

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

NEPR

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IN RE: REVIEW OF LUMA'S
INITIAL BUDGETS

CASE NO. NEPR-MI-2021-0004

**SUBJECT: Memorandum of Law in Support
of Request for Confidential Treatment of
Attachment Submitted as part of LUMA's
Quarterly Report filed on May 15, 2025**

**MEMORANDUM OF LAW IN SUPPORT OF REQUEST FOR CONFIDENTIAL
TREATMENT OF ATTACHMENT SUBMITTED AS PART OF LUMA'S QUARTERLY
REPORT FILED ON MAY 15, 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

1. On May 15, 2025, LUMA submitted to the Puerto Rico Energy Bureau ("Energy Bureau") a *Motion to Submit Quarterly Report for the Third Quarter of Fiscal Year 2025*, whereby, in compliance with standing quarterly reporting requirements set forth by this Energy Bureau, LUMA filed its comprehensive Quarterly Report of Fiscal Year 2025 ("Q3 Report"), for the Third Quarter ending March 31, 2025 ("May 15th Motion").

2. In what is pertinent to the present memorandum, through its May 15th Motion, LUMA informed this Energy Bureau that a portion of the Q3 Report – specifically, *Attachment 1_TPA Noncompliant attachers* – included sensitive commercial information pertaining to third-party attachments and, thus, was being filed under seal of confidentiality. Accordingly, LUMA submitted a redacted public version of said attachment and informed that, in compliance with the Energy Bureau's Policy on Management of Confidential Information, CEPR-MI-2016-0009,

issued on August 31, 2016, as amended on September 21, 2016 (“Energy Bureau’s Policy on Management of Confidential Information”), under separate cover and expediently, within the next ten days, LUMA would submit a memorandum of law in support of its request to file the referenced portions of *Attachment 1_TPA Noncompliant attachers*, under seal of confidentiality.

3. In compliance with the Energy Bureau’s Policy on Management of Confidential Information, LUMA hereby submits this memorandum of law that identifies and explains the legal basis for the confidential treatment of the *Attachment 1_TPA Noncompliant attachers* that was filed with this Energy Bureau as part of LUMA’s Q3 Report. It is respectfully submitted that the portions of the referenced document identified as confidential should be protected per Article 6.15 of Act 57-2014, known as the Puerto Rico Energy Transformation and Relief Act, and the Energy Bureau’s Policy on Management of Confidential Information.

II. Applicable Laws and Regulations to submit information confidentially before the Energy Bureau

4. Section 6.15 of Act 57-2014 regulates the management of confidential information filed before this Energy Bureau. It provides, in pertinent part, that: “[i]f any person who is required to submit information to the Energy [Bureau] 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 (2025). If the Energy Bureau determines, after appropriate evaluation, 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.*, Section 6.15 (a).

5. In connection with the duties of electric power service companies, Section 1.10(i) of Act 17-2019, known as the Puerto Rico Energy Public Policy Act, provides that electric power

service companies shall submit information requested by customers, except for: (i) confidential information in accordance with the Rules of Evidence of Puerto Rico; [...] (iii) ideas with regard to the negotiation of potential Authority contracts or to a determination to rescind or terminate contracts in effect; [...] (v) information of internal investigations while these are being conducted; [...] and (ix) matters of public security involving threats against PREPA, its property or employees. 22 LPRA §1141i (2025).

6. Access to 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.” Section 6.15(b) of Act 57-2014, 22 LPRA § 1054n (2025). 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 non-confidential copy be furnished for public review.” *Id.*, Section 6.15(c).

7. The Energy Bureau’s Policy on Management of Confidential Information details the procedures a party should follow to request that a document, or portion thereof, be afforded confidential treatment. In essence, the Energy Bureau’s Policy on Management of Confidential Information requires the identification of confidential information and the filing of 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 16, 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 a summary of the reasons why each claim or designation conforms to the applicable legal basis of confidentiality.

Id., paragraph 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.*, paragraph 6.

8. Relatedly, Energy Bureau Regulation No. 8543 of December 18, 2014, *Regulation on Adjudicative, Notice of Noncompliance, Rate Review, and Investigation Proceedings*, includes a provision for filing confidential information in adjudicatory proceedings before this honorable Energy Bureau. To wit, Section 1.15 provides that “a person has the duty to disclose information to the [Energy Bureau] considered to be privileged pursuant to the Rules of Evidence, said person shall identify the allegedly privileged information, request the [Energy Bureau] the protection of said information, and provide supportive arguments, in writing, for a claim of information of privileged nature. The [Energy Bureau] shall evaluate the petition and, if it understands [that] the material merits protection, proceed accordingly to . . . Article 6.15 of Act No. 57-2014, as amended.”

III. Request for Confidentiality and Supporting Arguments

9. Portions of *Attachment 1_TPA Noncompliant attachers*, that was filed with this Energy Bureau as part of the May 15th Motion, contain the names of third-party attachers who received an invoice but failed to pay, have not disputed the charges, have not submitted a payment offer letter within the timeframe specified on the invoice, nor replied to collection attempts. The protection of this information is in the public interest and aligned with Puerto Rico’s legal framework on privacy, which protects from the disclosure of information that could invade the privacy of third parties, as well as any type of business or financial information whose disclosure would cause a substantial competitive harm to the person from whom the information was obtained. *See* Articles 4(c), (vi), and (x) of the “Puerto Rico Open Government Data Act,” Act No.

122-2019, 3 LPRA § 9894 (2025); *see also* Const. ELA, Art. II, Sections 8 and 10, which protect the right to control private information, applying *ex proprio vigore* and against private parties.

10. Payment – or lack thereof – is an essential component of the contractual agreements between PREPA/LUMA and the third-party attachers and is key to the sustainability of the commercial relationship between PREPA/LUMA and third-party attachers. Undoubtedly, publicly divulging the identity of the non-compliant attachers would impair their rights to privacy and cause substantial competitive harm, thereby impairing the relationship between each attacher and PREPA/LUMA. Given the importance of ensuring LUMA’s compliance with its obligations and responsibilities under the T&D OMA and ensuring alignment with Puerto Rico’s legal framework on privacy, which protects from disclosure information that may impair the rights of third parties, LUMA respectfully submits that the specified portions of *Attachment 1_TPA Noncompliant attachers* should be maintained confidential, pursuant to the T&D OMA and the applicable law.

IV. Identification of Confidential Information

In compliance with the Energy Bureau’s Policy on Management of Confidential Information, LUMA hereby includes the following table identifying the information that was filed under seal of confidentiality and the grounds for the request for confidential treatment:

Document	Portion Containing Confidential Information	Summary of Legal Basis for Confidentiality Protection
<i>Exhibit 1 of Q3 Report</i> <i>Attachment 1_TPA Noncompliant attachers</i>	Section titled “ <i>List of noncompliant attachers</i> ”	Section III of this Memorandum shows that the specified portions of <i>Attachment 1_TPA Noncompliant attachers</i> include information subject to confidential treatment pursuant to the T&D OMA and Applicable Law.

WHEREFORE, LUMA respectfully requests that this Honorable Bureau **grant** LUMA's request for confidential treatment of the *Attachment 1_TPA Noncompliant attachers* that was filed with the May 15th Motion.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 27th day of May, 2025.

WE HEREBY CERTIFY that this motion was filed using the electronic filing system of this Energy Bureau. We also certify that copy of this motion will be notified to the Puerto Rico Electric Power Authority, through its attorneys of record: Mirelis Valle-Cancel, mvalle@gmlex.net, and Alexis G. Rivera Medina, arivera@gmlex.net; and to Genera PR LLC through: Jorge Fernández-Reboredo, jfr@sbgllaw.com; legal@genera-pr.com; and regulatory@genera-pr.com.



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