

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

IN RE: PUERTO RICO ELECTRIC  
POWER AUTHORITY RATE REVIEW

CASE NO.: NEPR-AP-2023-0003

SUBJECT: Motion For One Day Extension  
of Time to Submit Responses to Requests of  
Information issued on December 20, 2024 and  
January 10, 2025

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MOTION FOR ONE-DAY EXTENSION OF TIME  
TO SUBMIT RESPONSES TO REQUESTS OF INFORMATION  
ISSUED ON DECEMBER 20, 2024 AND JANUARY 10, 2025

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 and Procedural Background

- On June 30, 2024, this Honorable Puerto Rico Energy Bureau (“Energy Bureau”) issued a Resolution and Order “to initiate [this] adjudicative process to review PREPA’s rates” (the “June 30<sup>th</sup> Order”) and opened this instant proceeding. *See* June 30<sup>th</sup> Order, p. 2. Through the June 30<sup>th</sup> Order, the Energy Bureau divided the rate review process into three (3) separate phases and ordered LUMA to file a report on or before October 4, 2023 containing its understanding of the filing requirements for the rate review process, based on Regulation 8720<sup>1</sup> and prior Energy Bureau orders. *See id.*, pp. 2-3.
- On October 4, 2023, LUMA filed a *Motion in Compliance with June 30<sup>th</sup> Resolution and Order – Submission of Phase I Report* (“Phase I Report”).
- On October 24, 2023, this Energy Bureau issued a Resolution and Order determining that LUMA’s Phase I Report complied with the June 30<sup>th</sup> Order (“October 24<sup>th</sup> Order”). This Energy Bureau also issued a First Requirement of Information in Attachment A of the October 24<sup>th</sup> Order (“First ROI”), including requests addressed to LUMA, Genera, and PREPA.
- On November 3, 2023, LUMA filed a *Motion Submitting Responses to First Requirement of Information in Compliance with October 24<sup>th</sup> Resolution and Order*, whereby it submitted its response to this Energy Bureau’s First ROI.

<sup>1</sup> Known as the New Regulation on Rate Filing Requirement for the Puerto Rico Electric Power Authority’s First-Rate Case (“Regulation 8720”).

5. On March 15, 2024, this Energy Bureau issued a Resolution and Order whereby, amongst other things, it assessed LUMA's Phase I Report, issued several directives and scheduled a Virtual Technical Conference for April 17, 2024 ("March 15<sup>th</sup> Order"). Moreover, in the March 15<sup>th</sup> Order, this Energy Bureau divided Phase II of the rate review process into two steps. Furthermore, the Energy Bureau directed LUMA, Genera, and PREPA to submit responses to Attachment One on or before April 8, 2024. Finally, it also directed LUMA to file the proposed revenue requirement for Phase II, Step I, on or before June 1, 2024.

6. On April 8, 2024, LUMA filed a *Request for Continuance of Technical Conference and Motion Submitting Responses to Attachment One to the Resolution and Order of March 15, 2024*, whereby it requested that the Technical Conference programmed by this Energy Bureau for April 17, 2024 be rescheduled ("April 8<sup>th</sup> Motion"). LUMA also submitted its responses to this Energy Bureau's requests for information included in Attachment One of the March 15<sup>th</sup> Order.

7. On April 9, 2024, this Energy Bureau issued a Resolution and Order cancelling the Technical Conference scheduled for April 17, 2024.

8. Shortly thereafter, on April 12, 2024, this Energy Bureau issued a Resolution and Order ("April 12<sup>th</sup> Order") whereby it set aside Phase II and Phase III including all deadlines and/or milestones established through the March 15<sup>th</sup> Order until "the Title III Court has rendered its decision on the confirmation of the Amended Plan, so that all matters associated with PREPA's exit from Title III may be considered simultaneously." *See* April 12<sup>th</sup> Order, p. 3

9. On June 5, 2024 this Energy Bureau issued a Resolution and Order whereby it determined that "additional information is required for its review of LUMA's rate review filing" ("June 5<sup>th</sup> Order"). Therefore, the Energy Bureau ordered LUMA to respond – within ten (10) days of the notification of the June 5<sup>th</sup> Order – to several Requirements of Information set forth in Attachment A to the June 5<sup>th</sup> Order, regarding trial balances.

10. In compliance with the June 5<sup>th</sup> Order, on June 17, 2024, LUMA filed its responses to the requests of information included in Attachment A to the June 5<sup>th</sup> Order. *See Motion Submitting Responses to Attachment A to the June 5th, 2024 Resolution and Order.*

11. After nearly six (6) months, on December 10, 2024, this Energy Bureau issued a new Resolution and Order providing clarity regarding its expectations for and an update on the expected filing requirements for the rate review ("December 10<sup>th</sup> Order"). The Energy Bureau emphasized that any filing for new rates must comply with the Energy Bureau's established filing

requirements, which were being finalized in collaboration with the Energy Bureau's consultants, and indicated its expectation to finalize such requirements by early February 2025. *See* December 10<sup>th</sup> Order, p. 1.

12. On December 16, 2024, this Energy Bureau issued another Resolution and Order (“December 16<sup>th</sup> Order”), with the aim of providing:

preliminary guidance on rate case procedures and scheduling to ensure an orderly and efficient process that advances the public interest while complying with statutory requirements. This approach aims to ensure that the rate case process will be conducted in a manner that is efficient, transparent, and aligned with the Energy Bureau's statutory obligations under Act 57-2014, while providing all stakeholders with clear procedural guidance and opportunities to participate.

December 16<sup>th</sup> Order, p. 1.

13. Through the December 16<sup>th</sup> Order, the Energy Bureau scheduled a Technical Conference for December 20, 2024 and listed a series of “substantive issues”, including “the rate-case scope, three-year rate case approach, the separation of revenue requirement from rate design, the public consultant reports process, and other key structural elements of the upcoming rate case”, *see* December 16<sup>th</sup> Order, p. 3, that would be addressed at said Technical Conference, to be led by Mr. Scott Hempling. Lastly, the December 16<sup>th</sup> Order included a section titled “*Procedure for completing the filing requirements*” which outlined proposed deadlines and milestones.

14. Following the December 20<sup>th</sup> Technical Conference, this Energy Bureau issued a Resolution and Order (“December 20<sup>th</sup> Order”) whereby, through its Attachment A, it set forth additional requests for information for LUMA, Genera, and PREPA (December 20<sup>th</sup> ROIs). The Energy Bureau indicated that, “[a]s the entity contractually responsible for coordinating the rate case process, LUMA shall collect the information from Genera and PREPA necessary to respond to ROIs. Genera and PREPA may also file separate responses if necessary.” *See* December 20<sup>th</sup> Order, p. 1. The deadline for the responses to the December 20<sup>th</sup> ROIs was set for January 17, 2025. Moreover, the Energy Bureau scheduled a Technical Conference for January 10, 2025, to address any questions that LUMA, PREPA, and Genera could have about the December 20<sup>th</sup> ROIs and the filing requirements in general.

15. Prior to the January 10<sup>th</sup> Technical Conference, on January 3, 2025, the parties were served with a document titled *Technical Conference of January 10, 2025: Consultants’ Agenda and Explanation* (“January 3<sup>rd</sup> Agenda”). Said document aimed to identify the topics to be discussed during the January 10<sup>th</sup> Technical Conference, as divided in three topics. To wit: i) the procedural and substantive context for the December 20<sup>th</sup> ROIs; specifically, the relationship

between the budget and the revenue requirement; ii) matters relating to the scope of the instant proceeding at it pertains to riders and Renewable Energy Credits; and iii) immediate next steps. Moreover, the Energy Bureau’s consultants attached an *Appendix on Legal Issues* to the January 3<sup>rd</sup> Agenda.<sup>2</sup> The Energy Bureau’s consultants clarified that “[f]or the January 10 conference, the purpose is not to discuss these issues on the merits but to see if they are stated clearly, and to discuss alternative procedures for addressing them.” *See* January 3<sup>rd</sup> Agenda, p. 6.

16. After the January 10<sup>th</sup> Technical Conference was held, the parties were then served with a document titled *Consultants’ Request of Parties Arising from Technical Conference of January 10, 2025* (“January 10<sup>th</sup> Request”). Therein, the Energy Bureau’s consultants requested that, in addition to the December 20<sup>th</sup> ROIs, the parties address a series of further requests for information, on or before January 17, 2025 and through a “formal filing”, regarding the following: i) advantages and disadvantages of optimal budget and alternative budgets; ii) legacy debt; iii) riders; iv) Renewable Portfolio Standard (RPS) compliance costs; and v) performance level associated with the proposed revenue requirement. Lastly, the Energy Bureau’s consultants provided instructions regarding the responses to the questions posed through the *Appendix on Legal Issues* contained in the January 3<sup>rd</sup> Agenda<sup>3</sup>, to submitted on or before January 17, 2025.

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<sup>2</sup> By way of the *Appendix on Legal Issues*, the Energy Bureau’s consultants posed the following questions:

- i) Whether a procedure that combines a budget approval with a rate case is consistent with Sec. 7.3(a) of the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (“OMA”), and what would be the role of the Puerto Rico Public-Private Partnerships Authority (“P3A”) in said procedure;
- ii) Whether it is necessary to issue the new, case-specific filing requirements via a formal regulation and if applicable administrative law precludes a regulatory agency from stating a new policy in an adjudicative proceeding in lieu of a formal rule making proceeding;
- iii) What are the Energy Bureau’s statutory powers to hold LUMA and Genera financially accountable for imprudent action and inaction and if the Energy Bureau can prevent recovery in rates of expenses imprudently incurred by LUMA or Genera, while making them financially responsible;
- iv) Would the Energy Bureau’s determinations regarding possible imprudent actions by LUMA or Genera have a collateral estoppel effect in a contract breach action brought by P3A; and
- v) What is the legal relationship between the revenue requirement established in the captioned proceeding, and the performance incentives that stem from OMA and related Energy Bureau orders?

*See* January 3<sup>rd</sup> Agenda, pp. 6-7.

<sup>3</sup> Specifically, the Energy Bureau’s consultants requested the following:

On the five legal issues stated in the Appendix to the January 3, 2025 document entitled “Technical Conference of January 10, 2025: Consultants’ Agenda and Explanation,” please do any or all of the following:

1. Provide any requests for clarification, stating what specifically is not clear. Even better, provide your preferred clarification.
2. Recommend a procedure for briefing the questions.
3. For questions 3 and 4: Comment on whether, and the extent to which, these questions are relevant to rate proceeding, understanding that these questions are on the Commissioners’ minds, could become relevant as a result of Bureau decisions in the rate proceeding, and likely will require attention and decision at some point.

*See* January 10<sup>th</sup> Request, p. 3.

17. LUMA hereby submits this Motion for a One-Day Extension of Time to submit its responses to December 20<sup>th</sup> ROIs, included in Attachment A to the December 20<sup>th</sup> Order, as well as its responses to additional requests for information issued by way of the Energy consultants' January 10<sup>th</sup> Request. *See Exhibits 1 through 4.* LUMA will also be submitting its responses to the questions posed through the *Appendix on Legal Issues* contained in the January 3<sup>rd</sup> Agenda. *See Exhibit 4.* LUMA understands that PREPA and Genera will file their own responses to the December 20<sup>th</sup> ROIs. LUMA needs a one-day extension of time to produce a comprehensive response to the ROIs, the consultant's additional requests for information and questions. Therefore, LUMA requests to submit the complete package on January 18, 2025 by 5 pm AT.

**WHEREFORE**, LUMA respectfully requests the Energy Bureau to **take notice** of the above and **accept** LUMA's request for an extension of time to file its responses to the December 20<sup>th</sup> ROIs, the *Appendix on Legal Issues* contained in the January 3<sup>rd</sup> Agenda, and the January 10<sup>th</sup> Request;.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 17<sup>th</sup> day of January, 2025.

**I 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 Hearing Examiner, Scott Hempling, [shempling@scotthemplinglaw.com](mailto:shempling@scotthemplinglaw.com); and to the attorneys of the parties of record. To wit, to the Puerto Rico Electric Power Authority, through: Mirelis Valle-Cancel, [mvalle@gmlex.net](mailto:mvalle@gmlex.net); and Alexis G. Rivera Medina, [arivera@gmlex.net](mailto:arivera@gmlex.net); and to Genera PR, LLC, through: Jorge Fernández-Reboredo, [jfr@sbgblaw.com](mailto:jfr@sbgblaw.com); Alejandro López-Rodríguez, [alopez@sbgblaw.com](mailto:alopez@sbgblaw.com); [regulatory@genera-pr.com](mailto:regulatory@genera-pr.com); [legal@genera-pr.com](mailto:legal@genera-pr.com).

Pursuant to Mr. Hempling's instructions, a courtesy copy of the present Motion was also notified to the following: [agraitfe@agraitlawpr.com](mailto:agraitfe@agraitlawpr.com); [hrivera@jrsp.pr.gov](mailto:hrivera@jrsp.pr.gov); [contratistas@jrsp.pr.gov](mailto:contratistas@jrsp.pr.gov); [victorluisgonzalez@yahoo.com](mailto:victorluisgonzalez@yahoo.com); [Cfl@mcvpr.com](mailto:Cfl@mcvpr.com); [nancy@emmanuelli.law](mailto:nancy@emmanuelli.law); [jrinconlopez@guidehouse.com](mailto:jrinconlopez@guidehouse.com); [Josh.Llamas@fticonsulting.com](mailto:Josh.Llamas@fticonsulting.com); [Anu.Sen@fticonsulting.com](mailto:Anu.Sen@fticonsulting.com); [Ellen.Smith@fticonsulting.com](mailto:Ellen.Smith@fticonsulting.com); [Corey.Brady@weil.com](mailto:Corey.Brady@weil.com); [jmartinez@gmlex.net](mailto:jmartinez@gmlex.net); [jgonzalez@gmlex.net](mailto:jgonzalez@gmlex.net); [pvazquez.oipc@avlawpr.com](mailto:p vazquez.oipc@avlawpr.com); [lrn@roman-negron.com](mailto:lrn@roman-negron.com); [epo@amgprlaw.com](mailto:epo@amgprlaw.com); [loliver@amgprlaw.com](mailto:loliver@amgprlaw.com); [acasellas@amgprlaw.com](mailto:acasellas@amgprlaw.com); [Robert.berezin@weil.com](mailto:Robert.berezin@weil.com); [Gabriel.morgan@weil.com](mailto:Gabriel.morgan@weil.com); [corey.brady@weil.com](mailto:corey.brady@weil.com); [lramos@ramoscruzlegal.com](mailto:lramos@ramoscruzlegal.com); [tlauria@whitecase.com](mailto:tlauria@whitecase.com); [ccolumbres@whitecase.com](mailto:ccolumbres@whitecase.com); [iglassman@whitecase.com](mailto:iglassman@whitecase.com); [tmacwright@whitecase.com](mailto:tmacwright@whitecase.com); [jcunningham@whitecase.com](mailto:jcunningham@whitecase.com); [mshepherd@whitecase.com](mailto:mshepherd@whitecase.com); [jgreen@whitecase.com](mailto:jgreen@whitecase.com); [hburgos@cabprlaw.com](mailto:hburgos@cabprlaw.com); [dperez@cabprlaw.com](mailto:dperez@cabprlaw.com); [howard.hawkins@cwt.com](mailto:howard.hawkins@cwt.com); [mark.ellenberg@cwt.com](mailto:mark.ellenberg@cwt.com); [casey.servais@cwt.com](mailto:casey.servais@cwt.com); [bill.natbony@cwt.com](mailto:bill.natbony@cwt.com); [Thomas.curtin@cwt.com](mailto:Thomas.curtin@cwt.com); [escalera@reichardescalera.com](mailto:escalera@reichardescalera.com); [arizmendis@reichardescalera.com](mailto:arizmendis@reichardescalera.com); [riverac@reichardescalera.com](mailto:riverac@reichardescalera.com); [susheelkirpalani@quinnemanuel.com](mailto:susheelkirpalani@quinnemanuel.com); [erickay@quinnemanuel.com](mailto:erickay@quinnemanuel.com); [dmonserrate@msglawpr.com](mailto:dmonserrate@msglawpr.com); [fgierbolini@msglawpr.com](mailto:fgierbolini@msglawpr.com); [rschell@msglawpr.com](mailto:rschell@msglawpr.com); [eric.brunstad@dechert.com](mailto:eric.brunstad@dechert.com); [Stephen.zide@dechert.com](mailto:Stephen.zide@dechert.com); [David.herman@dechert.com](mailto:David.herman@dechert.com); [Intisarul.Islam@weil.com](mailto:Intisarul.Islam@weil.com); [Christine.Song@millerbuckfire.com](mailto:Christine.Song@millerbuckfire.com); [amy.wang@millerbuckfire.com](mailto:amy.wang@millerbuckfire.com); [perry.zhang@millerbuckfire.com](mailto:perry.zhang@millerbuckfire.com); [bobby.singh@millerbuckfire.com](mailto:bobby.singh@millerbuckfire.com); [jpouroman@outlook.com](mailto:jpouroman@outlook.com); [rafael@maxetaenergy.com](mailto:rafael@maxetaenergy.com); [guy@maxetaenergy.com](mailto:guy@maxetaenergy.com); [jorge@maxetaenergy.com](mailto:jorge@maxetaenergy.com).

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