

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

NEPR

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IN RE:

ENERGY EFFICIENCY AND DEMAND
RESPONSE TRANSITION PERIOD
PLAN

CASE NO.: NEPR-MI-2022-0001

SUBJECT: Request for Extension to Comply
with the Order for LUMA to Provide Information
under the Resolution and Order of November 29,
2023

**REQUEST FOR EXTENSION TO COMPLY WITH THE ORDER FOR LUMA TO
PROVIDE INFORMATION UNDER THE RESOLUTION AND ORDER OF
NOVEMBER 29, 2023**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COME now **LUMA Energy, LLC** (“ManagementCo”), and **LUMA Energy ServCo, LLC** (“ServCo”), (jointly referred to as “LUMA”), and respectfully state and request the following:

I. 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”)¹ 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).

2. On April 21, 2021, the Energy Bureau issued a Resolution and Order commencing the proceeding in docket NEPR-MI-2021-0006 (“DR Proceeding”) and ordering PREPA and

¹ DR Regulation, December 21, 2020, Regulation 9246.

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”)², 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 1st Resolution and Order”) in which it, among others, expanded the scope of the DR Proceeding to include EE alongside DR (*see* February 1st 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 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

² 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.

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. On February 16, 2023, the Energy Bureau issued a Resolution and Order (the “February 16th Resolution and Order”) in which it considered, amended, and approved the Proposed TPP (the Proposed TPP, as approved by the Energy Bureau, the “Approved TPP”). In the February 16th 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 or funding obtained by other means. *See* February 16th 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); 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).

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

9. On April 3, 2023, the Energy Bureau issued a Resolution and Order (“April 3rd Resolution and Order”) in which it made several determinations regarding LUMA’s March 8th Motion and among others, ordered LUMA to file the EE Rider petition on or before April 11, 2023. *See April 3rd Resolution and Order* on page 5.

10. 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.

11. On May 5, 2023, the Energy Bureau held a Technical Conference to discuss the EE Rider Petition filed by LUMA. During the Technical Conference, the Energy Bureau issued a bench order (the “May 5th Bench Order”) requiring, among others, for LUMA to file, by May 19, 2023, a revised Exhibit 1 to the EE Rider Petition, to include the clarifications that were discussed during the Technical Conference- namely: combining the Emergency DR and Battery DR programs into one program; clarifying that the Economic Demand Response Program does not include backup generators; and clarifying the budget amounts in Table 2-2- of Exhibit 1 for the Business Rebate Program (which inadvertently was exchanged with the amount for the Emergency

DR Program) and for the Emergency DR Program and Battery Program (by showing it as a single program with a combined budget rather than separate programs).

12. On May 19, 2023, in compliance with the May 5th Bench Order, LUMA filed revised Exhibits 1 and 2 of the EE Rider Petition (these, along with the April 11th 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 19th Motion”).

13. On June 29, 2023, LUMA filed a motion with the Energy Bureau 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*.

14. On June 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* (“Permanent Rate Case”) (“June 30th 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 30th Resolution and Order* on page 11.

15. On July 1, 2023, the Energy Bureau issued a Resolution and Order in the Permanent Rate Case (“July 1st Resolution and Order”) wherein it clarified that it did not suspend the EE and DR programs as a result of the suspension of the EE Charge [EE Rider] and ordered LUMA to continue with the implementation of the Approved TPP and the EE/DR programs. *See July 1st Resolution and Order* on page 2.

16. On July 14, 2023, LUMA filed a motion requesting the Energy Bureau suspend the deadlines to submit proof of customers enrolled in the Battery Emergency Demand Response Program, now also known as the Customer Battery Energy Sharing (“CBES”) 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 14th Motion”) on pages 10-11.

17. 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 31st 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 31st Order* on pages 8 and 10.

18. On August 11, 2023, the Energy Bureau issued a Resolution and Order (“August 11th Order”) in which, in 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 CBES 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 the CBES 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 events³. *See* August 11th 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.*

19. On August 23, 2023, LUMA filed a *Motion to Submit Costs Associated with Emergency DR Program in Compliance with Resolution and Order of August 11, 2023, and Request for Confidential Treatment*. LUMA indicated the proposed costs for the CBES, including compensation to be paid to DR Aggregators, and a proposed timeline to achieve the milestones to achieve customer enrollment and capability to launch to call Emergency DR events.

20. On August 29, 2023, LUMA filed its FY2023 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.

21. On August 29, 2023, the Energy Bureau issued a Resolution and Order (“August 29th Resolution and Order”) approving the compensation level proposed by LUMA in the August 23rd Motion and determining that the CBES Program 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 29th Resolution and Order on page 2. Regarding LUMA’s administrative costs, the Energy Bureau determined that administrative costs for DR Programs will be recovered through the PPCA. *See id.* at page 3. To

³ 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.*

ensure that expenditures are reasonable and strictly related to the DR Program, the Energy Bureau adopted reporting requirements pursuant to which, LUMA shall report quarterly, within forty-five days after each quarter of a fiscal year closes, and that LUMA “shall conform to the quarterly and annual (year-end) financial reporting requirements in line with the requirements listed in NEPR-MI-2021-0004 (Re: LUMA Initial Budgets and Related Terms of Service”. *See id.*

22. In the August 29th Resolution and Order, the Energy Bureau also 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.

23. 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 20th Motion”). LUMA informed the Energy Bureau that it had launched the CBES Program webpage, published the CBES Program 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. Among others, LUMA emphasized 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.

24. On September 22, 2023, the Energy Bureau issued a Resolution and Order in Case *In re LUMA’s Initial Budgets*, Case No. NEPR-MI-2021-0004 (“September 22nd Budgets Order”) whereby, in pertinent part, it decided that the costs of the EE Programs of the Approved TPP would be recovered through base rate revenues, rather than through the EE Rider. *See* September 22nd Budgets Order on page 9.

25. On September 29, 2023, the Energy Bureau issued a Resolution and Order in Case *In re Tarifa Permanente de la Autoridad de Energía Eléctrica*, Case No. NEPR-MI-2020-0001, (the “September 29th Rate Order”) in which it indicated, based on the September 22nd Budgets Order, that the charge for the EE Rider for FY2023 was eliminated (*See* September 29th Rate Order on pages 2-3) and ordered LUMA to include in the customer invoices an EE Rider charge equal to zero (0) (*see id.* at page 8).

26. On October 13, 2023, LUMA filed a motion with the Energy Bureau submitting proof of the execution of Master Aggregation Agreements. *See Motion to file Proof of Execution of Master Aggregation Agreements and Provide Update on Customer Enrollment* of that date (“October 13th Motion”) on page 4 and Exhibit 1. In the October 13th Motion, LUMA also informed the Energy Bureau that LUMA would proceed to file proof of customer enrollment as soon as this milestone is completed by DR Aggregators, but LUMA had no certainty on when enrollment would be achieved. *See id.* at page 4.

27. On October 30, 2023, LUMA submitted the TPP FY2023 Annual Report, in compliance with the Energy Bureau’s Regulation for Energy Efficiency, Regulation 9637, and the February 16th Resolution and Order. *See Motion to Submit TPP FY 2023 Annual Report* of that date (“October 30th Motion”). In this report, LUMA gave a progress report of various TPP activities and informed that it had executed a contract with the Implementation Contractor and was preparing for its FY2024 launch of EE Programs. *See* October 30th Motion, Exhibit 1.

28. On October 30, 2023, LUMA filed a motion requesting this Energy Bureau to extend for an additional fiscal year the Approved TPP and to extend by one year the deadline to file the EE and DR Three-Year Plan, with the same cadence of quarterly and annual reporting as in the Approved TPP and associated one-year delays in other milestones for the preparation of a

draft Three-Year Plan and stakeholder engagement regarding that plan. *See 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* (“October 30th Motion”) of that date, pages 15-16 and Exhibit 1. LUMA respectfully submitted, among others, 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. *See id.* at page 15.

29. On November 21, 2023, LUMA filed a motion informing of the EE Program timeline, including LUMA’s progress on the incentive/rebate application processing, and requesting an extension to submit documentation showing that LUMA is processing EE incentive/rebate applications until January 2024, given that the systems’ integration needed for this task was taking longer than anticipated.

30. On November 22, 2023, LUMA filed with the Energy Bureau proof of customer enrollment and additional executed Master Aggregation Agreements, as well as evidence of LUMA’s capability to call Emergency DR Events. *See Motion to File Proof of Customer Enrollment and Additional Executed Master Aggregation Agreements and Evidence on Capability to Call Emergency DR Events and Request for Confidentiality* of that date.

31. On November 29, 2023, the Energy Bureau issued a Resolution and Order (“November 29th Order”) in which, in what is pertinent to this motion, the Energy Bureau grants “LUMA’s request [in the October 20th Motion] to extend the [TPP] by one year, to June 30, 2025,

and to delay the schedule (including all required drafts and stakeholder engagement processes) for the Three-Year EE and DR Plan by one year, so that the Three-Year EE and DR Plan shall be filed by March 1, 2025”. November 29th Order on page 7. In addition, the Energy Bureau indicates that “[t]he delays in TPP program launch have had some impact on LUMA’s expenditure of funds”; that “[p]rogram operational and incentive budgets, for example, that were included in the Approved TPP, have not been spent because the programs to be funded have not been operational”; and that LUMA’s October 20th Motion “did not provide any information about EE or DR program budgets”. *See id.* Therefore, “in order to evaluate LUMA’s plans for the Extended [TPP]” the Energy Bureau orders LUMA to file by December 8, 2023, the following:

- A revised version of the Transition Period Plan document, reflecting the adjusted timeframe, LUMA’s most up to date program plans, and any other updates required to convey an accurate summary of LUMA’s current EE and DR plans.
- LUMA’s most recent available schedule for the launch of EE programs, including which measures and market sectors will be targeted by each program, extending through the extended TPP (June 30, 2025).
- EE and DR program expenditures for FY2023, categorized by market sector and purpose in accordance with Table 2-3 of LUMA’s Proposed TPP filed June 21, 2022, namely: Low-Income Residential; Non -Low-Income Residential; Small Business; Government/Public; Other Commercial/Industrial and Agricultural; Education and Outreach Program; and Cross-Cutting Planning, Admin, & Startup.
- EE Program costs for FY2024 and FY2025, categorized by market sector and activity (where activities are programs such as rebates, in-store discounts, direct installations, or other program implementation strategies, as well as education/outreach and planning/admin/startup costs), similar to Table 3-3 of LUMA’s Proposed TPP. For FY2024, LUMA shall distinguish between expended funds as of the most recent available date and expected expenditures for the remainder of the year.
- DR Program costs for FY2024 and FY2025, categorized by market sector and activity (where activities are programs such as rebates, in-store discounts, direct installations, or other program implementation strategies, as well as education/outreach and planning/admin/startup costs), similar to Table 3-3 of LUMA’s Proposed TPP. [...] For FY2024, LUMA shall distinguish between expended funds as of the most recent available date and expected expenditures for the remainder of the year.

- In each of its annual cost reports and projections, LUMA shall separate costs paid from the base rate from costs that have been or will be recovered through the PPCA. LUMA shall identify any expected shortfall of funds (and when it is expected to occur) as well as any funds that may be carried over from one fiscal year to the next (or which LUMA would desire to carry over from one year to the next).

Id.

II. Request for Extension

32. In order to update the Approved TPP, LUMA must incorporate several significant revisions to the structure and content of the Approved TPP to reflect changes required by subsequent Orders in this proceeding and to incorporate program design decisions only recently made during program launch activities. While parts of the Approved TPP may remain largely unchanged, it must be updated to reflect mandates and the latest changes to the portfolio of programs, measure lists, measure savings estimates, incentive structures, program delivery strategies, timelines, budgets, and participation forecasts (and corresponding summary tables) for the FY2025 program year.

33. After LUMA completes this process of consideration and analysis and the drafting of the updated TPP, the updated TPP must undergo interdepartmental review within LUMA to ensure that all the components of the program come together in an implementable manner. Subsequently, the updated TPP must be approved by LUMA's management.

34. Given the time and resource-consuming nature of these activities, LUMA respectfully submits that the timeframe provided by this honorable Energy Bureau to submit the information requested in the November 29th Resolution and Order, is insufficient to complete the update to the Approved TPP and develop the additional information required under the November 29th Resolution and Order. LUMA estimates that it will be able to complete this process with the time, attention, and analysis that it requires by December 20, 2023. Therefore, LUMA respectfully

requests this honorable Energy Bureau to grant LUMA an extension to present the updated TPP required in the November 29th Resolution and Order as well as comply with all other requirements of such order until December 20, 2023. LUMA respectfully submits that this extension has no impact on the progress of the ongoing Approved TPP activities which LUMA continues to implement. LUMA is committed to working with the Energy Bureau to build a more reliable and resilient energy system for the people of Puerto Rico and the Approved TPP is an essential component towards achieving Puerto Rico's energy efficiency savings goals.

35. In preparation for FY2025, LUMA continues to work with the government of Puerto Rico and the Department of Economic Development and Commerce to gauge other funding sources for the implementation of Energy Efficiency Programs.

WHEREFORE, LUMA respectfully requests that the Energy Bureau **take notice** of the aforementioned and **grant** LUMA's request to extend the deadline to submit the information required of LUMA under the November 29th Resolution and Order until December 20th, 2023.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 7th day of December 2023.

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