

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

**IN RE:**

PUERTO RICO ELECTRIC POWER  
AUTHORITY'S EMERGENCY RESPONSE  
PLAN

**CASE NO. NEPR-MI-2019-0006**

**SUBJECT: Motion Submitting Redline Version of  
the Final Draft of the 2025 ERP, Request for  
Confidential Treatment, and Memorandum in  
Support of Confidentiality**

**NEPR**

**Received:**

**May 7, 2025**

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**MOTION SUBMITTING REDLINE VERSION OF THE FINAL DRAFT OF THE 2025  
ERP, 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 the “Operator” or “LUMA”), through the undersigned counsel, and respectfully states and requests the following:

**I. Submission and Request for Confidentiality**

1. Pursuant to Section 6 (m) of Act 83 of May 2, 1941, as amended (“Act 83”) and Section 4.2(g) of the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement of June 22, 2020 (“T&D OMA”), LUMA—acting as agent of the Puerto Rico Electric Power Authority (“PREPA”) with regards to the operation of the electric grid—has submitted an update to its Emergency Response Plan (“ERP”) with Puerto Rico Government authorities, including this Energy Bureau, each year on or before May 31<sup>st</sup> for their information as required by law. The ERP outlines the procedures and actions necessary to respond to any emergency affecting or reasonably likely affecting the Puerto Rico Transmission and Distribution System (“T&D System”), including fire, weather, environmental, health, safety, and other potential emergency conditions. In addition, LUMA submits an Annual T&D Emergency

Preparedness Report, which describes the measures taken during the preceding calendar year to address emergencies such as storms, atmospheric disturbances, fires, or earthquakes that could affect the T&D System. It also summarizes the changes to address emergencies, a description of the emergency plan to face possible earthquakes; the plans and protocols to address fires in the T&D System facilities; the status of the T&D System vegetation management program to protect the power transmission lines and trees; the training offered to essential LUMA personnel to ensure they are qualified to follow the procedures to address the aforementioned emergencies; and the contingency plans to normalize or re-establish T&D System operations after severe weather, fire, earthquake, cyber-attack, or other emergencies. The ERP and the Annual T&D Emergency Preparedness Report address the evolving nature of emergencies and conditions and, therefore, the importance of an annual review.

2. Since commencing operations, LUMA has prepared for and responded to emergencies, leveraging its expertise and personnel in coordination with the Federal Emergency Management Agency (“FEMA”), the Government of Puerto Rico, municipalities, and other public and private actors. *See* LUMA’s filings in response to Hurricane Fiona, Case *In re LUMA’s Response to Hurricane Fiona*, Case No. NEPR-MI-2022-0003, including LUMA’s Response to Requirements of Information on LUMA’s Response to Hurricane Fiona, filed on November 18, 2022.<sup>1</sup> Likewise, LUMA has participated in tabletop exercises organized by FEMA at the request of the ESF-12<sup>2</sup> lead in Puerto Rico, Energy Policy Program Director under the Department for Economic Development and Commerce. The first was on a hurricane scenario held on June 29 and 30, 2022, and the second was on an earthquake scenario held on December 8 and 9, 2022.

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<sup>1</sup> Available at <https://energia.pr.gov/wp-content/uploads/sites/7/2022/12/Motion-Submitting-Responses-to-Request-for-Information.pdf>.

<sup>2</sup>The Department of Energy, through the Energy Support Function #12 (ESF-12), coordinates the federal response to energy-related emergency response actions within the federal government's National Incident Management System.

Moreover, LUMA has performed yearly exercises on Emergency Response (the latest one performed on February 28, 2025) where representatives of the local and federal government (Puerto Rico Public-Private Partnerships Authority, the Energy Bureau, Governor's Office, and the Federal Emergency Management Agency) have had the opportunity to attend and where PREPA and Genera PR, LLC ("Genera") actively participate.

3. On July 24, 2024, the Energy Bureau entered a Resolution and Order ("July 24<sup>th</sup> Order") acknowledging the ERPs submitted by LUMA, Genera, and PREPA for the year 2024 pursuant to Section 6(m) of Act 83. The Energy Bureau conditionally approved LUMA's ERP for the year 2024 ("2024 T&D ERP"), subject to compliance with certain modifications included in the July 24<sup>th</sup> Order.

4. As to the ERPs to be submitted from 2025 and onward, the Energy Bureau stated that the development and review process should include a process whereby Energy Bureau will collaborate with the electric utility entities to develop their ERPs. The Energy Bureau directed that LUMA, PREPA, and Genera file their proposed ERP before the Energy Bureau on or before December 15<sup>th</sup> of each year. In addition, the Energy Bureau included several orders for items to be considered and/or included in the ERPs to be submitted for subsequent years.

5. On December 14, 2024, LUMA filed *LUMA's Motion in Compliance with Resolution and Order of July 24, 2024*. Therein, LUMA submitted a working draft version of the ERP intended to be implemented for 2025, labeled *ERP draft Version 1\_May 2025*, which included in red the revisions and additions introduced by LUMA in response to the modifications directed by the Energy Bureau in the July 24<sup>th</sup> Order.<sup>3</sup> LUMA also submitted the *LUMA Telematics* Policy,

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<sup>3</sup> LUMA deleted any references to the Severn Trent Operational Resource Management System ("STORMS") in the ERP as STORMS is a PREPA legacy enterprise work management product suite not used by LUMA.

a supplemental document responsive to the modifications directed by the Energy Bureau in the July 24<sup>th</sup> Order.

6. On April 30, 2025, the Energy Bureau informally requested LUMA to file a redline of the final draft of the 2025 ERP, including the Base Plan, Annexes, and Appendices. The Energy Bureau's representative conveyed that no Resolution and Order would be issued in this regard. LUMA was directed to submit the redline of the final draft of the 2025 ERP on or before May 7, 2025.

7. In compliance with the informal request made by the Energy Bureau, LUMA submits a redline final draft version of the ERP intended to be implemented for this year's ERP submission as required by law. *Exhibit 1* to this Motion, labeled as *Final Draft ERP Base Plan*, includes the revisions and additions introduced by LUMA to the Base Plan. *Exhibit 2*, labeled *Final Draft ERP Appendices*, includes complementary documents to the ERP Base Plan.

8. Further, LUMA also submits *Exhibit 3*, labeled as *Final Draft ERP Annexes*, which include updated and new annexes. The annexes address specific areas covered in the ERP, such as emergency response, communications, and personnel training, among others, each in a separate dedicated section.

9. The redline of the final draft version of the ERP, comprised of the *Exhibits* mentioned above, is protected from disclosure as trade secrets; *see, e.g.*, Act 80-2011, P.R. Laws Ann. tit. 10, §§ 4131-4144 (2023), 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.

## **II. Applicable Laws and Regulations to Submit Information Confidentially Before the Energy Bureau**

10. 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).

11. 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 needs 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).

12. 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.

13. 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 "redacted" or "public version" and an "unredacted" or "confidential" version of the document that contains confidential information. *Id.* at ¶ 6.

### **III. Grounds for Confidentiality**

14. It is respectfully submitted that the *Final Draft ERP Base Plan, Annexes*, and *Appendices*, *see Exhibits 1* through 3, constitute trade secret information as they contain internal manuals, policies, and protocols, and which specific information LUMA has not disclosed publicly. Section D (1) of the Bureau's Confidential Management Policy states, in its pertinent part, the following regarding access to validated Trade Secret Information:

1. Trade Secret Information  
Any document designated by the [Energy Bureau] as Validated Confidential Information because it is a trade secret under Act 80-2011 may only be accessed by the Producing Party and the [Bureau], unless otherwise set forth by the [Bureau] or any competent court.

15. Under the Industrial and Trade Secret Protection Act of Puerto Rico, Act 80-2011, P.R. Laws Ann. tit. 10, §§ 4131-4144 (2023), industrial or trade secrets are deemed to be any information:

- (a) That has a present or a potential independent financial value or that provides a business advantage, **insofar as such information is not common knowledge or readily accessible** through proper means by **persons who could make a monetary profit from the use or disclosure of such information**, and
- (b) for which reasonable security measures have been taken, as circumstances dictate, to maintain its confidentiality.

*Id.* § 4131, Section 3, Act. 80-2011.<sup>4</sup> They include, but are not limited to, processes, methods and mechanisms, manufacturing processes, formulas, projects, or patterns to develop machinery, and lists of specialized clients that may afford an advantage to a competitor. *See* Statement of Motives, Act 80-2011; *see also* Puerto Rico Open Data Law, Act 122-2019, Article 4 (ix) (exempting from public disclosure trade secrets) and Article 4(x) (exempting from public disclosure commercial or financial information whose disclosure will cause competitive harm).

16. The Puerto Rico Supreme Court has explained that the trade secrets privilege protects free enterprise and extends to commercial information that is confidential in nature. *Ponce Adv. Med. v. Santiago Gonzalez*, 197 DPR 891, 901-02 (2017) (citation omitted).

17. The Energy Bureau should protect the *Final Draft ERP Base Plan, Annexes*, and *Appendices* because they pertain to processes and methods that may prove advantageous or useful to LUMA's competitors in the energy business and utilities in Puerto Rico. LUMA takes reasonable security measures, such as this one, to maintain the confidentiality of its internal manuals, policies, and protocols.

18. LUMA respectfully submits that the *Final Draft ERP Base Plan, Annexes*, and *Appendices* in *Exhibits 1* through *3* should be designated as commercially sensitive or trade secret

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<sup>4</sup> Relatedly, Rule 513 of the Rules of Evidence of Puerto Rico provides that the owner of a trade secret may invoke the privilege to refuse to disclose, and to prevent another person from disclosing trade secrets, provided that these actions do not tend to conceal fraudulent actions or lead to an injustice. 32 P.R. Laws Ann. Ap. VI, R. 513. If a court of law mandates disclosure of a trade secret, precautionary measures should be adopted to protect the interests of the owner of the trade secret. *Id.*

information. This designation is a reasonable and necessary measure to protect the information and enable LUMA to compete fairly in the future.

19. 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 pertaining to the internal manuals, policies, and protocols will not hinder nor preclude the public in a material way from gaining access to relevant and necessary information concerning LUMA's ERP. 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.

#### **IV. Identification of Confidential Information.**

20. 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.

<b>Document</b>	<b>Name</b>	<b>Pages in which Confidential Information is Found, if applicable</b>	<b>Summary of Legal Basis for Confidentiality Protection, if applicable</b>	<b>Date Filed</b>
Exhibit 1	<i>Final Draft ERP Base Plan</i>	Entire document	Trade Secret Information under Section D(1) of the Energy Bureau's Policy on Confidential Information, CEPR-MI-2016-0009	May 7, 2025



Document	Name	Pages in which Confidential Information is Found, if applicable	Summary of Legal Basis for Confidentiality Protection, if applicable	Date Filed
Exhibit 2	<i>Final Draft ERP Appendices</i>	Entire document	Trade Secret Information under Section D (1) of the Energy Bureau's Policy on Confidential Information, CEPR-MI-2016-0009	May 7, 2025
Exhibit 3	<i>Final Draft ERP Annexes</i>	Entire document	Trade Secret Information under Section D (1) of the Energy Bureau's Policy on Confidential Information, CEPR-MI-2016-0009	May 7, 2025

**WHEREFORE**, LUMA respectfully requests that the Energy Bureau **take notice** of the aforementioned for all purposes, and **approve the request for confidential treatment** of the documents submitted with *Exhibits 1* through 3 to this Motion.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, on the 7<sup>th</sup> May, 2025.

We hereby certify that we filed this Motion using the electronic filing system of this Energy Bureau and that we will send an electronic copy of this Motion to PREPA's Counsel Alexis Rivera, [arivera@gmlex.net](mailto:arivera@gmlex.net), Mirelis Valle, [mvalle@gmlex.net](mailto:mvalle@gmlex.net), and Natalia Zayas Godoy,

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*Exhibit 1*

*(to be submitted confidentially)*

Exhibit 2

*(to be submitted confidentially)*

Exhibit 3

*(to be submitted confidentially)*