

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

NEPR

Received:

Feb 22, 2024

3:47 PM

IN RE: PERFORMANCE METRICS
TARGETS FOR LUMA ENERGY SERVCO,
LLC

CASE NO. NEPR-AP-2020-0025

**SUBJECT: LUMA's Notice of Intent to
Respond to Motion for Reconsideration
filed by LECO**

**LUMA'S NOTICE OF INTENT TO RESPOND TO THE *LOCAL
ENVIRONMENTAL AND CIVIC ORGANIZATIONS' MOTION FOR
RECONSIDERATION OF FINAL RESOLUTION AND ORDER ON PERFORMANCE
TARGETS FOR LUMA ENERGY LLC AND ENERGY SERVCO, LLC***

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COME NOW LUMA Energy, LLC ("ManagementCo"), and LUMA Energy ServCo, LLC ("ServCo"), (jointly "LUMA"), and respectfully state and request the following:

1. On January 26, 2024, the Puerto Rico Energy Bureau ("Energy Bureau" or "PREB") issued a Final Resolution and Order on Performance Targets for LUMA Energy, LLC and LUMA Energy ServCo, LLC ("Final Resolution and Order"), whereby it entered its determination on the proposal filed by LUMA to adopt an incentive Performance Metrics scheme that arises under the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement of June 22, 2020 ("T&D OMA").

2. In the Final Resolution and Order, this Energy Bureau advised the parties that they could file motions for reconsideration within twenty (20) days in accordance with Section 11.01 of the Energy Bureau's Regulation on Adjudicative, Notice of Noncompliance, Rate Review and

Investigation Procedures, Regulation No. 8543 (“Regulation 8543”) that, in turn, incorporates the provisions of the Uniform Administrative Procedure Act of the Government of Puerto Rico (“LPAU” by its Spanish acronym), 3 LPRA § 9655 (2023). *See* Final Resolution and Order, p. 116.

3. This Energy Bureau further stated that it may consider a “request for reconsideration within fifteen (15) days from its filing and that if the Energy Bureau expressly denies the request or if no action is taken regarding such request within fifteen (15) days, the term for requesting judicial review will begin from the date the reconsideration request is denied or upon the expiration of the fifteen-day (15) period, as the case may be. If the Energy Bureau entertains the request for reconsideration, the term to request review will begin from the date the request for reconsideration is definitely resolved.” *Id.* Finally, as the Energy Bureau stated in the Final Resolution and Order, if it decides to consider a motion for reconsideration, a decision should be issued and notified within ninety (90) days from the filing of the request for reconsideration, which period may be extended for no more than thirty (30) additional days. *Id.*

4. Within twenty (20) days after the issuance of the Final Resolution and Order, on February 15, 2024, LUMA filed a Motion for Reconsideration and served the same to the parties, *see LUMA’s Motion for Reconsideration of Final Resolution and Order. See Exhibit 1* of this Motion (evidence of notice to the parties via email and certified mail).

5. Similarly, on February 15, 2024, the Local Environmental and Civil Organizations (“LECO”) filed a motion titled *Local Environmental and Civic Organizations’ Motion for*

Reconsideration of Final Resolution and Order on Performance Targets for LUMA Energy LLC and Energy ServCo, LLC (“LECO’s Motion for Reconsideration”).

6. As of the date of the filing of this Motion, this Energy Bureau has not issued a determination whether it will accept and consider LECO’s Motion for Reconsideration on the merits.

7. LUMA respectfully informs that if this Energy Bureau determines that it will accept and consider LECO’s Motion for Reconsideration on the merits, LUMA intends to respond to and oppose LECO’s Motion for Reconsideration. The purpose is to show, among others, that LECO’s Motion for Reconsideration includes requests for relief that this Energy Bureau correctly rejected in the Final Resolution and Order, fails to raise any legal error or abuse of discretion by this Energy Bureau, merely repeats arguments that were stated previously by LECO in this proceeding, and lacks developed argumentation to place the Energy Bureau in a position to grant the requests for reconsideration included in LECO’s Motion for Reconsideration.

8. LUMA requests that if this Energy Bureau determines that it will consider on the merits LECO’s Motion for Reconsideration, it grants LUMA leave to file a response in opposition within twenty (20) days after the Energy Bureau issues a determination that it will accept and consider on the merits LECO’s Motion for Reconsideration.

9. This request for leave to file a response and opposition if the Energy Bureau determines that it will consider LECO’s Motion for Reconsideration, aligns with the statements of the Final Resolution and Order, whereby the Energy Bureau acknowledged that per Regulation

8543 and the LPAU, it may implicitly reject on its face a motion for reconsideration without entering a decision on the merits of a motion for reconsideration.

10. This petition is not intended to cause unnecessary delay and should not cause any inconvenience to the parties.

WHEREFORE, LUMA respectfully requests that the Energy Bureau grant LUMA leave to file a response and opposition to LECO's Motion for Reconsideration, within twenty (20) days after the Energy Bureau issues a determination that it will accept and consider on the merits LECO's Motion for Reconsideration.

RESPECTFULLY SUBMITTED.

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 counsel for PREPA, Lionel Santa lionel.santa@prepa.com, the Office of the Independent Consumer Protection Office, Hannia Rivera Diaz, hrivera@jrsp.pr.gov, and counsel for the Puerto Rico Institute for Competitiveness and Sustainable Economy ("ICSE"), Fernando Agrait, agraitfe@agraitlawpr.com, counsel for the Colegio de Ingenieros y Agrimensores de Puerto Rico ("CIAPR"), Rhonda Castillo, rhoncat@netscape.net, and counsels for Comité Diálogo Ambiental, Inc., El Puente de Williamsburg, Inc., Enlace Latino de Acción Climática, Alianza Comunitaria Ambientalista del Sureste, Inc., Coalición de Organizaciones Anti-Incineración, Inc., Amigos del Río Guaynabo, Inc., CAMBIO, Sierra Club and its Puerto Rico Chapter, and Unión de Trabajadores de la Industria Eléctrica y Riego (jointly, Puerto Rico Local and Environmental Organizations), rstgo2@gmail.com, notificaciones@bufete-emmanuelli.com, pedrosaade5@gmail.com; rolando@bufete-emmanuelli.com, lvelez@earthjustice.org, rmurthy@earthjustice.org, jcassel@earthjustice.org.

In San Juan, Puerto Rico, this 22nd day of February 2024.



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/ Margarita Mercado Echegaray

Margarita Mercado Echegaray

RUA NÚM. 16,266

margarita.mercado@us.dlapiper.com

/s/ Yahaira De la Rosa Algarín

Yahaira De la Rosa Algarín

RUA NÚM. 18,061

yahaira.delarosa@us.dlapiper.com

Attorneys for LUMA Energy

Exhibit 1

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Hannia Rivera Díaz, Esq.
 Pedro E. Vázquez Meléndez, Esq.
 500 Ave. Roberto H. Todd
 Parada 18 Santurce
 San Juan, PR 00907-3941

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Ruth Santiago, Esq.
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 Salinas, PR 00751

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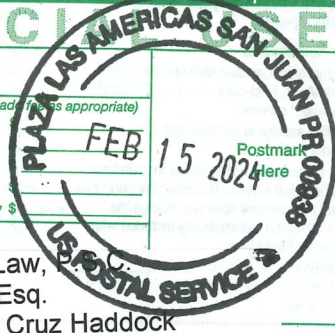
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Castillo Gammill Law,
 Rhonda Castillo, Esq.
 9 Calle Francisco Cruz Haddock
 Suite 3
 Cidra, PR 00739

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Fernando Agrait, Esq.
 Edificio Centro de Seguros
 701 Ave. Ponce de León
 Oficina 414
 San Juan, PR 00907

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Laura Arroyo, Esq.
 4500 Biscayne Blvd.
 Suite 201
 Miami, Florida 33137

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Rolando Emmanuelli J. Esq.
 Jessica Méndez-Colberg, Esq.
 472 Tito Castro Ave.
 Marvesa Building, Suite 106
 Ponce, PR 00716

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Raghu Murthy, Esq.
 48 Wall Street, 19th Floor
 New York, NY 10005



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 Escuela de Derecho
 Universidad de Puerto Rico
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 San Juan, PR 00907



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Lionel Santa Crispin, Esq.
 General Counsel
 Puerto Rico Electric Power Authority
 P.O. Box 364267
 San Juan, PR 00936-4267



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Lorena I. Vélez Miranda, Esq.
 151 Calle de San Francisco
 Suite 200 PMB 0528
 San Juan, PR 00901-1607



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Jennifer Cassel, Esq.
 311 S. Wacker Drive
 Suite 1400
 Chicago, IL 60606



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DelaRosa, Yahaira

From: DelaRosa, Yahaira
Sent: Thursday, February 15, 2024 4:57 PM
To: Lionel.santa@prepa.pr.gov; Lionel Santa Crispin; Hannia Rivera Diaz; Contratistas; Licenciado Agrait; rhoncat@netscape.net; larroyo@earthjustice.org; rstgo2@gmail.com; Rolando Emmanuelli Jiménez; Jenny Cassel; notificaciones@bufete-emmanuelli.com; jessica@emmanuelli.law; pedrosaade5@gmail.com; lvelez@earthjustice.org; Raghu Murthy
Cc: Mercado, Margarita; Gutierrez, Denise
Subject: NEPR-AP-2020-0025- LUMA's Motion for Reconsideration of Final Resolution and Order
Attachments: 2 15 24 LUMA's Motion for Reconsideration of Final Order Case NEPR AP 2020 0025.pdf

Dear Counsel,

Attached, please find a stamped copy of the motion of reference filed today by LUMA before the Puerto Rico Energy Bureau.

Cordially,

Yahaira De la Rosa Algarin (she, her, hers)
Of Counsel

T +1 787 945 9132
F +1 939 697 6102
M +1 787 209 6659
yahaira.delarosa@us.dlapiper.com

DLA Piper (Puerto Rico) LLC
500 Calle de la Tanca, Suite 401
San Juan, PR 00901-1969



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