresponding to the purchase power charge adjustment (“PPCA”) mechanism. *See* July 31<sup>st</sup> Order on pages 8 and 10.

19. On August 11, 2023, the Energy Bureau issued a Resolution and Order (“August 11<sup>th</sup> Order”) in which in its relevant part, it ordered LUMA to file: (a) on or before August 23, 2023, for the Energy Bureau’s approval, the associated cost related to the compensation to be offered to the DR Aggregators and/or ratepayers that participate in the DR Program to be recovered through the PPCA; (b) within two weeks of the Energy Bureau's approval of the compensation to the participants, proof it has published Emergency DR program terms, established agreements with DR Aggregators, and enrolled customers in the program; and (c) within two weeks of its filing proof of customer enrollment and documentation showing that LUMA has the capability to call Emergency DR events<sup>4</sup>. *See* August 11<sup>th</sup> Order on page 3. In addition, to “reflect ongoing uncertainty in funding for energy efficiency programs”, the Energy Bureau established an updated deadline for LUMA to file documentation showing that it is processing energy efficiency incentive/rebate applications of “60 days following the earlier of two dates: 1) the date on which the EE Rider is implemented with a value greater than zero, or 2) the date on which LUMA or the Energy Bureau secure a funding commitment from an external source (such as the government of Puerto Rico or Federal funds) sufficient to implement approved EE programs”. *See id.*

---

<sup>4</sup> According to the Energy Bureau, this documentation “shall be a report on a successful test dispatch event, including the number of participants and the capacity dispatched”. *See id.*

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

21. On August 29, 2023, LUMA filed its FY 2023 Fourth Quarter (“Q4”) TPP Report with the Energy Bureau. *See Motion to Submit FY 2023 Q4 TPP Report* filed on that date. In this report, LUMA informed that it had launched the Backup Generator Emergency Demand Response Pilot on December 2022, it had made progress on customer education and outreach, and it anticipated that the BEDRP would be launched in late fall 2023.

22. On August 29, 2023, the Energy Bureau issued a Resolution and Order (“August 29<sup>th</sup> Resolution and Order”) approving the compensation level proposed by LUMA in the August 23<sup>rd</sup> Motion and determining that the BEDRP budget proposed by LUMA “is aligned with the budget for the equivalent program as approved in the [Approved TPP]” and determined such



estimated budget was reasonable to launch the program. *See* August 29<sup>th</sup> Resolution and Order on page 2.

23. In the August 29<sup>th</sup> Resolution and Order, the Energy Bureau also determined that a separate qualification step for the DR Aggregators is not contemplated in the DR Regulation and is not required to achieve the objectives of the Emergency DR program and amended the timeline for certain Emergency DR program milestones. *See id.* at pages 4-5. Specifically, the Energy Bureau ordered LUMA to file, on or before September 22, 2023, proof of executed aggregation agreements for the Emergency DR program and, on or before, October 13, 2023, proof of customer enrollment and the capacity to call Emergency DR events. *See id.* at page 5.

24. On September 20, 2023, LUMA filed with the Energy Bureau an *Informative Motion and Request for Extension of Deadline to File Proof of Execution of Aggregation Agreements* (“September 20<sup>th</sup> Motion”). LUMA informed the Energy Bureau that it had launched the BEDRP webpage, published the BEDRP Guidelines and submitted the form of the Master Aggregation Agreements to interested DR aggregators, and that DR Aggregators had posed questions regarding some of the provisions of the Master Aggregation Agreement which LUMA was then working on resolving. Given these circumstances, LUMA requested the Energy Bureau an extension of seven (7) days to resolve these questions and proceed with execution of the Master Aggregation Agreement. In addition, LUMA provided a revised timeline for the activities to implement the BEDRP taking into account these most recent hurdles and the resulting revised estimated timeframes. LUMA emphasized, however, that it did not have certainty about when DR Aggregators would be able to begin enrolling customers and dispatching test events, as those activities are beyond LUMA’s control.

25. On September 22, 2023, this Energy Bureau issued a Resolution and Order in Case *In re LUMA's Initial Budgets*, Case No. NEPR-MI-2021-0004 whereby, in pertinent part, it decided that the costs of the Energy Efficiency programs that are a part of the Approved TPP, would be recovered through base rate revenues, rather than through the EE Rider (“September 22<sup>nd</sup> Budgets Order”).

26. On September 29, 2023, LUMA filed with the Energy Bureau a motion informing the Energy Bureau that, following the September 20<sup>th</sup> Motion, (i) LUMA continued to receive questions and comments from interested DR Aggregators on the terms of the Master Aggregation Agreement; (ii) LUMA had diligently continued to discuss and/or exchange communications with these DR Aggregators regarding their questions and concerns and understood that it had answered all substantive questions posed by DR Aggregators; and (iii) LUMA had revised the Master Aggregation Agreement to address reasonable concerns and submitted these to the interested DR Aggregator, but the execution of the agreement was pending the DR Aggregators’ signature. *See* September 29<sup>th</sup> Motion on page 4. LUMA also expressed its understanding that it had taken all reasonable steps in its control to get the Master Aggregation Agreement executed by interested DR Aggregators, but getting the DR Aggregators to execute it was beyond LUMA’s reasonable control and reiterated the subsequent deadlines were also contingent on the DR Aggregators. *See id.*

27. On October 13, 2023, LUMA filed with the Energy Bureau a motion informing the Energy Bureau that it had executed two Master Aggregation Agreements with DR Aggregators. *See Motion to File Proof of Execution of Master Aggregation Agreements and Provide Update on Customer Enrollment of that date (“October 13<sup>th</sup> Motion”)*. In compliance with the Energy Bureau’s August 29<sup>th</sup> Resolution and Order, LUMA submitted proof of the executed Master

Aggregation Agreements consisting of a copy of the first page and the signature page of each agreement. *See id. On page 4 and Exhibit 1.* In the October 13<sup>th</sup> Motion, LUMA also informed the Energy Bureau that LUMA will proceed to file proof of customer enrollment as soon as this milestone is completed by DR Aggregators, but, LUMA has no certainty on when enrollment will be achieved.

28. Today, October 30, 2023, LUMA is submitting the TPP FY2023 Annual Report, in compliance with the EE Regulation, the February 16<sup>th</sup> Resolution and Order, and Section 6.0 of the TPP.

## **II. Request for Extension**

29. LUMA respectfully informs that due to reasons beyond LUMA's control, the foregoing events resulted in delays in the implementation of the Approved TPP. Notwithstanding the delays in the implementation of the Approved TPP that were out of LUMA's control, LUMA continues to work towards achieving important milestones in the path to a more reliable and resilient electric system. As previously informed in LUMA's FY2023 Q4 TPP Report<sup>5</sup>, September 20<sup>th</sup> Motion, and the October 13<sup>th</sup> Motion, some of the key milestones accomplished are the launch of the BEDRP Webpage, published BEDRP Guidelines, and execution of two<sup>6</sup> Master Aggregation Agreements with DR Aggregators. Another important milestone accomplished toward the launch of EE and DR programs is the execution of the contract with the implementation contractor. The implementation contractor selected is an expert in EE and DR programs and is proceeding with the final program development and activities launch, working closely with

---

<sup>5</sup> *See* Motion to Submit FY 2023 Q4 Report filed on August 29, 2023, Exhibit 1.

<sup>6</sup> One additional Master Aggregation Agreement was executed after the October 13, 2023, Informative Motion was filed with the Energy Bureau.

LUMA. LUMA is undertaking an ambitious timeline to begin offering rebates to customers as ordered by the Energy Bureau in its August 11<sup>th</sup> Order.

30. Based on discussions with DR Aggregators, LUMA anticipates that the commencement of the operational phase of the BEDRP - that is, when LUMA will start calling BEDRP events, will commence in early November 2023. LUMA anticipates that the EE rebate programs will commence in late 2023, given delays in the launch of the EE Rider and obligation of a secured source of funding for FY24. Therefore, by the deadline of December 2, 2023 set by this Energy Bureau to have a draft EE-DR Three-Year Plan, LUMA will not have had significant experience in implementing the programs in the Approved TPP. As such, LUMA will not have had the benefit of the experience of implementing most of the quick-start TPP programs before the deadline to have a draft of the Three-Year Plan, or sufficient experience, by the deadline to file the Three-Year Plan of March 1, 2024, from which to base the development of the Three-Year Plan.

31. Gaining experience implementing the TPP is an important precursor to the Three-Year Plan. As stated by the Energy Bureau in its February 1<sup>st</sup> Resolution and Order, the purpose of the TPP is to “facilitate the ramp-up of EE and DR programs and development of the EE and DR workforce”. *See* February 1<sup>st</sup> Resolution and Order, on page 4. In addition, as discussed in LUMA’s Approved TPP, the proposed TPP was designed to build market readiness and customer awareness prior to the launch of full-scale EE and DR programs; and the Approved TPP is meant to test and refine programs before full-scale implementation, to provide greater understanding of customer preferences and market readiness (such as contactor and equipment availability) and help LUMA understand internal organization and operational requirements required to effectively administer EE and DR programs.

32. It is crucial to consider that, as of this date, the Market Baseline and Potential Study necessary to develop the Three-Year Plan have not been completed. The EE Regulation provides that the “[p]urpose of the Transition Period Plan is to facilitate the ramp-up of energy efficiency programs in Puerto Rico while providing time for the completion of the first Market Baseline Study and Potential Study and to facilitate development of the energy efficiency services workforce.” EE Regulation, Section 2.01(A). The Potential Study is “an analytical study that quantifies the amount of the energy efficiency or demand response potential that exists, is cost-effective, and could be realized through the implementation of energy efficiency programs and policies in Puerto Rico, including by customer class or sector, and identifies opportunities for energy and demand savings.” *Id.* Section 1.09(B)(38). A Market Baseline Study is, in turn, “the analytical study that assesses the market in Puerto Rico for an energy efficiency or demand response technology or service, including assessment of the level of utilization under current programs in the absence of programs.” *See id.* Section 1.09(B)(29).

33. The EE Regulation requires the Energy Bureau to “contract with expert consultants to conduct the Market Baseline Study” (*see id.* Section 3.02(A)) and “to contract with expert consultants to conduct a Potential Study” (*see id.* Section 3.02(B)). In addition, the Energy Bureau is required to “use the results of the initial Market Baseline Study and Potential Study, along with the estimated impacts of actions during the Transition Period Plan, to develop, in collaboration with the [Public Energy Policy Program of the Department of Economic Development and Commerce], estimated annual savings expected to be achieved by PREPA’s efficiency programs and the actions of other [entities conducting programs or activities designed to produce energy efficiency savings that contribute to the 30% energy efficiency goal by 2040 ...] for each Program Year through 2040”. *Id.* Section 3.02(E). These studies will be a source of information to

determine key inputs and energy savings targets used to develop the portfolio of cost-effective EE programs to be included in the Three-Year Plan. In essence, the objective of the Three-Year Plan will be to optimize a portfolio of cost-effective EE programs that will achieve these savings targets within a certain budget. Without these studies or program implementation experience, there will be no basis for determining how to optimize the programs and measures included in the Three-Year Plan, nor how much budget would be required for the Three-Year Plan. In other words, these studies and the corollary savings targets are needed to guide the determination of which programs will be offered and how much they will cost. It is important that the savings target arise from the information in the Market Baseline Study and the Potential Study, to ensure they reflect actual market conditions and realistically achievable savings.

34. Even if the Market Baseline Study and Potential Study were completed before December 2, 2023, LUMA respectfully submits that it would not have sufficient time by that date or by the March 1<sup>st</sup> deadline to file the Final Three-Year Plan to effectively utilize these studies in the development of the Three-Year Plan. LUMA would need approximately six months after the studies are completed to develop the Three-Year Plan and sufficient advanced notice on the progress of the studies and their expected completion date.

35. Notably, the DR Regulation provides that “PREPA shall pursue all cost-effective Demand Response resources (as defined pursuant to the cost-effectiveness test established in Article 4 of [the DR Regulation]) including diverse technologies and various services provided, through its own programs and rates designs, and through DR Aggregators”. DR Regulation, Section 2.01(B). It also requires PREPA “to dispatch DR resources so it supports the least cost reliable operation of the Puerto Rico electric system, when viewed from a total system perspective and consistent with” the mentioned cost-effectiveness test (*see id.* Section 2.01(E)) and develop

DR programs that provide the most cost-effective Demand Response resources over time under its approved DR Plan” (*see id.* Section 3.01(A)). Furthermore, the DR Regulation requires that the DR Three-Year Plan include “targets for acquiring cost-effective demand resources” and “justification for the program designs based on cost-effectiveness to the Puerto Rico energy system.” *See id.* Section 3.02(B)(1) and (4).

36. The cost-effectiveness test established in Article 4 of the DR Regulation is an Interim Cost Benefit Test to be used until the Energy Bureau establishes the Puerto Rico Test (“PR Test”), at which time the PR Test would substitute the Interim Cost Benefit Test. *See id.* Sections 4.01(A) and 4.02(A). The Energy Bureau established a framework for the PR Test but has indicated that the Avoided Cost Study for Energy Efficiency “to provide values for many of the Utility System Generation Impacts of the PR Test” is underway. *See* Resolution and Order, Subject: *Adoption of the Puerto Rico Benefit-Cost Test*, August 12, 2022, Case No. NEPR-MI-2021-0009, *In Re: Puerto Rico Test for Demand Response and Energy Efficiency* on page 8. To LUMA’s knowledge, this Avoided Cost Study has not been completed yet. Therefore, the design of the DR programs (and EE programs) for the Three-Year Plan would not benefit from the results of this study.

37. For all of the foregoing reasons, LUMA respectfully submits that the process to prepare the first Three-Year Plan would greatly benefit from an extension to allow more time to fully implement the Approved TPP and acquire the necessary experience and insights to appropriately develop full-scale EE and DR programs to be included in the Three-Year Plan, including building market readiness and customer awareness, testing and refining programs, gaining greater understanding of customer preferences and market readiness, as well as internal organization and operational requirements. Therefore, LUMA respectfully requests that the

deadline to submit the Three-Year Plan be extended by an additional year- that is, until March 1, 2025 and that the Approved TPP also be extended for an additional Fiscal Year (FY 2024-2025) under the same terms and the same budget proposed for Fiscal Year 2023-2024, with the same quarterly reporting for the TPP extended to FY 2023-2024 (with reports being due sixty (60) days after the end of each quarter) and annual reporting (with the report being due one hundred and twenty (120) days following the end of the Fiscal Year).

38. The extension of the term of the Approved TPP will have the added benefit of allowing the extension of the term of the Master Aggregation Agreement. Currently, since the Approved TPP and, consequently, the BEDRP are in effect until June 30, 2024, the Master Aggregation Agreements also expire on that date, unless the BEDRP is extended. Master Aggregation Agreements were executed in October, and they would only be in effect for nine months. A longer term may result in attracting more DR Aggregators and customers interested in enrolling in the program and otherwise provide insights into how the market responds to the BEDR Program

39. Regarding other related deadlines, LUMA also respectfully requests that the related deadlines to prepare the draft Three-Year Plan, file documentation of at least one stakeholder meeting to discuss the draft Three-Year Plan and the TPP Annual Report, and submit the final Three-Year Plan, be extended for a year- i.e., for December 2, 2024, December 31, 2024 and March 1, 2025, respectively.

40. LUMA respectfully submits that the proposed approach set forth in this request is in the public interest as it will help ensure the long-term success of the EE and DR programs to be included in the first Three-Year Plan, as well as attract more DR Aggregators and customers to enroll in the BEDRP.



**WHEREFORE**, LUMA respectfully requests that the Energy Bureau **take notice** of the aforementioned; **grant** LUMA's request for an extension of the deadline to submit the first Three-Year Plan until March 1, 2025, prepare the draft of this Three-Year Plan until December 2, 2024, and file documentation of at least one stakeholder meeting to discuss the draft Three-Year Plan and TPP then annual report (that is for FY 2024) until December 31, 2024; and **grant** LUMA's request to extend the TPP, including the BEDRP, for an additional fiscal year (2024-2025) (with the reporting requirements as specified in this Motion).

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 30<sup>th</sup> day of October 2023.

We hereby certify that we filed this Motion using the electronic filing system of this Energy Bureau and that we will send an electronic copy of this Motion to the attorneys for PREPA at [jmarrero@diazvaz.law](mailto:jmarrero@diazvaz.law) and [lionel.santa@prepa.pr.gov](mailto:lionel.santa@prepa.pr.gov); the Independent Office for Consumer Protection at [hrivera@jrsp.pr.gov](mailto:hrivera@jrsp.pr.gov); and [agrartfe@agrartlawpr.com](mailto:agrartfe@agrartlawpr.com), [info@sesapr.org](mailto:info@sesapr.org), [bfrench@veic.org](mailto:bfrench@veic.org), [shanson@veic.org](mailto:shanson@veic.org), [evand@sunrun.com](mailto:evand@sunrun.com), [jordgraham@tesla.com](mailto:jordgraham@tesla.com), [forest@cleanenergy.org](mailto:forest@cleanenergy.org), [customerservice@sunnova.com](mailto:customerservice@sunnova.com), [javrua@sesapr.org](mailto:javrua@sesapr.org), [pjcleanenergy@gmail.com](mailto:pjcleanenergy@gmail.com), and [mrios@arroyorioslaw.com](mailto:mrios@arroyorioslaw.com).



**DLA Piper (Puerto Rico) LLC**  
500 Calle de la Tanca, Suite 401  
San Juan, PR 00901-1969  
Tel. 787-945-9107  
Fax 939-697-6147

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