

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

NEPR

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IN RE: PUERTO RICO ELECTRIC
POWER AUTHORITY RATE REVIEW

CASE NO.: NEPR-AP-2023-0003

SUBJECT: Deadline to Submit Revenue-
Requirement Application

**URGENT REQUEST ON DEADLINE TO SUBMIT REVENUE REQUIREMENT
APPLICATION IN LIGHT OF APRIL 21ST ENERGY BUREAU ORDER**

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. On April 21, 2025, the Puerto Rico Energy Bureau (“Energy Bureau”) issued a Resolution and Order materially revising aspects of its prior rate case filing requirements order of February 12, 2025, regarding requirements and procedures of this rate case (“April 21st Order”). As discussed below, a material change is that the Energy Bureau will not consider a request for provisional rates until July 3, 2025, and that said provisional rates request must be an amendment to the FY2025 budget with proposed high-priority and non-controversial spending increases. This means that provisional rates will not be implemented by July 1, 2025, as was envisioned by the February 12th Order upon which LUMA had been relying to prepare a formal revenue requirement application and a request for provisional rates. Another noteworthy change introduced by the April 21st Order is that the parties shall submit two revenue requirement filings: a preliminary

submission on April 30th, supplemented on May 12, 2025, and a formal submission due July 3, 2025.

2. Because per the April 21st Order provisional rates will not enter into effect on July 1, 2025, an April 30th deadline to submit the revenue-requirement application has become moot for purposes of accommodating the Energy Bureau's evaluation of provisional rates. LUMA respectfully requests that the Energy Bureau set the deadline to submit a single revenue-requirement application for July 3, 2025.

3. As explained herewith, a single submission on July 3rd is justified to afford the applicants additional time to submit robust submissions that comply with filing requirements that were first issued a little over two (2) months ago on February 12th and were effectively expanded as recently as March 24, 2025, through an order by the Hearing Examiner requiring that LUMA file answers to eighty-two (82) requests for information, either through testimonies or separately. A single submission is more efficient, particularly given the Energy Bureau's directive that a provisional rate request shall be filed on July 3rd. Even applying the standard for provisional rates first announced by the Energy Bureau in the April 21st Order (FY2025 Budget plus high priority and non-controversial increases), a request for provisional rates will rely on evidence and data of the formal revenue requirement. Thus, it is logical and efficient that the revenue requirement application be filed alongside the provisional rate request.

II. Background

4. On June 30, 2024, this Honorable Energy Bureau issued a Resolution and Order "to initiate [this] adjudicative process to review PREPA's rates" (the "June 30th Order") and opened this instant proceeding. *See* June 30th Order, p. 2. Through the June 30th 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 8720¹ and prior Energy Bureau orders.² *See id.*, pp. 2-3.

5. On October 4, 2023, LUMA filed a *Motion in Compliance with June 30th 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 30th Order (“October 24th Order”). This Energy Bureau also issued the first of various requests for information addressed to LUMA, Genera PR, LLC (“Genera”), and the Puerto Rico Electric Power Authority (“PREPA”).³

6. On March 15, 2024, this Energy Bureau issued a Resolution and Order whereby, amongst other things, it assessed LUMA’s Phase I Report and issued several directives (“March 15th Order”). In the March 15th Order, this Energy Bureau directed LUMA, Genera, and PREPA to submit responses to additional requests for information on or before April 8, 2024.

7. Shortly thereafter, on April 12, 2024, this Energy Bureau issued a Resolution and Order (“April 12th Order”) whereby it set aside Phase II and Phase III, including all deadlines and/or milestones established through the March 15th 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 12th Order, p. 3.

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

² Phase I entailed an informal review of previously established filing requirements (including those established through Regulation 8720), that would apply to a rate order modification request filed in the instant proceeding, allocating responsibility for the various requirements across the relevant operating entities. Phase II entailed filing a rate order modification request based on the applicable filing requirements adopted by the Energy Bureau as a result of Phase I. Lastly, Phase III involved the “formal review of a complete rate filing [which] contain[ed] the items addressed in an interim matter in Phase II,” as well as the remaining filing requirements determined during Phase I to be deferred to Phase III. *See* June 30th Order, p. 4.

³ On November 3, 2023, LUMA filed a *Motion Submitting Responses to First Requirement of Information in Compliance with October 24th Resolution and Order*, whereby it submitted its response to this Energy Bureau’s requests for information.

8. Thereafter, on December 10, 2024, this Energy Bureau issued a new Resolution and Order providing clarity regarding its expectations and an update on the status of filing requirements for the rate review (“December 10th Order”). The Energy Bureau emphasized that any application for new rates must comply with its established filing requirements, which were then finalized in collaboration with the Energy Bureau’s consultants. It indicated its expectation to finalize such requirements by early February 2025.

9. On December 16, 2024, this Energy Bureau issued another Resolution and Order (“December 16th 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.” *See* December 16th Order, p. 1.

10. On February 12, 2025, this Energy Bureau issued a Resolution and Order (“February 12th Order”), whereby it established “the filing requirements and procedures for the rate review of PREPA.” *See* February 12th Order, p. 1. Through the February 12th Order, this Energy Bureau designated Mr. Scott Hempling as Hearing Examiner for this proceeding (“Hearing Examiner”), with authority limited to the following matters: i) resolving all discovery disputes between the parties; ii) establishing and modifying procedural schedules; iii) determining witness sequence and logistics for evidentiary hearings; iv) addressing any other procedural or logistical matters that arise during the proceeding; and v) issuing any procedural orders to facilitate the orderly conduct of the proceeding. *Id.*, p. 8.

11. Moreover, in its February 12th Order, the Energy Bureau established that “[g]iven the complexity of setting rates for the first time in eight years, it is unrealistic to give full evidentiary attention to the revenue requirement, the billing determinants and the rate design, all in a single 180-day period.” *Id.*, p. 4. Accordingly, the Energy Bureau determined that it would

“address rate design in a separate formal proceeding that will have its own 180-day period.” *Id.* The Energy Bureau added the following: “This approach means that in the revenue requirement proceeding ... the rate application and any responding testimony should assume a continuation of the existing rate design.” *Id.* Lastly, the Energy Bureau stated that it is possible for the two proceedings on revenue requirement and rate design to overlap in time but tasked its consultants with “working with participants to develop procedural schedules for the two proceedings.” *Id.*

12. The February 12th Order also established that the “application for new rates must propose provisional and permanent rates. Provisional rates are necessary because the fiscal year for the new rates begins on July 1, 2025, well before the Energy Bureau has decided on the permanent rates. The provisional rates, therefore, would go into effect on July 1, 2025.” *Id.*, pp. 6-7. Further, the Energy Bureau stated that “[t]o ensure timely implementation by July 1, 2025, LUMA must file its application for both provisional and permanent rates with sufficient lead time.” *Id.* at 8.

13. Following the issuance of the February 12th Order, on February 18, 2025, the Hearing Examiner scheduled a Prehearing Conference for February 21, 2025, to discuss participants’ doubts and concerns regarding the February 12th Order.

14. Shortly thereafter, the Hearing Examiner issued an *Order Establishing Agenda for Prehearing Conference of February 21, 2025*, together with a draft procedural schedule. In this Order, the Hearing Examiner stated that the rate application had to include a separate request for provisional rates, effective July 1, 2025.

15. During the Prehearing Conference held on February 21, 2025, amongst other matters, the parties discussed procedural and practical concerns regarding the February 12th Order’s two-phased approach to the true-up mechanism for provisional rates and permanent rates

and the proposed order of operations for the captioned rate review proceeding(s). In light thereof, the Hearing Examiner entered a bench order whereby he directed LUMA to develop and file a proposal explaining how provisional rates will be trued up and how the revenue requirement will be implemented in the interim period until new rates are approved on a prospective basis following the rate design phase.

16. On March 5, 2025, LUMA filed its Motion in Compliance with Bench Orders issued during Prehearing Conference of February 21, 2025, which prompted the issuance of the Hearing Examiner's Order Scheduling Conference and Offering Observations on LUMA's Procedural Proposal, whereby a Prehearing Conference was scheduled for March 7, 2025. Following a series of undertakings in light of legal and practical considerations raised during the March 7th Technical Conference, the Hearing Examiner issued a new order titled Hearing Examiner's List of Legal and Practical Questions to Consider ("March 10th Order")⁴.

17. Following the submission of participants' responses to the Hearing Examiner's March 10th Order, LUMA was served with an order titled Hearing Examiner's Two Follow-Up Questions to Participants' Submissions of March 13, 2025. In compliance therewith, on March 17, 2025, LUMA filed its Response to Hearing Examiner's Follow-Up Questions.

18. On March 24, 2025, the Hearing Examiner issued an *Order Requiring Certain Information in the Rate Case Application or Accompanying Prefiled Testimony* ("March 24th

⁴ The March 10th Order sought participants' insights as to: i) the viability and legality, under Act 57-2014, of establishing two provisional rates within a single proceeding, or alternatively the adjustment of the incremental charge rider after the revenue requirement phase, with only one reconciliation upon conclusion of the entire rate case; ii) the legal requirements for issuing the formal determination of completeness that triggers the 180-day period within which the Energy Bureau must issue a final order on rates; iii) the possibility of issuing two separate "Final Orders", at the end of each Phase, without the "Final Order" on revenue requirements triggering appeal rights under Puerto Rico administrative law; iv) the possibility of keeping the provisional rate in effect through the entire time needed to conduct evidentiary procedures on both the revenue requirement and the rate design, pursuant to "just cause" language contained in Act 83-1941; and lastly, v) a practical question pertaining to addressing the possibility of the Energy Bureau setting permanent rates that are lower than the provisional rates.

Order”). Therein, the Hearing Examiner directed PREPA, LUMA, and Genera to address a set of pre-application questions from the Energy Bureau’s consultants in the upcoming rate application. The Hearing Examiner issued eighty-two (82) requests for information to LUMA.

19. As stated above, on April 21, 2025, this Energy Bureau issued an order with the subject “Revisions and Additions to February 12 Order on Rate Case Procedures.” In the April 21st Order, the Energy Bureau explained that the rate case will consist of a single proceeding with two phases. Phase I will address revenue requirement and, to the extent possible, revenue allocation. Phase II will address rate design (including any revenue allocation issues not decided in Phase I). Each of the two phases will have its own filing requirements, application, pre-filed testimony, discovery, evidentiary hearing, and briefs. *See* April 21st Order p. 1.

20. In the April 21st Order, the Energy Bureau further instructed, *for the first time*, that a pre-petition or preliminary revenue requirement filing be submitted on April 30, 2025. The Energy Bureau provided new guidance and directives regarding the rate review application, stating that a preliminary revenue requirement application shall be submitted, including all testimony and workpapers required for the revenue-requirement portion of a rate review, other than Schedules A-1 and A-2. Around May 12, 2025, LUMA shall supplement the filing to provide Schedules A-1 and A-2. As the Energy Bureau stated, these materials will not constitute the formal rate modification petition; they are intended solely to give the Energy Bureau and any authorized intervenors, an advance *review window*. *See* April 21st Order pp. 1-2. Thereafter, the applicants shall file a formal, complete rate review petition on or about July 3, 2025, including both the revenue requirement and rate design components, so that the petition is compliant with the applicable filing requirements. *Id.*, p. 2.

21. Moreover, the April 21st Order stated that if and until the Energy Bureau authorizes provisional rates, LUMA, Genera, and PREPA shall continue to operate under the most recently approved budget. Also, if and when the Energy Bureau authorizes provisional rates, those rates shall remain in effect, as permitted by Section 6A(e) of Act No. 83-1941, until the final order setting permanent rates is issued and goes into effect. *See* April 21st Order p. 7. This means that the Energy Bureau does not intend to change the provisional rate midway through this proceeding. *Id.*, p. 3.

III. Discussion and Request for Relief

22. The April 21st Order is the first order by the Energy Bureau stating that a revenue requirement application must be filed on April 30, 2025, and that it will delay consideration of a request for provisional rates until July 3rd. Up until April 21st, LUMA was working on a filing that would include both the formal revenue requirement proposal and a request for provisional rates. LUMA intended to complete a formal revenue requirement filing by April 30th to afford the Energy Bureau sufficient time to consider LUMA's request for provisional rates. This, with the goal that provisional rates would be **implemented by July 1, 2025**.⁵

⁵ The timing was envisioned in accordance with the timeframe set forth in Section 6.25(e) of the Puerto Rico Energy Transformation and RELIEF Act, Act 57-2014, to implement provisional rates:

Temporary Rate. Within thirty (30) days after the filing of the rate modification request, the Energy Bureau may make, *motu proprio*, or at the request of a requesting certified company, a preliminary evaluation to determine whether a temporary rate should be established. The Energy Bureau shall exercise its discretion in establishing the temporary rate, unless the requestor contests the establishment of the temporary rate or the amount thereof, in which case the Energy Bureau shall decide whether it shall revise the amount of the temporary rate or desist from establishing the same. If the Energy Bureau establishes a temporary rate, such rate shall take effect sixty (60) days after the date of approval of the temporary rate, unless the Energy Bureau determines, at the request of the requestor, that the temporary rate should take effect earlier, but never within less than thirty (30) days after the approval of the temporary rate. Said temporary rate shall remain in effect during the period needed by the Energy Bureau to evaluate the rate modification request proposed by the requestor and up to the date on which the new bill is implemented, which shall not exceed sixty (60) days after the approval thereof.

23. However, the recent April 21st Order altered the scenario for an April 30th filing. Nine (9) days before LUMA's target day for a formal revenue requirement submission that would include a request to enable implementation of provisional rates by July 1st, the Energy Bureau determined that it will not entertain a request for provisional rates until July 3, 2025, when a formal rate review application will be filed. Thus, an April 30th filing no longer furthers the goal set forth by the Energy Bureau in the February 12th Order: that a provisional rate would enter into effect on July 1, 2025.

24. Since, per the April 21st Order, provisional rates will not enter into effect on July 1, 2025, any envisioned lead time to ensure timely implementation of provisional rates, is no longer necessary. Thus, LUMA respectfully requests that the Energy Bureau set the deadline to submit the revenue requirement application, including all testimony and workpapers required for the revenue requirement portion of a rate review, for July 3, 2025.

25. The time up to July 3, 2025 to submit the rate review application is particularly important given that LUMA, Genera, and PREPA have already been working with a tight timeframe for a rate review petition. As outlined above, the Energy Bureau issued filing requirements on February 12, 2025, a little more than two months before the target date of April 30th. The February 12th Order introduced unprecedented requirements, such as the directive to file two revenue requirements: an Optimal Budget and a Constrained Budget. This means that a little over two months before the target April 30th filing, LUMA was required to build a second budget to comply with the February 12th Order.

26. Also, the filing requirements included two budget schedules, A-1 and A-2. As LUMA explained to the Hearing Examiner, those schedules follow a format and breakdown of costs that do not conform to LUMA's budgets. As the Hearing Examiner recognized in his April

25th Order, LUMA informed him that it lacks the resources needed to timely file those schedules. During the months of February and March 2025, LUMA's Finance Department allocated time and resources to discuss those schedules with the Hearing Examiner and his team in a good faith attempt to identify possible ways to comply with said filing requirement. That effort put significant pressure on an already tight timeline for the revenue requirement filing. LUMA invested and continues to invest resources to substantially comply with the requirements of schedules A-1 and A-2. An extended timeframe to July 3, 2025, will place LUMA in a better position to submit the information required in those schedules.

27. Furthermore, as the record of this case shows, on March 24, 2025, more than one month after the Energy Bureau issued the February 12th filing requirements, the Hearing Examiner added filing requirements, directing that LUMA answer eighty-two requests for information through testimonies or in separate responses. Thus, approximately a month before the April 30th filing target date, LUMA was required to undertake additional work for the revenue requirement filing.

28. Moreover, on April 25, 2025, the Hearing Examiner issued an order with guidance relevant to the revenue requirement filing, including the preliminary revenue requirement filing that, per the April 21st Order, is due on April 30th. The Hearing Examiner's order includes guidance on "legal standards", with questions that the Energy Bureau and consultants will ask in connection with the revenue requirement filing and stating that witnesses should address those questions in their testimonies. Also, despite the fact that the April 21st Order directs that the April 30th filing is preliminary, the Hearing Examiner ruled in the April 25th Order that formal discovery will begin on May 1st and that intervenors will file testimonies even before the applicants file the formal rate review application. A technical conference to discuss both orders is scheduled for April 29, 2025.

Additional time is needed to consider the recent changes in directives stated in the April 21st and April 25th Orders, before a revenue requirement petition is submitted.⁶

29. Given that the justifications for an April 30th filing are no longer present and considering the abbreviated timeframe that LUMA, Genera, and PREPA have had to prepare their revenue requirement submissions, a single filing deadline of July 3, 2025, will allow the applicants much needed time to work on their revenue requirement submissions, including the requests for information that the Hearing Examiner issued on March 24, 2025.

30. LUMA submits that a single revenue requirement submission would be efficient, particularly in connection with the provisional rate filing that the Energy Bureau directed can only be filed alongside the permanent rate review petition due July 3rd. Because the provisional rate request will rely on the supporting materials and testimonies of the formal revenue requirement petition to be filed on July 3rd, it is both efficient and reasonable to require one consolidated filing and allow LUMA the opportunity to finalize the revenue requirement request alongside the provisional rate request. Given that this week, the Energy Bureau announced new parameters and a standard for a provisional rate request, it stands to reason that LUMA should not be required to submit a preliminary revenue requirement provisional before it fully develops its proposed provisional rate request. A single consolidated filing also avoids the risk of confusing the public with a preliminary revenue requirement filing that, by its nature, may change.

⁶ This notion of rights to discovery in connection with a preliminary petition and that intervenors will file testimonies before a formal rate review application is filed, is not supported by the April 21st Order whereby the Energy Bureau stated that the period between April 30th and July 3rd was meant to give the Energy Bureau and intervenors an “advance review window,” identify if additional information is needed, and provide further guidance. *See* April 21st Order at 2. LUMA reserves the right to separately request remedies in attention to those and other portions of the April 25th Order.

31. If the Energy Bureau seeks to obtain information in a pre-filing period, it could issue pre-filing requests for information similar to the process it followed in the Integrated Resource Plan proceeding, Case NEPR-AP-2023-004.

WHEREFORE, LUMA respectfully requests the Energy Bureau **take notice** of the above and set a single consolidated deadline to submit the revenue-requirement application, for July 3, 2025.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 26th day of April, 2025.

I HEREBY CERTIFY that this Motion was filed using the electronic filing system of this Energy Bureau and that an electronic copy of this Motion will be notified to the attorneys of the parties of record, the Puerto Rico Electric Power Authority, through: Mirelis Valle-Cancel, mvalle@gmlex.net; Juan González, jgonzalez@gmlex.net; and Alexis G. Rivera Medina, arivera@gmlex.net; and to Genera PR, LLC, through: Jorge Fernández-Reboredo, jfr@sbgbllaw.com; regulatory@genera-pr.com; and legal@genera-pr.com.

A courtesy copy of the present Motion will also be notified to the following:
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