

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

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IN RE:

ENERGY EFFICIENCY AND DEMAND
RESPONSE TRANSITION PERIOD PLAN

CASE NO. NEPR-MI-2022-0001

SUBJECT: Informative Motion, Request for Clarification Regarding Timeline for Completion of Market Baseline and Potential Studies, and Request for Extension of Deadline to File the Draft Three-Year Plan and Associated Tasks and Deadlines

INFORMATIVE MOTION, REQUEST FOR CLARIFICATION REGARDING DELAYED TIMELINE FOR COMPLETION OF MARKET BASELINE AND POTENTIAL STUDIES, AND REQUEST FOR EXTENSION OF DEADLINE TO SUBMIT DRAFT THREE-YEAR PLAN AND ASSOCIATED TASKS AND DEADLINES

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COME NOW LUMA Energy, LLC (“ManagementCo”), and **LUMA Energy Servco, LLC** (“ServCo”) (jointly referred to as “LUMA”), through the undersigned counsel, and respectfully states and requests the following:

I. Introduction

As the system operator, LUMA is responsible for facilitating the implementation of Puerto Rico’s public energy policy, including key customer initiatives such as Energy Efficiency (“EE”) and Demand Response (“DR”) programs, which are required by law and mandated by the Puerto Rico Energy Bureau (“Energy Bureau”). In accordance with this responsibility, LUMA developed a Transition Period Plan providing for quick start/pilot EE and DR programs, which was approved by the Energy Bureau in 2023, and, as revised, is currently being implemented. As per Energy Bureau mandates, LUMA is also charged with preparing a Three-Year Plan to establish longer term EE and DR programs, a draft of which is scheduled to be submitted to the Energy Bureau by December 2, 2024.

In this motion LUMA discusses the importance the results of the Market Baseline Study and Potential Study commissioned by the Energy Bureau to prepare the Three-Year EE and DR Plan, such that a data-driven approach involving market research and analysis is used. This approach would include avoided energy, capacity, and greenhouse gas emissions to determine the most cost-effective programs and measures and to more effectively allocate resources, thereby resulting in a more effective and successful plan. Since these studies have not been completed, and it appears they may not be ready until the end of this calendar year, LUMA is requesting in this motion that the Energy Bureau provide clarity on the timeline for completion of these studies. Furthermore, given the current unavailability of these studies, LUMA is also requesting the Energy Bureau to extend the deadlines for filing the Draft Three-Year EE and DR Plan and concomitant tasks, so that LUMA is provided sufficient time to use the Market Baseline and Potential studies to complete these tasks. Additionally, LUMA requests an extension of the TPP to ensure program continuity until the new Three-Year EE and DR Plan is ready to be implemented.

II. Relevant Background and Procedural History

1. On December 10, 2020, the 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 identifying proposed DR programs and goals for a three-year period and associated budget (“Three-Year DR Plan”) by a specified date. *See* DR Regulation, Sections 1.09(B)(21) and 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, *In Re: Demand Response Plan Review*,

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

Implementation, and Monitoring (“DR Proceeding”) in connection with the development of the Three-Year DR Plan.

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 identifying proposed pilot, quick start and other EE programs during a two-year transition period (“Transition Period Plan”) by a specified date. *See* EE Regulation, Sections 1.09(B)(50) and 2.01. The EE Regulation also requires that PREPA, or its successor LUMA, develop a Three-Year EE Plan, identifying proposed EE programs, budgets, and goals to be implemented over a three-year program implementation period following the quick start programs undertaken in the Transition Period Plan. *See id.* Sections 1.09(B)(49) and 4.02(A).

4. On February 1, 2022, the Energy Bureau issued a Resolution and Order (“February 1st Order”) in the DR Proceeding in which it expanded the scope of the DR Proceeding, to include EE alongside DR. *See* February 1st Order on page 2. In addition, the Energy Bureau described “several simultaneous actions taking place related to the development of a robust pathway to implementing all cost-effective energy efficiency and demand response”, including, among others, the development of the Puerto Rico Test for cost effectiveness screening as required by Section 4.02 of the DR Regulation and Section 5.02 of the EE Regulation and the associated Avoided Cost Study (the subjects of case NEPR-MI-2021-0009, *In re: Puerto Rico Test for Demand Response and Energy Efficiency*); the solicitation of a consultant to conduct a market baseline and potential

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

studies on EE, as required by Sections 3.02(A) and 3.02(B) of the EE Regulation; and LUMA's actions to prepare a Transition Period Plan for EE and DR. *See id.* at page 3.

5. On June 21, 2022, LUMA filed with the Energy Bureau, in the DR Proceeding, a proposed EE and 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").

6. Following other procedural events, on February 16, 2023, the Energy Bureau issued a Resolution and Order (the "February 16th Order") commencing the instant proceeding and considering, amending, and approving the Proposed TPP (the Proposed TPP, as approved by the Energy Bureau, the "TPP"). Among other determinations, the Energy Bureau established the deadlines of December 2, 2023, for preparation of a draft FY2025-2027 Three-Year EE and DR Plan, December 2023, to conduct a stakeholder meeting to discuss the Three-Year EE and DR Plan and the TPP Annual Report, and March 1, 2024, to file the FY2025-2027 Three-Year EE and DR Plan. *See* February 16th Order on pages 18 and 27.

7. On October 30, 2023, LUMA filed a motion requesting the Energy Bureau to extend for an additional fiscal year the TPP and to extend by one year the deadline to file the Three-Year EE and DR Plan, as well as the associated milestones for the preparation of the Three-Year EE and DR Plan and related stakeholder engagement. *See 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* filed on that date ("October 30th Motion"). LUMA explained that this extension would allow for the full implementation of the TPP (which

had suffered some delays due to reasons beyond LUMA's control) and concomitant development by LUMA of the necessary experience and insights to appropriately develop full-scale EE and DR programs. *See* October 30th Motion on pages 9-14. LUMA also explained that this additional time would allow for the completion of the market baseline study and potential study necessary to develop the Three-Year EE and DR Plan. *See id.* at pages 11 to 15. In addition, LUMA further explained that it would need approximately six (6) months after these studies were completed to develop the Three-Year EE and DR Plan and sufficient advanced notice on the progress of the studies and their expected completion date. *See id.* at page 14.

8. On November 29, 2023, the Energy Bureau issued a Resolution and Order ("November 29th Order") granting LUMA's request to extend the TPP by one year, to June 30, 2025, and extending the deadlines to submit the draft Three-Year EE and DR Plan and 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 on March 1, 2025. *See* November 29th Order on page 7. In addition, the Energy Bureau ordered LUMA to file a revised TPP and submit certain information specified therein. *See id.* at pages 7 and 8.

9. On December 20, 2023, LUMA submitted to the Energy Bureau the revised version of the TPP ("Revised TPP") and the information requested under the November 29th Order. *See Motion to Submit Revised TPP and Other Information Requested Under the Resolution and Order of November 29, 2023 filed on December 20, 2023 ("November 20th Motion") and its Exhibit 1* (which is the Revised TPP). In accordance with the November 29th Order, the TPP sets forth the deadlines relating to the Three-Year Plan of: December 2, 2024, for preparation of a draft FY2025-2027 Three-Year EE and DR Plan; December 2024, to conduct a stakeholder meeting to discuss

the Three-Year EE and DR Plan (as well as the FY 2023 Annual Rep[ort]); and March 1, 2024, to file the FY2025-2027 Three-Year EE and DR Plan. *See* Revised TPP, Table 6-1.

10. As pertinent to this Motion, in the Revised TPP, LUMA discusses the importance of having the market baseline study (“Market Baseline Study”) and potential study (“Potential Study”) (together, the “Baseline and Potential Studies”) required under the EE Regulation in developing EE and DR programs, indicating that:

The process of planning and designing EE and DR programs traditionally follows a quantitative, data-driven approach involving market research and analysis to determine the most cost-effective programs and measures. This process traditionally begins with a “Market Baseline Study,” which is an extensive study of the efficiency level of current buildings and equipment. Data from the Baseline Study is then used in an accompanying “Market Potential Study” to identify the most cost-effective energy savings opportunities given current market conditions.

However, none of these studies were available to guide the development of this Transition Period Plan. The Energy Bureau will be conducting these Baseline and Potential Studies for Puerto Rico over the coming year(s), which will provide data to guide development of the 3-year energy EE/DR portfolio. For this reason, LUMA employed an alternative approach to selecting programs and measures. LUMA used a qualitative process to identify and select programs that best meet the objectives and requirements set forth in the EE and DR Regulations. **Error! Reference source not found.** below outlines the planning process LUMA has used for identifying and selecting the TPP programs, obtaining the Energy Bureau’s approval and launching approved programs. [...]

Revised TPP, Section 4.1.

11. LUMA also explained in the Revised TPP that:

The Energy Bureau is currently conducting the first Market Baseline and Potential Studies for Puerto Rico, which will provide a wealth of information to guide future program design and planning. However, this data was unavailable to guide the development of the TPP programs through the traditional process outlined above. For this reason, LUMA has based its program designs on the technical expertise of internal staff and that of its consultant, Guidehouse, as well as external stakeholders. Initial program research and development also leveraged information from published resources in Puerto Rico as well as Program Plans and Technical Reference Manuals from other jurisdictions.

Id. Section 2.3.

12. On July 17, 2024, the Energy Bureau issued a Resolution and Order, in Case No. NEPR-MI-2021-0009, *In re: Puerto Rico Test for Demand Response and Energy Efficiency*, whereby it issued and adopted its Avoided Cost Study “for application to energy efficiency planning and analysis between now and when it can be updated to align with an approved updated Integrated Resource Plan in Case No NEPR-AP-2024-0004.” July 17th Order on page 1 (footnote omitted) and page 3. The Energy Bureau explained that “[o]nce the Energy Bureau has approved the 2024 IRP, the avoided energy, capacity, and greenhouse gas emissions costs will be updated to correspond to the approved IRP and the Energy Bureau will release an updated version of the Avoided Cost Study with those values”. *Id.* The Energy Bureau then ordered LUMA “to apply the avoided energy, capacity, and greenhouse gas emissions values in this Avoided Cost Study in developing its first three-year energy efficiency plan and projecting the benefits of that plan”. *Id.*

III. Information and Request for Clarification

13. LUMA herein informs that, on August 23, 2024, LUMA participated in a stakeholder meeting held by the Energy Bureau consultants that are preparing the “Puerto Rico Baseline and Potential Study” in which they discussed the preliminary data gathering and analyses conducted to date, informed on the next steps to finalize the study, and provided the stakeholders an opportunity to ask questions. In attention to a question regarding the timing of this study, one of the consultants indicated that they anticipated having a final study by the end of November of this year. The consultants also requested stakeholders to provide any additional granular information that may assist in the preparation of the study. LUMA contacted the Energy Bureau’s consultants and met on September 11, 2024, to discuss Puerto Rico based data and data sharing, among other aspects of the studies. LUMA sees value in continuing these conversations with the

Energy Bureau consultants in order to collaborate on the finalization of these studies and ensure that the studies are reflective of the market in Puerto Rico and provide the necessary inputs based on LUMA's experience on this topic.

14. Given that the Baseline and Potential Studies have not been finalized as of this date and will likely not be ready until the end of the year (assuming additional steps are needed for the Energy Bureau to approve it), LUMA hereby informs that it will be impeded from utilizing the results of these studies in the draft Three-Year EE and DR Plan that is due by December 2, 2024.

15. The Energy Bureau's EE Regulation mandates two key studies to assess and guide energy efficiency efforts on the island: the Market Baseline Study and the Potential Study. *See* EE Regulation, Sections 1.09(B)(29) and (38) and 3.02(A) and (B)³.

16. The EE Regulation provides that, prior to the end of the TPP, and informed by the first Potential Study, the Energy Bureau shall estimate the energy efficiency savings achieved during that period for certain specified actions. *See id.* Section 3.02(D). Moreover, the EE Regulation provides that the Energy Bureau "shall use the results of the initial Market Baseline Study and the Potential Study, along with the estimated impacts of actions during the Transition Period Plan, to develop, in collaboration with the [the Public Energy Policy Program], **estimated annual savings expected to be achieved by PREPA's efficiency programs**", among others, "for each Program Year through 2040". *See id.* Section 3.02(E) (emphasis ours).

³ The Market Baseline Study, which is to be done within four months of the effective date of the EE Regulation and updated every three years as needed, assesses the current state of energy efficiency and demand response in Puerto Rico. *See id.* Sections 1.09(B)(29) and 3.02(A). The Potential Study, which is to be completed four months after the Puerto Rico Test and updated every three years as needed, analyzes past achievements and future savings opportunities, focusing on cost-effective improvements for specific customer classes and sectors. *See id.* Sections 1.09(B)(38) and 3.02(B)

17. In view of the required timing and objectives of the Market Baseline and Potential Studies under the EE Regulation, LUMA submits that the EE Regulation contemplates that the Baseline and Potential Studies be used to develop the programs for the Three-Year EE Plan. The Baseline and Potential Studies will provide the data and insights needed to select, design, and evaluate EE and DR programs and to focus efforts on the most impactful areas, allocate resources efficiently, and set achievable objectives, ultimately leading to more effective and meaningful energy efficiency outcomes. For these reasons, the Baseline and Potential Studies are key to the preparation of a robust Three-Year EE and DR Plan and any other EE and DR programs in the future.

18. As informed in LUMA's October 30th Motion, LUMA will be able to effectively utilize the Baseline and Potential Studies as inputs to the Draft Three-Year EE and DR Plan if it is allowed at least six (6) months following completion of such studies. Since the due date of the draft Three-Year EE and DR Plan is in less than three (3) months (i.e., December 2, 2024), LUMA will be unable to effectively utilize the Baseline and Potential Studies in the preparation of the Draft Three-Year EE and DR Plan.

19. Furthermore, these studies will be a source of information to determine key inputs and energy savings targets used to develop a portfolio of cost-effective EE programs to be included in the Three-Year EE and DR Plan. The targets are to be set by the Energy Bureau's use of the Market Baseline and Potential Studies to calculate the estimated annual savings expected to be achieved by the efficiency programs. 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 EE and DR Plan, nor how much budget would be required. It is unclear

what the timeline will be between the finalization of the studies and the subsequent task of setting targets for the Three-Year EE and DR Plan.

20. In light of the foregoing, LUMA respectfully requests that the Energy Bureau provide clarity on the expected completion and approval dates for the Baseline and Potential Studies. Additionally, LUMA requests that the Energy Bureau extend the deadline to submit the Draft Three-Year Plan to a date that is at least six (6) months from the date when the Baseline and Potential Studies are finalized, with similar extensions to the concomitant tasks of stakeholder workshop and submittal of a final Three-Year EE and DR Plan.

21. In addition, LUMA proposes that the TPP be extended. This extension would allow LUMA to continue using the available data, insights, and information gathered from the TPP's implementation to date. By doing so, LUMA can maintain program continuity and ensure that current efforts remain aligned with system realities. Once the Baseline and Potential Studies are completed and there is an allocation of estimated annual savings targets, LUMA will be in a position to integrate the findings into the next phase of program development, ensuring a data-driven approach moving forward. This approach would enable LUMA to prepare a Three-Year EE and DR Plan with the best available data.

22. A quantitative, data-driven approach—enabled by the Baseline and Potential Studies—would allow for more accurate market research and analysis to determine the most cost-effective programs and measures. Extending the TPP will not only ensure that LUMA can utilize the studies and the allocation of estimated annual savings are available, but it will also enable LUMA to evaluate the TPP programs and apply those key insights to the eventual development of the Three-Year EE and DR Plan, ensuring a more effective allocation of resources and long-term success.

23. LUMA respectfully requests that the Energy Bureau consider the following example on how the timing for the preparation of the draft Three-Year EE and DR Plan and associated filings would be affected. Taking into account that LUMA needs at least six (6) months from the finalization/approval of the Baseline and Potential Studies to be able to effectively use these studies in the preparation of the draft Three-Year EE and DR Plan, if, for instance, these studies are completed and approved by the end of this year, then LUMA would be able to have a draft Three-Year EE and DR Plan incorporating the information of these studies by June 2025, so that, in accordance with the timeframe currently established, the final plan would be submitted to the Energy Bureau by September 2025. Under this scenario, therefore, the final plan would potentially be ready by the end of the first quarter of FY2025.

24. Once the Three-Year EE and DR Plan is final and approved, LUMA will be tasked with conducting the necessary activities to set up the programs for subsequent implementation, including conducting the procurement to engage third-party program implementers, as necessary. This process may take at least six (6) months after approval of the final plan. Under this scenario, the implementation of the plan would begin around the beginning of FY2026, which would be past the half point of the Fiscal Year. Since budgeting is conducted by Fiscal Year, the preferred timeframe to commence the programs would likely be the beginning of the following Fiscal Year (which in the scenario discussed would be in FY2026). Furthermore, to ensure the continuity of current EE and DR programs until the Three-Year EE and DR plan is ready to be implemented, the TPP would also have to be extended (which in the scenario discussed would be until the end of FY2025).

25. In sum, LUMA respectfully requests that the Energy Bureau amend the timeline to submit the draft Three-Year EE and DR Plan to six (6) months following the finalization of the

Baseline and Potential Studies, provide for the stakeholder workshop to obtain input on the plan to be held during the month following the new deadline for filing the draft Three-Year EE and DR Plan, extend the deadline to submit the final Three-Year EE and DR Plan to three (3) months after the new deadline to submit the draft Three-Year EE and DR Plan, and allow at least six (6) months after the approval of final Three-Year EE and DR Plan for the implementation of this plan, preferably at the beginning of a Fiscal Year, taking into account the example provided in paragraphs 23 and 24 of this motion. Additionally, LUMA respectfully requests the Energy Bureau to extend the TPP during the necessary additional time to ensure the continuity of existing programs until the Three-Year EE and DR Plan is ready to be implemented.

WHEREFORE, LUMA respectfully requests the Energy Bureau to take notice of the aforementioned; **provide** clarity on the timeline for the completion and approval of the Market Baseline Study and Potential Study; **grant** the extensions to the deadlines to file the Three-Year EE and DR Plan and the concomitant tasks as described in this motion; and **extend** the TPP during the necessary additional time to ensure program continuity until the Three-Year EE and DR Plan is ready to be implemented.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 16th day of September 2024.

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 Independent Office for Consumer Protection at hrivera@jrsp.pr.gov; to PREPA's counsel at mvalle@gmlex.net; arivera@gmlex.net; and to agrartfe@agrartlawpr.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, and 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 No. 10,398
laura.rozas@us.dlapiper.com