

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

NEPR

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IN RE: REVIEW OF THE PUERTO RICO
ELECTRIC POWER AUTHORITY
INTEGRATED RESOURCE PLAN

CASE NO.: NEPR-AP-2023-0004

SUBJECT: Motion Submitting Supporting
Materials to First Interim Filing of the 2025
IRP, Request for Confidential Treatment, and
Memorandum in Support of Confidentiality

**MOTION SUBMITTING SUPPORTING MATERIALS TO THE FIRST INTERIM
FILING OF THE 2025 IRP, REQUEST FOR CONFIDENTIAL TREATMENT, AND
MEMORANDUM IN SUPPORT OF CONFIDENTIALITY**

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. Introduction

1. One of LUMA’s core system planning responsibilities as operator of the Puerto Rico transmission and distribution system (“T&D System”) pursuant to the *Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement* dated June 22, 2020 (“T&D OMA”), is developing and proposing an Integrated Resource Plan (“IRP”). As such, the Puerto Rico Energy Bureau (“Energy Bureau”) initiated this instant proceeding for the review of the proposed 2025 IRP to be filed by LUMA, as the agent of the Puerto Rico Electric Power Authority (“PREPA”).

2. LUMA is committed to supporting and advancing the transformation of Puerto Rico’s energy system into one that is more resilient, cleaner, and sustainable for everyone. As operator of the T&D System, LUMA is responsible for developing an IRP that maps out the transformation of the island’s energy resources over the next two decades. *See* PR Laws Ann. Tit.

22 § 1054v (2024); T&D OMA, Section 5. 6 (f), p. 67. LUMA’s goal is to ensure that the 2025 IRP presents a diverse and analytically robust set of future scenarios and resource portfolios in order to map a sustainable and reliable energy future for Puerto Rico that is responsive to customer needs and Puerto Rico’s energy public policy objectives.

3. After a series of procedural events, on October 29, 2024, the Energy Bureau issued a Resolution and Order (“October 29th Order”) approving a revised schedule for the 2025 IRP Filing (“2025 IRP Filing”). Specifically, it directed LUMA to submit information at two interim milestone dates, the first on November 27, 2024, and the second on February 28, 2025, to share preliminary findings and demonstrate the progress of the 2025 IRP Filing. Moreover, it directed LUMA to file the 2025 IRP Report on May 16, 2025, in compliance with the *Regulation on Integrated Resource Plan for the Puerto Rico Electric Power Authority*, Regulation No. 9021, dated April 20, 2018 (“Regulation 9021”).

4. On November 25, 2024, LUMA filed a *Motion Submitting First Interim Filing of the IRP in Compliance with the Resolution and Order of October 29, 2024, Request for Confidential Treatment, and Memorandum in Support of Confidentiality* (“November 25th Submission”). LUMA submitted the First Interim 2025 IRP Filing with: (i) preliminary results of PLEXOS modeling to define the preliminary least cost resource portfolios for the 2025 IRP Revised Core Scenarios 1 through 4, including input assumptions; (ii) available information on the existing LUMA Transmission, Distribution and Advanced Grid Control facilities and equipment as described in Section 2.03(J)(1)(a)-(c) of Regulation 9021, consistent with the partial waiver granted by the Energy Bureau in its Resolution and Order dated April 15, 2024; and (iii) a summary and qualitative description of how LUMA expects planned transmission facilities will support its Preferred Resource Plan.

5. LUMA also included with the November 25th Submission of the work papers on the preliminary results, assumptions, and inputs of the 2025 IRP Revised Core Scenarios 1 through 4. However, LUMA indicated that the work papers for the information on the existing LUMA Transmission, Distribution, and Advanced Grid Control facilities and equipment would be provided on or before December 10, 2024.

II. Submission and Request for Confidential Treatment

6. LUMA hereby submits as *Exhibit 1* to this Motion and as a supplement to the First Interim 2025 IRP Filing, the work papers for the information on the existing LUMA Transmission, Distribution, and Advanced Grid Control facilities and equipment.

7. LUMA respectfully submits the work papers for the information on the existing LUMA Transmission, Distribution, and Advanced Grid Control facilities and equipment included in *Exhibit 1* to this Motion should be designated as confidential material protected from disclosure. Certain information included in the work papers for the information on the existing LUMA Transmission, Distribution, and Advanced Grid Control facilities and equipment is protected from disclosure as confidential information associated with Critical Energy Infrastructure Information (“CEII”) as defined in federal regulations, 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674, and pursuant to the Energy Bureau’s Policy on Management of Confidential Information. *See* Energy Bureau’s Policy on Management of Confidential Information, CEPR-MI-2016-0009, issued on August 31, 2016, as amended by Resolution dated September 20, 2016, and Section 1.15 of Regulation 9021. Further, certain information included in the work papers for the information on the existing LUMA Transmission, Distribution, and Advanced Grid Control facilities and equipment is protected from disclosure as confidential information due to the right to privacy of individuals pursuant to the Constitution of Puerto Rico. *See, e.g.*, Const. ELA, Art. II, Sections 8 and 10.

A. Applicable Laws and Regulations to Submit Information Confidentially Before the Energy Bureau

8. The bedrock provision on the management of confidential information filed before this Energy Bureau is Section 6.15 of Act 57-2014, known as the “Puerto Rico Energy Transformation and Relief Act.” It provides, in pertinent part, that: “[i]f any person who is required to submit information to the Energy Commission believes that the information to be submitted has any confidentiality privilege, such person may request the Commission to treat such information as such” 22 LPRA § 1054n. If after appropriate evaluation the Energy Bureau determines that the information should be protected, “it shall grant such protection in a manner that least affects the public interest, transparency, and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted.” *Id.* § 1054n(a).

9. The confidential information shall be provided “only to the lawyers and external consultants involved in the administrative process after the execution of a confidentiality agreement.” *Id.* § 1054n(b). Finally, Act 57-2014 provides that this Energy Bureau “shall keep the documents submitted for its consideration out of public reach only in exceptional cases. In these cases, the information shall be duly safeguarded and delivered exclusively to the personnel of the [Energy Bureau] who need to know such information under nondisclosure agreements. However, the [Energy Bureau] shall direct that a nonconfidential copy be furnished for public review.” *Id.* § 1054n(c).

10. Relatedly, in connection with the duties of electric power service companies, Section 1.10(i) of Act 17-2019 states that electric power service companies shall provide the

information requested by customers, except for confidential information under the Rules of Evidence of Puerto Rico.

11. Moreover, the Energy Bureau’s Policy on Confidential Information details the procedures a party should follow to request that a document or portion thereof be afforded confidential treatment. In essence, the referenced Policy requires identifying confidential information and filing a memorandum of law explaining the legal basis and support for a request to file information confidentially. *See* CEPR-MI-2016-0009, Section A, as amended by the Resolution of September 20, 2016, CEPR-MI-2016-0009. The memorandum should also include a table that identifies the confidential information, a summary of the legal basis for the confidential designation, and why each claim or designation conforms to the applicable legal basis of confidentiality. *Id.* at ¶ 3. The party who seeks confidential treatment of information filed with the Energy Bureau must also file both a “redacted” or “public version” and an “unredacted” or “confidential” version of the document that contains confidential information. *Id.* at ¶ 6.

B. Grounds for Confidentiality

12. The Energy Bureau’s Policy on Management of Confidential Information states the following with regard to access to validated CEII:

1. Critical Energy Infrastructure Information (“CEII”)

The information designated by the [Energy Bureau] as Validated Confidential Information on the grounds of being CEII may be accessed by the parties’ authorized representatives only after they have executed and delivered the Nondisclosure Agreement.

Those authorized representatives who have signed the Non-Disclosure Agreement may only review the documents validated as CEII at the [Energy Bureau] or the Producing Party’s offices. During the review, the authorized representatives may not copy or

disseminate the reviewed information and may bring no recording device to the viewing room.

Id. at § D (on Access to Validated Confidential Information). *See also* 1.15 of Regulation 9021.

13. A portion of the work papers for the information on the existing LUMA Transmission, Distribution, and Advanced Grid Control facilities and equipment submitted in *Exhibit 1* contains portions of CEII that, under relevant federal law and regulations, are protected from public disclosure. LUMA stresses that the information with CEII warrants confidential treatment to protect critical infrastructure from threats that could undermine the system and negatively affect electric power services to the detriment of the interests of the public, customers, and citizens of Puerto Rico. In several proceedings, this Energy Bureau has considered and granted requests by PREPA to submit CEII under seal of confidentiality.¹ In at least two proceedings on Data Security,² and Physical Security,³ this Energy Bureau, *motu proprio*, has conducted proceedings confidentially, thereby recognizing the need to protect CEII from public disclosure.

14. In this particular proceeding, LUMA has requested to protect CEII from public disclosure in the *Motion Submitting Responses to the Fifth Set of IRP Prefiling Period Requests of Information, Request for Confidential Treatment, and Memorandum in Support of Confidentiality* dated September 11, 2024, whereby LUMA stated the base case results; assumptions, parameters

¹ *See e.g., In re Review of LUMA's System Operation Principles*, NEPR-MI-2021-0001 (Resolution and Order of May 3, 2021); *In re Review of the Puerto Rico Power Authority's System Remediation Plan*, NEPR-MI-2020-0019 (order of April 23, 2021); *In re Review of LUMA's Initial Budgets*, NEPR-MI-2021-0004 (order of April 21, 2021); *In re Implementation of Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan*, NEPR MI 2020-0012 (Resolution of January 7, 2021, granting partial confidential designation of information submitted by PREPA as CEII); *In re Optimization Proceeding of Minigrad Transmission and Distribution Investments*, NEPR MI 2020-0016 (where PREPA filed documents under seal of confidentiality invoking, among others, that a filing included confidential information and CEII); *In re Review of the Puerto Rico Electric Power Authority Integrated Resource Plan*, CEPR-AP-2018-0001 (Resolution and Order of July 3, 2019 granting confidential designated and request made by PREPA that included trade secrets and CEII) *but see* Resolution and Order of February 12, 2021 reversing in part, grant of confidential designation).

² *In re Review of the Puerto Rico Electric Power Authority Data Security Plan*, NEPR-MI-2020-0017.

³ *In re Review of the Puerto Rico Electric Power Authority Physical Security Plan*, NEPR-MI-2020-0018.

and costs; forecasts; transmission transfer capability; and workpapers should be granted confidential status.

15. Additionally, this Energy Bureau has granted requests by LUMA to protect CEII in connection with LUMA's System Operation Principles. *See* Resolution and Order of May 3, 2021, table 2 on page 4, Case No. NEPR-MI-2021-0001 (granting protection to CEII included in LUMA's Responses to Requests for Information). Similarly, in the proceedings on LUMA's proposed Initial Budgets and System Remediation Plan, this Energy Bureau granted confidential designation to several portions of LUMA's Initial Budgets and Responses to Requests for Information. *See* Resolution and Order of April 22, 2021, on Initial Budgets, table 2 on pages 3-4, and Resolution and Order of April 22, 2021, on Responses to Requests for Information, table 2 on pages 8-10, Case No. NEPR-MI-2021-0004; Resolution and Order of April 23, 2021, on Confidential Designation of Portions of LUMA's System Remediation Plan, table 2 on page 5, and Resolution and Order of May 6, 2021, on Confidential Designation of Portions of LUMA's Responses to Requests for Information on System Remediation Plan, table 2 at pages 7-9, Case No. NEPR-MI-2020-0019.

16. CEII or critical infrastructure information is generally exempted from public disclosure because it involves assets and information that pose public security, economic, health, and safety risks. Federal Regulations on CEII, particularly, 18 C.F.R. § 388.113, state that:

Critical energy infrastructure information means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that:

- (i) Relates details about the production, generation, transportation, transmission, or distribution of energy;
- (ii) Could be useful to a person in planning an attack on critical infrastructure;
- (iii) Is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552; and

(iv) Does not simply give the general location of the critical infrastructure.

Id.

17. Additionally, “[c]ritical electric infrastructure means a system or asset of the bulk-power system, whether physical or virtual, the incapacity or destruction of which would negatively affect national security, economic security, public health or safety, or any combination of such matters. *Id.* Finally, “[c]ritical infrastructure means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.” *Id.*

18. The Critical Infrastructure Information Act of 2002, 6 U.S.C. §§ 671-674 (2020), part of the Homeland Security Act of 2002, protects critical infrastructure information (“CII”).⁴

⁴ Regarding protection of voluntary disclosures of critical infrastructure information, 6 U.S.C. § 673, provides in pertinent part, that CII:

- (A) shall be exempt from disclosure under the Freedom of Information Act;
- (B) shall not be subject to any agency rules or judicial doctrine regarding ex parte communications with a decision-making official;
- (C) shall not, without the written consent of the person or entity submitting such information, be used directly by such agency, any other Federal, State, or local authority, or any third party, in any civil action arising under Federal or State law if such information is submitted in good faith;
- (D) shall not, without the written consent of the person or entity submitting such information, be used or disclosed by any officer or employee of the United States for purposes other than the purposes of this part, except—
 - (i) in furtherance of an investigation or the prosecution of a criminal act; or
 - (ii) when disclosure of the information would be--
 - (I) to either House of Congress, or to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee thereof or subcommittee of any such joint committee; or
 - (II) to the Comptroller General, or any authorized representative of the Comptroller General, in the course of the performance of the duties of the Government Accountability Office
- (E) shall not, be provided to a State or local government or government agency; of information or records;
 - (i) be made available pursuant to any State or local law requiring disclosure of information or records;
 - (ii) otherwise be disclosed or distributed to any party by said State or local government or government agency without the written consent of the person or entity submitting such information; or
 - (iii) be used other than for the purpose of protecting critical Infrastructure or protected systems, or in furtherance of an investigation or the prosecution of a criminal act.

CII is defined as “information not customarily in the public domain and related to the security of critical infrastructure or protected systems [...]” 6 U.S.C. § 671 (3).⁵

19. The information contains data that qualify as CEII because they contain information on the engineering and design of critical infrastructure, as existing and proposed, relating to the transmission of electricity, which is provided in sufficient detail that it could potentially be helpful to a person planning an attack on this or other energy infrastructure facilities interconnected with or served by this facility and equipment. The information identified as confidential in the information is not common knowledge and is not made publicly available. Therefore, it is respectfully submitted that, on balance, the public interest in protecting CEII weighs in favor of protecting a portion of the work papers for the information on the existing LUMA Transmission, Distribution, and Advanced Grid Control facilities and equipment with CEII in *Exhibit 1* from disclosure, given the nature and scope of the details included in those portions.

20. Based on the above, LUMA respectfully submits that portions of the work papers submitted in *Exhibit 1* contain specific information on existing LUMA Transmission, Distribution, and Advanced Grid Control facilities and equipment with CEII that should be designated as CEII. This designation is a reasonable and necessary measure to protect the specific location and other

(F) does not constitute a waiver of any applicable privilege or protection provided under law, such as trade secret protection.

⁵ CII includes the following types of information:

(A) actual, potential, or threatened interference with, attack on, compromise of, or incapacitation of critical infrastructure or protected systems by either physical or computer-based attack or other similar conduct (including the misuse of or unauthorized access to all types of communications and data transmission systems) that violates Federal, State, or local law, harms interstate commerce of the United States, or threatens public health or safety;

(B) the ability of any critical infrastructure or protected system to resist such interference, compromise, or incapacitation, including any planned or past assessment, projection, or estimate of the vulnerability of critical infrastructure or a protected system, including security testing, risk evaluation thereto, risk management planning, or risk audit; or

(C) any planned or past operational problem or solution regarding critical infrastructure or protected systems, including repair, recovery, construction, insurance, or continuity, to the extent it is related to such interference, compromise, or incapacitation.

engineering and design information of the energy facilities listed or discussed in the work papers for the information on the existing LUMA Transmission, Distribution, and Advanced Grid Control facilities and equipment in *Exhibit 1*. Given the importance of ensuring the safe and efficient operation of the generation assets and the T&D System, LUMA respectfully submits that these materials constitute CEII that should be maintained confidentially to safeguard their integrity and protect them from external threats. *See* Section 1.15 of Regulation 9021.

21. In addition, the 30059 - Distribution Automation Initial SOW 09122023 – signed file in *Exhibit 1* contains the names, signatures, and roles of two individuals who are LUMA employees and contractors, respectively, who reviewed the SOW as part of LUMA’s internal review and approval of each document. Moreover, the Resumen_Métricas_BT_JUL_SEP24 and Voltage Tickets Per Customer Served Heat Map files in *Exhibit 1* contain customer connection information and address, contact information, and account information. LUMA respectfully requests that information on the names, signatures, and roles of these individuals, and the customer connection information and address, contact information, and account information be maintained confidentially in the context that these reveal details of their employment duties and that their protection is in the public interest and aligned with Puerto Rico’s legal framework on privacy which protects from the disclosure of personal information. *See, e.g.*, Const. ELA, Art. II, Sections 8 and 10 protect the right to control personal information and distinctive traits, which applies *ex proprio vigore* and against private parties. *See also e.g. Vigoreaux v. Quiznos*, 173 D.P.R. 254, 262 (2008); *Bonilla Medina v. P.N.P.*, 140 D.P.R. 294, 310-11 (1996), *Pueblo v. Torres Albertorio*, 115 D.P.R. 128, 133-34 (1984). *See also* Act 122-2019, Article 4(vi) (which provides, as an exception to the rule on public disclosure, information the disclosure of which could invade the privacy of third parties or affect their fundamental rights); and Article 3(c) of Act 122-2019 (stating

that personnel files and similar information does not constitute public information subject to disclosure). *See further* Section 5.5 of the *Puerto Rico Transmission and Distribution System Maintenance and Operation Agreement*. It is respectfully submitted that the redaction of the aforementioned information does not affect the public's or the Energy Bureau's process nor interfere with processes before this Energy Bureau. Therefore, on balance, the public interest in protecting privacy weighs in favor of protecting the relevant portions of the aforementioned documents.

22. It is respectfully submitted that the right of public access to information is promoted and protected by the public version. The protection of the specific information will not hinder nor preclude the public in a material way from gaining access to relevant and necessary information. As such, the interest in the public viewing the information that LUMA hereby requests be kept confidential is outweighed by the harm that LUMA would be exposed to should the information be made available to the public.

III. Identification of Confidential Information.

23. In compliance with the Energy Bureau's Policy on Confidential Information, CEPR-MI-2016-0009, below is a table summarizing the hallmarks of this request for confidential treatment.

Document	Name	Pages in which Confidential Information is Found, if applicable	Summary of Legal Basis for Confidentiality Protection, if applicable	Date Filed
Exhibit 1	30059 - Distribution Automation Initial SOW 09122023 - signed	Page 1	Right to privacy (<i>see, e.g.</i> , Const. ELA, Art. II, Sections 8 and 10)	December 10, 2024
	Distribution Feeders by Voltage Level	Entire file	Critical Energy Infrastructure Information, 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674.	December 10, 2024
	Feeder per Voltage Level Map	Entire file	Critical Energy Infrastructure Information, 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674.	December 10, 2024
	IRP Feeder Substation Voltage and Thermal IRP Supporting Document	Entire file	Critical Energy Infrastructure Information, 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674.	December 10, 2024
	LUMA Energy Operational Regions, Districts and Costumer Counts	Entire file	Critical Energy Infrastructure Information, 18 C.F.R. § 388.113; 6	December 10, 2024

Document	Name	Pages in which Confidential Information is Found, if applicable	Summary of Legal Basis for Confidentiality Protection, if applicable	Date Filed
			U.S.C. §§ 671-674.	
	LUMA Energy Substations ABFE's	Entire file	Critical Energy Infrastructure Information, 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674.	December 10, 2024
	LUMA Substations Data	Entire file	Critical Energy Infrastructure Information, 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674.	December 10, 2024
	Planning Substations Sites and Flood Hazard IRP	Entire file	Critical Energy Infrastructure Information, 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674.	December 10, 2024
	Resumen_Métricas_BT_JUL_SEP24	Entire file	Right to privacy (<i>see, e.g.</i> , Const. ELA, Art. II, Sections 8 and 10) and Section	December 10, 2024

Document	Name	Pages in which Confidential Information is Found, if applicable	Summary of Legal Basis for Confidentiality Protection, if applicable	Date Filed
			5.5 of the Puerto Rico Transmission and Distribution System Maintenance and Operation Agreement	
	Voltage Tickets Per Customer Served Heat Map	Entire file	Right to privacy (<i>see, e.g.</i> , Const. ELA, Art. II, Sections 8 and 10) and Section 5.5 of the Puerto Rico Transmission and Distribution System Maintenance and Operation Agreement	December 10, 2024
	Exhibit 1_System Improvements Plan_Final	Entire file	Critical Energy Infrastructure Information, 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674.	December 10, 2024

WHEREFORE, LUMA respectfully requests the Energy Bureau to **take notice** of the foregoing, **accept** the work papers for the information on the existing LUMA Transmission, Distribution, and Advanced Grid Control facilities and equipment, and **approve the request for confidential treatment** of certain information submitted with *Exhibit 1*.

RESPECTFULLY SUBMITTED.

WE HEREBY CERTIFY that this Motion was filed using the electronic filing system of this Energy Bureau and that electronic copies of this Motion will be notified to the Puerto Rico Electric Power Authority: lionel.santa@prepa.pr.gov and through its attorneys of record González & Martínez, Mirelis Valle-Cancel, mvalle@gmlex.net; and Alexis G. Rivera Medina, arivera@gmlex.net; and Genera PR, LLC: brannen@genera-services.com; kbolanos@genera-pr.com; regulatory@genera-pr.com.

In San Juan, Puerto Rico, on December 10, 2024.



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Exhibit 1

(to be submitted via email)