GOVERNMENT 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:** Administrative Costs, Three-year Plan Schedule, and FY24 Budget Rollover.

RESOLUTION AND ORDER

I. Introduction

In this Resolution and Order, the Energy Bureau of the Public Service Regulatory Board of Puerto Rico ("Energy Bureau") addresses issues raised by LUMA Energy, LLC and LUMA Energy ServCO, LLC (collectively, "LUMA"), in three recent motions. Summary of LUMA's three recent motion

A. Administrative Cost Report and Request for Approval of Updated Standardized Template

On August 13, 2024, LUMA submitted its fourth quarter administrative cost report for EE and DR programs ("August 13 Motion").[1] This report includes a brief description of implementation progress, participation, performance, and costs of the EE and DR programs operated in that quarter, as well as some year-to-date information. It also includes LUMA's summary of lessons it has learned and how it plans to adapt its approach based on those lessons. In its accompanying motion, LUMA requested that the Energy Bureau approve this updated version of the standardized report template as suitable for subsequent filings.

B. Request for Extension of Deadline for a Draft Three-Year Plan

On September 16, 2024, LUMA submitted a motion seeking clarification on the timeline for completing key studies required to prepare the upcoming EE and DR Three-Year Plan ("September 16 Motion").[2] LUMA states that the studies, known as the Market Baseline Study and the Potential Study, are crucial for developing a data-driven plan for EE and DR programs in Puerto Rico. These studies assess the current state of energy efficiency on the island and identify cost-effective opportunities for future savings. The motion emphasizes that the results of the Market Baseline and Potential Studies are essential for setting realistic energy savings targets and designing effective EE and DR programs. Without these studies, LUMA argues it would lack the necessary data to optimize resource allocation and meet Puerto Rico's long-term energy efficiency goals.

LUMA states that these studies are still in progress and may not be completed until the end of 2024. As a result, LUMA requests that the Energy Bureau clarify the expected completion date of the studies and extend the deadline to submit the draft Three-Year Plan, which would otherwise be due on December 1, 2024. LUMA proposes a new deadline six months after the studies are finalized, with corresponding extensions for stakeholder engagement and submission of the final plan. Additionally, LUMA seeks an extension of the existing Transition Period Plan (TPP), which is set to expire at the end of FY24 on June 30, 2025. Extending the TPP into FY25 would allow LUMA to maintain continuity in its current EE and DR programs until the new Three-Year Plan is ready for implementation.

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[1] *In re: Energy Efficiency and Demand Response Transition Period Plan,* Case No. NEPR-MI-2022-0001, Motion to Submit FY2024 Q4 Consolidated Transition Period Plan and Demand Response Administrative Cost Quarterly Report and Request for Approval of Template for these Quarterly Reports, filed by LUMA on August 13, 2024.

[2] *In re: Energy Efficiency and Demand Response Transition Period Plan,* Case No. NEPR-MI-2022-0001, 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, filed by LUMA on September 16, 2024.

C. Motion Requesting Approval to Roll Over Unspent FY24 EE Funds to FY25

On October 9, 2024, LUMA filed a motion requesting approval to roll over unspent EE program funds from FY24 to FY25("October 9 Motion").[3] The unspent amount, approximately $5.8 million, results from delays in program implementation due to administrative setup and contractor onboarding. LUMA considers the rollover of these funds to be critical to maintaining program momentum, driving customer engagement, and achieving Puerto Rico's long-term energy savings goals. LUMA argues this rollover will help fulfill the total energy savings target of 72,180 MWh over two years, equivalent to a cumulative 0.5% reduction in annual MWh sales. The motion emphasizes that the unspent funds consist mainly of incentive funds for customer rebates and resources for program planning and administration, which would be used to enhance existing programs like residential rebates, business rebates, and energy efficiency kits. LUMA highlights the importance of this rollover in mitigating a revenue shortfall caused by the Energy Bureau's directive to not collect unbilled EE Rider charges for July 2024, totaling $445,238.92. By applying the unspent funds from FY24 to FY25, LUMA seeks to ensure the continued growth of EE programs.

II. Discussion

The foregoing Motions raise several related issues and requests to the Energy Bureau, which are discussed in this section.

A. Administrative Cost Report and Standardized Report Template Contents

LUMA's quarterly administrative cost report has information on EE and DR program offerings, supporting activities, budgets, and funds spent. It is a useful and interesting resource that informs the Energy Bureau's regulatory oversight. Although the information presented is useful, the Energy Bureau requires additional information beyond what is present in this filing. The Energy Bureau therefore **CONDITIONALLY APPROVES** LUMA's request to use the August 13 Motion as a template for future quarterly reports. This approval is conditional upon LUMA supplementing the template with additional information.

One purpose of the Energy Bureau's close oversight of administrative costs is to make sure LUMA assigns costs to the correct funding source and does not allow EE Rider and Purchased Power Cost Adjuster (PPCA) funds to be used for purposes intended to be funded with the base rate. LUMA is **ORDERED** to include the following information to its administrative cost reports:

1. A breakdown of costs between program planning and administration (PP&A), evaluation, measurement and verification (EM&V), and participant incentives. Provide this breakout for each EE and DR program.
2. A specific breakdown of non-incentive costs between 1) administrative costs incurred for LUMA employees, 2) administrative costs incurred for professional services to assist with planning and regulatory process, 3) administrative costs incurred by the program implementation contractor(s), 4) program evaluation and 5) other administrative costs. Provide this breakdown separately for EE and for DR programs.
3. Documentation (such as invoices and supporting information provided with those invoices) supporting the administrative costs for external professional services.
4. Documentation and attestation regarding the assignment of LUMA staff time to the EE and DR administrative cost budgets.

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[3] *In re: Energy Efficiency and Demand Response Transition Period Plan,* Case No. NEPR-MI-2022-0001, *Motion Requesting Approval for the Rollover of Unspent Energy Efficiency Program Funds to the FY2025 Budget for Energy Efficiency Programs* filed by LUMA on October 9, 2024.

The Energy Bureau understands and appreciates that the documentation of professional service and staff costs may warrant confidential treatment.

Also, the Energy Bureau **ORDERS** LUMA to several other changes to the administrative cost reports. These changes are meant to facilitate a streamlined review of program status and implementation.

1. Add to Table 7 the number of year to date (YTD) participants for each program and in total, in addition to the participants in the quarter being reported on.

2. Add to Table 8 the YTD quantity of installed measures, in addition to the quantity of installed measures in the quarter being reported on.

3. For each measure in Table 8, provide the YTD average per-unit kW and kWh savings. If a measure as listed in the table includes multiple similar types of installed technology (e.g. different forms of residential air conditioners or commercial cooking equipment), provide the range of per-unit savings.

LUMA is **ORDERED** to apply the required changes to administrative cost reports on a forward-going basis. LUMA need not re-file the August 13 Motion.

As part of its oversight of ongoing EE and DR programs and plans, the Energy Bureau requires additional information to follow up on the information in the August 13 Motion. LUMA is **ORDERED** to submit responses to the requirements of information in **Attachment A** to this Resolution and Order within ten (10) business days after the issuance of this Resolution and Order.

B. Battery Demand Response Program Status

In its August 13 Motion, LUMA described the state of its Customer Battery Energy Sharing ("CBES") battery demand response program as of the end of FY24. LUMA stated that the program had 5,726 enrolled participants and enrolled capacity of 38 MW. LUMA stated that the available capacity in customer batteries is less than first forecasted. This has resulted in less spending on incentive payments (since those payments are proportional to the energy provided). Customers have provided capacity of 18 MW per event, rather than the 38 MW of potential capacity. LUMA stated that it intends to exceed the original program's enrollment target to increase energy and capacity. It also intends to explore greater engagement with the commercial sector, which typically has larger battery capacities. LUMA stated that it does not expect a need to exceed the FY25 budget for the CBES program.

The Energy Bureau is pleased to see the continued growth and success of the CBES program. DR programs are not subject to delays in analysis resulting from the Market Baseline and Potential Study timelines, and the CBES program has been in operation for long enough that LUMA has had an opportunity to learn lessons during its pilot status. While the CBES program has almost 6,000 participants, its capacity remains far short of what could be achieved if most customers with battery storage participated. Participants have also made less of their battery capacity available to the program than expected.

The Energy Bureau **DETERMINES** that LUMA should transition the CBES program from a pilot to a permanent program. The Energy Bureau is interested in enabling LUMA to further grow and scale this resource before summer 2025. The Energy Bureau believes that ensuring continuity of this program beyond the end of the Transition Period Plan will enable and encourage both aggregators and customers to increase participation. To effectuate this transition, LUMA **SHALL**:

1. File a motion proposing the form of its permanent customer battery sharing program no later than December 2, 2024. The Energy Bureau anticipates that it will host a technical conference on LUMA's proposed program in January 2025. LUMA and the Energy Bureau will retain the ability to make program changes within the permanent program, to increase program cost-effectiveness and scale, and to manage overall program costs as needed.

2. Design the permanent program based on successful elements of the CBES pilot, to build on these successes and reduce customer transition costs, shocks, or loss of participation between the CBES pilot and the permanent program.

3. Design the program with the expectation that the participating resources will be regularly dispatched during high-load periods on the grid (such as the summer months), as well as in other times of grid stress.

5. Design the program with the intention to not only increase the number of participants in the program but also to optimize the available energy and capacity from each participant so the grid resources can grow faster than the number of participants.

The Energy Bureau's prior authorization that LUMA used to develop the CBES program pilot targeted emergency situations. These are situations in which the absence of the DR resource may lead to loss of electrical service to customers. The DR Regulation allows the use of backup generators as a DR resource in emergency situations. To date, LUMA has not deployed a DR program to be used in rare dire situations only, or one with backup generator participation. The Energy Bureau **ORDERS** LUMA to develop and implement such a program before summer 2025. LUMA **SHALL** file monthly reports on the 15th of each month, beginning January 15, 2025, detailing its efforts to design and implement such a program.

C. Market Baseline and Potential Study Status and Revised Timeline for Three-Year Plan Filing

The Energy Bureau recognizes that the Market Baseline Study and Potential Study are behind schedule. The Energy Bureau expects to provide draft studies to LUMA in November 2024. While finalizing those studies may take some additional time, the Energy Bureau understands that draft study results will be sufficient for LUMA to begin to incorporate the results into program planning. LUMA can adjust its plans if the studies' results shift between draft and final versions.

The Energy Bureau understands LUMA's need to have time to incorporate study results into the development of the EE and DR Three-Year Plan. Therefore, the requirement to create a draft Three Year Plan by December 2024 is **DEFERRED**. However, the Energy Bureau does not believe that LUMA should require six months between final studies and preparing a draft Three-Year Plan about which LUMA can consult with stakeholders. There are several reasons a shorter amount of time can be enough.

First, LUMA can begin to plan for its Three-Year Plan activities without the baseline and potential studies, building from its experiences during the Transition Period Plan. This is especially true for demand response programs, which are not covered by the baseline and potential studies and for which LUMA therefore has no need for deferral (other than the desire for joint EE and DR planning). Second, LUMA can begin to incorporate the insights from the studies based on the draft results expected to be available shortly and need not wait for final plans to begin work. Third, the plan version that LUMA will consult with stakeholders about is intended to be a draft plan, and no final plan is required for 90 days (or more) after stakeholder consultations begin (provided they begin on or before the timeframe envisioned by the EE Regulation). Fourth, to the extent that LUMA expects to rely on the potential study to inform the amount of EE resource to be acquired each year during the Three-Year Plan, the Energy Bureau understands that the scale of programs during the first Three Year Plan is likely to be limited by the capacity of EE programs to grow and scale from year to year across the plan, and not by the achievable potential or the savings required to meet the 30 percent target. LUMA can therefore plan to grow its programs at a sustainable rate, subject to no or little modification when the studies are available. Until any revision in this guidance based on the results of the Potential Study, LUMA **SHALL** plan to achieve 0.5 percent savings in FY26, 0.8 percent in FY27, and 1.2 percent in FY28 (which would be the third year of the Three-Year Plan).

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LUMA states it may require six months between the approval of the Three-Year Plan and beginning implementation of programs approved under that plan.[4] LUMA proposes a schedule in which the Transition Period Plan would be extended by one year and the first Three Year Plan would begin on July 1, 2026. The Energy Bureau **DECLINES** to defer the implementation of the Three-Year Plan by a full year. LUMA should plan for a ramp-in of new programs under the approved Three-Year Plan, if it requires time between approval and implementation to bring on board a new implementation contractor. New programs need not begin at the start of the Three-Year Plan. LUMA **SHALL** work with its Transition Period Plan implementation contractor(s) and begin procurement processes for potential or proposed new programs in the Three-Year Plan, so that program offerings are continuous across the transition between the Transition Period Plan and Three-Year Plan.

To account for the study delays, and to allow LUMA sufficient time to learn from TPP implementation, the Energy Bureau **ORDERS** LUMA to: (i) begin stakeholder engagement on a draft plan **on or before April 15, 2025**, which will approximately be five months after LUMA receives the draft Market Baseline and Potential Studies in November 2024; and file its first Three-Year Plan on or before July 15, 2025. This is more than a four-month extension from the previously established deadline of March 1, 2025.

This Three-Year Plan **SHALL** cover the 2.5-year period from January 1, 2026 to June 30, 2028. To maintain continuity of program delivery, the Energy Bureau **EXTENDS** the TPP by six months **to December 31, 2025**.

To provide clarity to LUMA for program planning and implementation, LUMA **SHALL** (i) plan to achieve aggregate EE savings of at least 0.5 percent of annual sales in FY26, split between six months of TPP and the first six months of the Three-Year Plan; and (ii) file, **on or before December 2, 2024**, a revised TPP, amended to cover the period through December 31, 2025, including EE and DR program offerings, budgets, and the estimated EE Rider amount for the first half of FY26.

D. FY24 Budget Rollover

LUMA requests to rollover about $5.8 million of unspent funds allocated to EE programs in FY24 to use in FY25. These funds would serve two purposes: they would make up the shortfall resulting from LUMA's billing system limitation, and they would allow LUMA to acquire greater amounts of EE in FY25.

In considering this request, the Energy Bureau weighed competing priorities. The Energy Bureau could return the unspent EE funds to ratepayers, either through a one-time bill credit or by rolling over the funds but reducing the EE Rider to reduce the funds raised in FY25. This course would provide a small, immediate benefit to ratepayers. On the other hand, the Energy Bureau appreciates that the delayed launch of EE programs has made it more difficult to achieve its statutory mandate to ramp up EE programs and achieve 30 percent efficiency savings by 2040. The Approved Integrated Resource Plan identifies EE as a highly cost-effective resource that reduces overall electric system costs.

The Energy Bureau considered the practical programmatic and customer implications of not rolling over funds. LUMA reports that its spending rate in EE programs is such that, if the rate were to be sustained, it would exhaust the approved FY25 budget before the end of the fiscal year. Absent programmatic changes, this could result in a damaging gap in program delivery. The Energy Bureau understands that gaps in program delivery can be harmful when programs are nascent, and customers are uncertain as to whether they can count on EE programs to be there for the long term. If approved funds were to run low, the Energy Bureau **EXPECTS** that LUMA would adjust programmatic spending (for example by reducing rebates or delaying program launches) to avoid harmful shocks to program availability.

The Energy Bureau also considered the programmatic and customer implications of rolling over unspent FY24 funds. As LUMA describes, these funds will let LUMA achieve greater efficiency savings through maintaining and scaling its EE programs. This will result in lower

[4] September 16 Motion, paragraph 24.

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energy bills in the near-term and over the coming years. Meeting the 30 percent efficiency target will require a faster rate of efficiency implementation than has been achieved, so supporting program scale-up and growth is important to meet the Government of Puerto Rico's long-term goals. LUMA's October 9 Motion states that, with these funds, its programs are expected to achieve 51,507 MWh of first-year savings in FY25. This equates to about 0.32 percent of LUMA's expected annual sales. The EE Regulation sets a goal for the Transition Period Plan to achieve at least 0.25 percent savings in its second year, and to further ramp program size after the second year to be on pace to meet the statutory 30 percent target.

Weighing the choice before it, the Energy Bureau **APPROVES** LUMA's request to roll over unspent FY24 funds to fund FY25 programs and increase the FY25 programmatic budget. As part of the revised Transition Period Plan required by this Resolution and Order, LUMA **SHALL** include a detailed breakdown of its full expected FY25 revenue (from the EE Rider, rollover funds, and other sources) and spending.

III. Conclusion

LUMA **SHALL** timely comply with all the determinations made by the Energy Bureau in Part II of this Resolution and Order.

The Energy Bureau WARNS LUMA that, in accordance with Act No. 57-2014[5], as amended:

i. noncompliance with this Resolution and Order, regulations and/or applicable laws may carry the imposition of fines and administrative sanctions of up to $25,000 per day;

ii. any person who intentionally violates Act 57-2014, as amended, by omitting, disregarding, or refusing to obey, observe, and comply with any rule or decision of the Energy Bureau shall be punished by a fine of not less than five hundred dollars ($500) nor over five thousand dollars ($5,000) at the discretion of the Energy Bureau; and

iii. for any recurrence of non-compliance or violation, the established penalty shall increase to a fine of not less than ten thousand dollars ($10,000) nor greater than twenty thousand dollars ($20,000), at the discretion of the Energy Bureau.

Be it notified and published.

Edison Avilés Deliz
Chairman

Lillian Mateo Santos
Associate Commissioner

Ferdinand A. Ramos Soegaard
Associate Commissioner

Sylvia B. Ugarte Araujo
Associate Commissioner

Antonio Torres Miranda
Associate Commissioner

[5] Known as *Puerto Rico Energy Transformation and RELIEF Act*, as amended ("Act 57-2014").

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CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on October 23, 2024. I also certify that on October 23, 2024 a copy of this Resolution and Order was notified by electronic mail to margarita.mercado@us.dlapiper.com; laura.rozas@us.dlapiper.com; lionel.santa@prepa.pr.gov, hrivera@jrsp.pr.gov; javrua@sesapr.org; mrios@arroyorioslaw.com; jordgraham@tesla.com; forest@cleanenergy.org; customerservice@sunnova.com; pjcleanenergy@gmail.com; agraitfe@agraitlawpr.com, info@sesapr.org; shanson@veic.org. I also certify that today, October 23, 2024, I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, today October 23, 2024.

Sonia Seda Gaztambide
Clerk

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Attachment A
Requests of Information

1. Provide the written policy LUMA uses to assign the cost of LUMA staff time to the LUMA base budget (funded by the base rate), to the EE budget (funded by the EE Rider), or to the DR budget (funded by the PPCA).

2. See footnote 7 in the attachment to LUMA's August 13 Motion. Provide LUMA's analysis leading to its estimate of annual savings of 396 kWh per year for each kit delivered.

3. Refer to the attachment to LUMA's August 13 Motion. What is LUMA's estimate of annual savings for the Business EE Kits, broken out by Retail, Office, or Lighting-only kits? Provide LUMA's assumptions to produce its savings estimate for each kit type.

4. See Table 9 (Energy and Peak Demand Savings Performance by Market Sector and Subsegment) in the attachment to LUMA's August 13 Motion. LUMA has achieved just 16 percent of its annual target for low-income programs in the residential sector, compared with 130 percent for non-low-income programs. Provide LUMA's plans to fix this disparity by increasing participation by low-income residents.

5. See Table 10 (Energy and Peak Demand Savings Performance) in the attachment to LUMA's August 13 Motion. Confirm that the energy savings on this table, and the calculated $/kWh, are the first-year energy savings expected as a result of the implemented programs (as opposed to the lifetime energy savings). What average lifetime does LUMA assume for each program? What lifetime savings and $/lifetime savings does LUMA expect?

6. See Table 11 (EE Budget & Costs) in the attachment to LUMA's August 13 Motion. This table shows total program budget for FY24 in the two administrative items (Education & Outreach and Cross-Cutting Planning, Administration & Evaluation Costs) of $1,125,000 each, or $2.25 million combined. The table shows FY24 YTD costs of $860,812 total in these categories, leaving an unspent balance of $1,389,188. On page 4 of the attachment to LUMA's October 9th Motion, LUMA states that the $5.8 million in unspent FY24 funds is split between $2.9 million of program incentive dollars and $2.9 million of "PP&A" funds used to administer incentive programs. Provide a detailed explanation and mapping of terms to explain the difference between the $1.389 million in unspent non-programmatic funds in the August 13th Motion and the $2.9 million of unspent PP&A funds in the October 9th Motion.

7. Refer to Table 1 (Proposal for Revised TPP budget by Sector and Program) in LUMA's October 9th Motion. How did LUMA determine the portion of the unspent FY24 funds to allocate to each program? For the Residential and C&I Program, does LUMA intend to use the unspent funds from FY24 (after accounting for the unbilled EE Rider) on customer incentives?

8. See Table 13 (DR YTD Performance Indicators) in the attachment to LUMA's August 13th Motion. Confirm that the YTD Actual for Total program costs is $3,897,939 ($1,467,150 and $2,430,789).

9. See Table 14 (DR Budget and Costs) in the attachment to LUMA's August 13th Motion. Explain the variance for Q4 FY24 in DR program professional services. The budget is $200,000 while costs are $1,865,482. Provide a detailed justification for professional services costs that account for nearly half of all the DR program costs in FY24. Does LUMA expect DR program professional services costs to continue at this rate, or were these one-time costs?

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