

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

NEPR

Received:

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IN RE:

**IN RE: PUERTO RICO ELECTRIC POWER
AUTHORITY PERMANENT RATE**

CASE NO. NEPR-MI-2020-0001

SUBJECT: Submission of CILTA, SUBA-HH, SUBA-NHH Reconciliations and Proposed Factors, EE Program Costs and Calculated Factors, and Request for Confidential Treatment.

**MOTION SUBMITTING CILTA, SUBA-HH, AND SUBA-NHH RECONCILIATIONS
AND CALCULATED FACTORS, EE PROGRAM COSTS AND PROPOSED FACTORS,
AND REQUEST FOR CONFIDENTIAL TREATMENT OF EXCEL SPREADSHEETS**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES now LUMA Energy ServCo, LLC (“ServCo”), (“LUMA”), and respectfully
state and request the following:

I. Submission of CILTA, SUBA-HH, SUBA-NHH, and EE Reconciliations and Proposed Factors.

This Honorable Puerto Rico Energy Bureau’s (“Energy Bureau”) approval and revisions of the factors associated with several riders, including contributions in lieu of taxes cost adjustment (“CILTA” or “CILT”), help to human subsidies (“SUBA-HH”), non-help to human subsidies (“SUBA-NHH”), energy efficiency rider (“EE Rider”), Fuel Charge Adjustment, the Purchased Power Charge Adjustment, and the Fuel Oil Subsidy, arise under a Resolution and Order dated April 23, 2019, issued in Cases Nos. CEPR-AP-2015-0001 and NEPR-AP-2018-0003. The particulars of the timing to file annual proposed CILTA, SUBA-HH, SUBA-NHH, and EE Rider factors are stated in the Tariff Book for the Puerto Rico Electric Power Authority (“PREPA”), on page 54 for CILTA, page 56 for SUBA-HH, page 58 for SUBA-NHH, and pages 64-65 for the EE Rider. The filings before this Energy Bureau of the proposed factors are due before the end of the

eleventh month of each annual period. *See id.* The proposed factors would become effective in the billing cycle of the first month of the annual period. *See id.* On June 11, 2024, the Energy Bureau issued a Resolution and Order titled *Determinación sobre los Factores de las Cláusulas de Ajuste Anual para el periodo de julio 2024 a junio 2025*. In this order, the Energy Bureau determined, among other things, that the proposed annual factors for CILTA, SUBA-HH, SUBA-NHH, and EE, which will be effective as of July 1, 2025, including the proposed reconciliations for the period from May 1, 2024, to April 30, 2025, must be submitted to the Energy Bureau on or before May 31, 2025, at noon.

Exercising its role and duties over system regulatory matters pursuant to Section 5.6 of the Puerto Rico Transmission and Distribution Operation and Maintenance Agreement (“OMA”) as supplemented by the Puerto Rico Transmission and Distribution System Supplemental Terms Agreement, LUMA’s role is to perform the reconciliations and calculate the proposed factors for the CILTA, SUBA-HH, and SUBA-NHH riders, and calculate the EE Rider proposed factor, to be reviewed, modified, and approved by this Energy Bureau. With this Motion, LUMA is submitting proposed calculated factors to apply from July 1st, 2025, until June 30th, 2026.

II. Regulatory Formulas for the CILTA, SUBA-HH, SUBA-NHH, and EE Riders.

A. CILTA

The CILTA is a reconciling rate mechanism that recovers the cost of Contributions In Lieu of Taxes payments to municipalities on an annual basis. The CILTA shall apply to all gross kilowatt-hour (kWh) consumed by customers served on all LUMA rates, except the base usage contained in the Residential Fixed Rate. The formula to calculate the CILTA factor is:

$$CILTA = \frac{(CILT + \text{Prior Period Reconciliation})}{\text{Applicable Retail kWh Sales}}$$

B. SUBA-HH

The SUBA-HH is a reconciling rate mechanism that recovers the cost of certain subsidies that LUMA must provide to eligible customers annually. The SUBA-HH shall apply to all gross kWh consumed by customers served on all LUMA rates except the base usage contained in the Residential Fixed Rate. The formula to calculate the SUBA-HH factor is:

$$SUBA-HH = \frac{(Subsidies + Prior Period Reconciliation)}{Applicable Retail kWh Sales}$$

C. SUBA-NHH

The SUBA-NHH is a reconciling rate mechanism that recovers the cost of certain subsidies that LUMA must provide to eligible customers on an annual basis. The SUBA-NHH shall apply to all gross kWh consumed by customers served on all LUMA rates, except the base usage contained in the Residential Fixed Rate. The formula to calculate the SUBA-NHH factor is:

$$SUBA-NHH = \frac{(Subsidies + Prior Period Reconciliation)}{Applicable Retail kWh Sales}$$

D. EE

The EE Rider is a mechanism that provides for the cost recovery of all expenses associated with implementing and administering energy efficiency programs approved by the Energy Bureau. The costs of the programs are recovered through a per kWh charge for all customers, the Energy Efficiency Charge (“EEC”). The formula to calculate the EEC factor is:

$$EE = \frac{(Total Cost of EE Programs + Prior Period Reconciliation)}{Applicable Retail kWh Sales}$$

III. Annual Reconciliation of the CILTA, SUBA-HH, SUBA-NHH, and EE Riders, and the Fiscal Year 2026 Forecast Costs.

The estimated retail kWh sales for the period of July 1, 2025, through June 30, 2026, are 16,022,315,674.70 kWh.

A. CILTA

The total CILT cost, prior period adjustment, and other adjustments to the billing from previous fiscal years totaled \$45,354,951.09. In contrast, revenues totaled \$69,981,189.91. As such, there are excess revenues in the amount of \$24,626,238.82. The CILTA forecasted cost for FY2026 is \$92,938,726.43. LUMA calculated a FY2026 CILTA rider factor of \$ 0.004264/kWh.

B. SUBA-HH

The SUBA-HH rider cost and prior period adjustment totaled \$187,760,878.63. Revenues totaled \$183,914,359.95. As such, there is a revenue insufficiency in the amount of \$3,846,518.68. The SUBA-HH rider forecasted cost for FY2026 is \$193,290,759.39. LUMA calculated an FY2026 SUBA-HH rider factor of \$0.012304/kWh.

C. SUBA-NHH¹

The SUBA-NHH rider cost and prior period adjustment totaled \$18,635,627.24. Revenues totaled \$15,199,262.16. There was a revenue insufficiency for the SUBA-NHH rider of \$3,436,365.08. The SUBA-NHH forecasted cost for FY2026 is \$13,394,120.29. LUMA calculated an FY2026 SUBA-NHH rider factor of \$0.001050/kWh.

¹ The calculation of the SUBA-NHH reconciliation and factor includes the Irrigation District costs, as instructed by the Energy Bureau in the Resolution and Order dated April 23, 2019, issued in Cases Nos. CEPR-AP-2015-0001 and NEPR-AP-2018-0003. For context, the "Irrigation District" is a division within PREPA that sells water. It consists of the Guayama and Juana Diaz Irrigation Districts in the south (PREPA refers to these as "SOUCO" and has grouped them together in its calculation of the subsidy); the Valle de Lajas Irrigation District in the southwest; and the Isabela Irrigation District, in northwestern Puerto Rico. This subsidy is known as the Irrigation District Subsidy.

D. EE

Pursuant to the provisions of the Tariff Book, the prior period reconciliation for the EEC encompasses the first ten months of the current annual period and the last two months of the preceding annual period. However, in compliance with directives issued by the Energy Bureau, LUMA commenced the collection of the EEC in July 2024. Accordingly, the reconciliation presented herein reflects the reconciliation of projected and actual funds for the period spanning July 2024 through April 2025. Consistent with the requirements set forth in the Tariff Book, the EEC reconciliation for the subsequent year will encompass the period from May 2025 through April 2026.

For the period of July 2024 through April 2025, the EE Rider experienced a revenue shortfall in the amount of \$1,047,000.78. The forecasted cost for the EE programs for Fiscal Year 2026 is \$41,194,106.00. Based on these figures, LUMA has calculated an EE Rider factor for FY2026 of \$0.002636/kWh.

IV. List of Documents Filed in Support of the Annual Reconciliation of the CILTA, SUBA-HH, SUBA-NHH, and EE Riders, and the Proposed Factors.

As detailed in the table below, LUMA is submitting twelve (12) Excel files publicly via email as Exhibit 1-Values to this Motion. Attachment 5 - CILT and SUBSIDIES RIDERS 2026_Values.xlsx provides the total summary of the calculations for the subsidy riders.

Specifically, the ANNUAL RECONCILIATION-CILT AND SUB RIDERS-MAY 2024 TO APRIL 2025 revised 5.22.25_Values.xlsx file includes the CILT, subsidies, and EE riders reconciliations. It encompasses the supporting files with all the data used for the reconciliations.

Additionally, the FY2026 - Subsidies Forecast_Values.xlsx file contains the CILT, and the subsidies forecasted costs. The FY2026 - Revenues Forecast_Values.xlsx and Customers Forecast - FY2025 Update_Values.xlsx files include the data for the subsidies costs forecasts.

Finally, the Load Forecast - FY2025 Update_Values.xlsx file has all the data used to determine the projected load.

A. Public Files in Values Folder

ANNUAL RECONCILIATION-CILT AND SUB RIDERS-MAY 2024 TO APRIL 2025 revised 5.22.25_Values.xlsx
Load Forecast - FY2025 Update_Values.xlsx
Customers Forecast - FY2025 Update_Values.xlsx
FY2026 - Subsidies Forecast_Values.xlsx
FY2026 - Revenues Forecast_Values.xlsx
Attachment 5 - CILT and SUBSIDIES RIDERS 2026_Values.xlsx
Subsidies (CC&B Reports Supporting) May 2024 to April 2025_Values.xlsx
Public Lighting- May 2024 to April 2025_Values.xlsx
Load forecast modifiers - FY2025_Values.xlsx
CITL FY 2024 (May 2025 Updated) _Values.xlsx
CILT FY 2025 (Revised)_Values.xlsx
CILT & SUB Costs MAY24-APR25_Values.xlsx

B. Confidential Folder

Along with this Motion, LUMA is also submitting via email twelve (12) confidential Excel spreadsheets, “Exhibit 1-Confidential,” with formulae intact, as identified in the table below. It is hereby respectfully requested that the Energy Bureau accept and maintain Exhibit 1-Confidential under seal of confidentiality.

ANNUAL RECONCILIATION-CILT AND SUB RIDERS-MAY 2024 TO APRIL 2025 revised 5.22.25.xlsx
Load Forecast - FY2025 Update.xlsx
Customers Forecast - FY2025 Update.xlsx
FY2026 Subsidies Forecast.xlsx

FY2026 - Revenues Forecast.xlsx
Attachment 5 - CILT and SUBSIDIES RIDERS 2026.xlsx
Subsidies (CC&B Reports Supporting) May 2024 to April 2025.xlsx
Public Lighting- May 2024 to April 2025.xlsx
Load forecast modifiers - FY2025.xlsx
CITL FY 2024 (May 2025 Updated) .xlsx
CILT FY 2025 (Revised).xlsx
CILT & SUB Costs MAY24-APR25.xlsx

V. Request for Confidential Treatment of Excel Files and Supporting Memorandum of Law.

The confidential Excel files referenced in Section IV of this Motion are Excel spreadsheets submitted in native format (.xls) and with formulae intact. *See* Exhibit 1-Confidential. They include formulae and original calculations made by LUMA personnel that reveal confidential procedures. They also encompass sensitive commercial information belonging to LUMA and/or PREPA, thus protected by law from disclosure and should not be disclosed in native form.

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

The bedrock provision on managing 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 [Bureau] believes that the information to be submitted has any confidentiality privilege, such person may request the [Bureau] to treat such information as such . . .” 22 LPRA §1054n. 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).

Relatedly, in connection with the duties of electric power service companies, Section 1.10 (i) of Act 17-2019 provides that electric power service companies shall provide the information requested by customers, except for confidential information under the Rules of Evidence of Puerto Rico. 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.* Section 6.15(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 [Bureau] who need to know such information under nondisclosure agreements. However, the [Bureau] shall direct that a non-confidential copy be furnished for public review”. *Id.* Section 6.15 (c).

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 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 the reasons why each claim or designation conforms to the applicable legal basis of confidentiality. *Id.*, paragraph 3. The party that seeks confidential treatment of information filed with the 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.

The aforementioned policy of the Energy Bureau on the management of confidential information in procedures states the following with regard to 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 802011 may only be accessed by the Producing Party and the [Bureau], unless otherwise set forth by the [Bureau] or any competent court.

Id. Section D (on Access to Validated Confidential Information).

Germanely, Regulation No. 8543, *Regulation on Adjudicative, Notice of Noncompliance, Rate Review, and Investigation Proceedings*, includes a provision for filing confidential information in adjudicatory proceedings before this Energy Bureau. To wit, Section 1.15 provides that “a person has the duty to disclose information to the [Bureau] considered to be privileged pursuant to the Rules of Evidence, said person shall identify the allegedly privileged information, request the [Bureau] the protection of said information, and provide supportive arguments, in writing, for a claim of information of privileged nature. The [Bureau] shall evaluate the petition and, if it understands [that] the material merits protection, proceed accordingly to . . . Article 6.15 of Act No. 57-2015, as amended.” *See also* Regulation No. 9137 on *Performance Incentive Mechanisms*, Section 1.13 (addressing disclosure before the Bureau of Confidential Information and directing compliance with Resolution CEPR-MI-2016-0009).

B. Grounds for Confidentiality

Under the Industrial and Trade Secret Protection Act of Puerto Rico, Act 80-2011, 10 LPRA §§ 4131-4144, 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 for which reasonable security measures have been taken, as circumstances dictate, to maintain its confidentiality.

Id. §4131, Section 3 Act. 80-2011.²

Trade secrets include, but are not limited to, processes, methods, 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. As explained in the Statement of Motives of Act 80-2011, protected trade secrets include any information bearing commercial or industrial value that the owner reasonably protects from disclosure. *Id.* *See also* Article 4 of Puerto Rico's Open Data Law, Act 122-2019 (exempting the following from public disclosure: (1) commercial or financial information whose disclosure will cause competitive harm; (2) trade secrets protected by a contract, statute or judicial decision (3) private information of third parties). *See* Act 122-2019, Articles 4 (ix) and (x) and (xi)). The Puerto Rico Supreme Court has explained that the trade secrets privilege protects free enterprise and extends to confidential commercial information. *Ponce Adv. Med. v. Santiago Gonzalez*, 197 DPR 891, 901-02 (2017) (citation omitted).

The Excel spreadsheets submitted today in native form and with formulae intact as Exhibit 1-Confidential are protected as trade secrets. They have commercial value to LUMA and PREPA.

² Correlatedly, 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 revealing trade secrets, provided that these actions do not tend to conceal fraudulent activities or lead to an injustice. 32 PR Laws Annot. Ap. VI, R. 513. If a court of law mandates the disclosure of a trade secret, precautionary measures should be adopted to protect the interests of the trade secret owner. *Id.*

They also reveal confidential processes and analyses to produce calculations supporting the public filing of the proposed factors for the CILTA, SUBA-NHH, SUBA-HH, and EE riders. LUMA and PREPA keep and maintain these native files confidential and do not disclose them to the public or unauthorized third parties.

LUMA appreciates the importance of placing the Energy Bureau in the position of reviewing the reconciliations and fixing the annual factors. However, to avoid future competitive harm if original format spreadsheets with formulae and calculations are publicly disclosed, LUMA respectfully requests that the Excel files submitted today as Exhibit 1-Confidential be received, kept, and maintained confidentially by this Energy Bureau.

The confidential spreadsheets included as Exhibit 1-Confidential are: (1) documents with commercial and financial value, and (2) involve data that **is not common knowledge or readily accessible** by third parties who may seek to profit from the data or gain commercial advantages. The spreadsheets are business documents showing processes, methods, and mechanisms that garner protection under Act 80-2011. They are original documents that have not been disclosed to third parties and whose disclosure would reveal sensitive and private commercial processes employed by LUMA and PREPA. The disclosure of this sensitive commercial information would place LUMA and PREPA in vulnerable and disadvantageous commercial positions that could affect LUMA customers and impact rates. Reasonable measures have been taken to protect the files from disclosure and avoid unauthorized access by third parties that could seek to gain commercial advantages. It is respectfully submitted that Exhibit 1-Confidential is a trade secret protected from public disclosure by Act 80-2011.

WHEREFORE, LUMA respectfully requests that the Energy Bureau **take notice** of the aforementioned, **accept** the filing of the CILTA, SUBA-HH, SUBA-NHH, and EE reconciliations and annual calculated proposed factors and of the EE program costs and EE Rider calculated factor, and **grant** the request to keep confidentially the spreadsheets that have been filed in Excel format and with formulae intact as Exhibit 1-Confidential to this Motion.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 31st day of May 2025.

I hereby certify that I filed this Motion using the electronic filing system of this Energy Bureau. I will send an electronic copy of this Motion to counsel for PREPA Alexis Rivera, arivera@gmlex.net and Juan R. Gonzalez Galarza, jgonzalez@gmlex.net, counsel for Genera PR LLC Luis Román Negrón, lrn@roman-negron.com and the Independent Consumer Protection Office, through Director Hannia Rivera, hrivera@jrsp.pr.gov.



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Exhibit 1-Values
(to be submitted via email)

Exhibit 1-Confidential
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