

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

NEPR

Received:

Jul 9, 2025

5:51 AM

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

CASE NO.: NEPR-AP-2023-0003

**SUBJECT: LUMA's urgent request for
partial reconsideration of July 7th Order,
request for continuance of virtual
conference, and response to order on
informal communications**

**LUMA'S URGENT REQUEST FOR PARTIAL RECONSIDERATION OF JULY 7TH
ORDER, REQUEST FOR CONTINUANCE OF VIRTUAL CONFERENCE, AND
RESPONSE TO ORDER ON INFORMAL COMMUNICATIONS**

**TO THE HONORABLE HEARING EXAMINER, MR. SCOTT HEMPLING, AND THE
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. Background

1. On July 3, 2025, LUMA filed its *Motion Submitting Rate Review Petition* ("Rate Review Petition"), considering the intention of the Puerto Rico Energy Bureau ("Energy Bureau") to review and approve base rates based on forecast information provided herein for Fiscal Years 2026 to 2028, with the expectation that new permanent rates will be in effect for the start of Fiscal Year 2027. Therein, it included LUMA's, Genera PR, LLC's ("Genera") and the Puerto Rico Electric Power Authority's ("PREPA") witnesses' pre-filed testimonies; workpapers containing analyses, facts, and calculations; schedules comprising the total utility revenue requirement and other information; and schedules respecting rate design filing requirements (e.g., Cost Of Service

Studies (“COSS”) and proposed rate design), in compliance with the orders and directives entered by the Energy Bureau in this instant proceeding.

2. Moreover, LUMA requested that the Energy Bureau approve a temporary (commonly referred to as provisional) rate pursuant to Section 6.25(e) of the *Puerto Rico Energy Transformation and RELIEF Act*, Act No. 57-2014, as amended (“Act 57-2014”), to be collected in the interim period (commencing on September 1, 2025) while the Energy Bureau is adjudicating the utility revenue requirement. The provisional rate request was based on LUMA’s incremental costs that LUMA asserts are just and reasonable and rooted in high-priority and non-controversial items and also includes PREPA’s Proxy Budget and Genera’s Optimal Budget. To support LUMA’s portion of the utility revenue requirement and LUMA’s request for a provisional rate, LUMA submitted its witnesses’ pre-filed testimonies; workpapers containing analyses, facts, and calculations; and schedules comprising the revenue requirement and respecting rate design. LUMA also submitted the testimonies, workpapers and other supporting documents provided by Genera and PREPA to support their portions of the requests for permanent and provisional rates.

3. On July 7, 2025, Mr. Scott Hempling, the Hearing Examiner, issued an Order setting deadlines relating to LUMA’s provisional rate request, among other matters (“July 7th Order”). The Order directed intervenors to issue any requests for information to LUMA relating to its request for provisional rates on or before July 10, 2025, at noon, and to submit objections to, statements of support for, or comments about LUMA's request for provisional rates on or before July 11, 2025, at noon. *See* July 7th Order, p. 1. Further, it scheduled a Virtual Conference for July 14, 2025, at 9:30 a.m. The Order stated that during the Conference:

(a) LUMA can respond, to the extent feasible, to the questions it has received about the provisional rate; and (b) the Energy Bureau's consultants, and other parties, can ask LUMA additional questions about its request. When that discussion of the provisional-rate request has ended, I will allow questions, if any, seeking

clarification from LUMA, Genera, or PREPA about their general rate application. I will confine those questions to those relating to how the application and specific spreadsheets and other exhibits are organized. When that discussion ends, we will assess together whether additional technical conferences on the general application would be useful.

See July 7th Order, p. 2.

4. Also relevant to this Motion, the Hearing Examiner stated that the Energy Bureau's consultants may pose clarification questions to witnesses and requested that the parties share the witnesses' email addresses so that the consultants may email witnesses directly. *See id.*, p. 6. The July 7th Order further states that "[i]f counsel wish, we can copy counsel on the message." *Id.*

II. Discussion and Requests

A. Request to continue July 14th technical conference

5. As a threshold matter, Section 6.25(e) of Act 57-2014 provides that 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 or provisional rate should be established. *See* Article 6.25(e) of Act 57-2014, PR Laws Ann. Tit. 22 § 1054x(e), 22 LPRA § 1054x(e) (2025). 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. *Id.*¹

¹ If the Energy Bureau establishes a temporary rate, such a 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. *See* Article 6.25(e) of Act 57-2014, PR Laws Ann. Tit. 22 § 1054x(e), 22 LPRA § 1054x(e) (2025). Said temporary rate shall remain in effect during the period of time 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. *Id.*

6. Section 6.25(e) of Act 57-2014 makes clear that discovery and/or a public hearing process is not mandated for the Energy Bureau to approve a provisional rate adjustment, however. Section 6.25(e) of Act 57-2014 only requires the Energy Bureau to exercise its discretion in establishing the provisional rate, which, if approved, shall take effect sixty (60) days after the date of approval of the provisional rate unless an earlier date is determined.²

7. Although Section 6.25(c) of Act 57-2014 establishes that any rate modification proposal “shall undergo a discovery and a public hearing process to be held by the Energy Bureau to determine whether the proposed change is just and reasonable and consistent with sound fiscal and operational practices that provide for a reliable and adequate service, at the lowest reasonable cost,” PR Laws Ann. Tit. 22 § 1054x(c) (2025), 22 LPRA § 1054x(c) (2025), that provision should be construed to apply to a *permanent* rate adjustment request, whereby the Energy Bureau approves a permanent modification to an approved rate. Section 6.25(c) of Act 57-2014 supports the proposition that its mandates of discovery and public hearings apply only to requests to approve a permanent rate adjustment, as it sets forth a timeline of one-hundred and eighty (180) days to

² In contrast, Section 6.25(d) of Act 57-2104 provides that at the request of an electric power company, the Energy Bureau may authorize an electric power service rate adjustment due to emergency or temporary events. *See* Article 6.25(d) of Act 57-2014, PR Laws Ann. Tit. 22 § 1054x(d) (2025). A preliminary determination by the Energy Bureau authorizing or rejecting the proposed temporary rate adjustment shall be duly grounded and issued and published not later than ten (10) days after the adjustment has been requested. *Id.* If it is determined that a temporary rate adjustment is warranted, the Energy Bureau shall hold public hearings within a term that shall not exceed thirty (30) days from the effective date of the temporary rate adjustment, where the requesting company and the general public shall have the opportunity to present evidence or expert testimony and documentary evidence supporting their respective positions. *Id.* Failure to hold the public hearings shall render the temporary rate adjustment void. *Id.* In contrast to the Section 6.25 (c) of Act 57-2014 regarding the process to set provisional rates, the Puerto Rico Legislative Assembly mandated that a rate modification due to emergency or temporary events necessitated discovery and a public hearing process and expressly stated so. The requirements that the Energy Bureau conduct discovery and a hearing in connection with an emergency rate and the exclusion of said requirements when the Energy Bureau considers and establishes provisional rates, must be interpreted as an intentional legislative mandate that discovery and hearings are not required for the Energy Bureau to consider a request for provisional rates. *See Torres-Negrón v. Rivera*, 2006 U.S. Dist. LEXIS 6279 *7 (D.P.R. Jan. 27, 2006) (“under the basic canon of statutory construction *inclusio unius est exclusio alterius*, the express inclusion of a term in only one place implies its exclusion in others.”).

conduct rate review proceedings after a determination of completeness is issued, which term the Energy Bureau may extend for an additional sixty (60) days.

8. In accordance with Section 6.25 of Act 57-2014, the interests of the parties and the public at large would be protected because if the Energy Bureau approves a provisional rate adjustment, the process will ultimately lead to discovery and a public hearing before the approved provisional rate is potentially implemented as a permanent rate. The provisional rate design affords further protections because the Energy Bureau shall direct the requesting company to adjust customers' bills to reflect either a credit or a charge for any discrepancy between the temporary rate established and the permanent rate approved. *See* Article 6.25(f) of Act 57-2014, PR Laws Ann. Tit. 22 § 1054x(f) (2025), 22 LPRA § 1054x(f) (2025).

9. If discovery is conducted on the provisional rate adjustment request, LUMA respectfully requests that the Energy Bureau follow the procedures set forth in the Hearing Examiner's order of April 25, 2025 ("April 25th Order"). In the April 25th Order, the Hearing Examiner stated that all requests for information, responses, objections, and motions to compel were subject to the requirements stated therein. Parties would have five (5) days to submit objections and ten (10) days to respond if no objection was raised. *See* April 25th Order, p. 6. Thus, LUMA requests and expects that this process will be followed and that it will be granted, at a minimum, until July 15, 2025, to present any objections it may have to the discovery requests issued by the parties, and/or until July 20, 2025, to respond to any requests for information in accordance with the timeframes established in the April 25th Order.

10. Further, LUMA respectfully submits that the Virtual Conference scheduled for July 14, 2025, is, at best, premature. Allowing the Virtual Conference to take place six (6) business days after LUMA submitted a provisional rate request, places LUMA in the unreasonable and

detrimental position of having just one (1) business day to prepare for verbal responses and/or objections to discovery requests and zero business days to consider any statements that the parties may file on July 11th regarding LUMA's provisional rate application. This contravenes LUMA's allowed period under the April 25th Order to respond and/or object to requests while providing the intervenors with a workable period of four (4) business days to issue and notify discovery requests.

11. Therefore, if the Hearing Examiner and the Energy Bureau determine that discovery will be conducted and a technical conference will be held to discuss the provisional rate application, LUMA requests the continuance of the Virtual Conference to a date after July 20, 2025. This would afford LUMA a more reasonable opportunity to respond and/or object in writing to any requests for information issued by the parties regarding the provisional rate adjustment request and to prepare for the conference, with the benefit of having considered the statements that the parties may file supporting or objecting to LUMA's provisional rate application.

12. Should the Energy Bureau determine that the Virtual Conference will proceed as scheduled or at a later time, LUMA respectfully requests that the Energy Bureau circulate an agenda in advance of the conference. The agenda should specify the topics to be addressed and the time allotted to each topic. Providing such an agenda will promote an efficient and orderly proceeding, allow all parties to prepare adequately, and ensure that the conference remains focused on the relevant issues.

13. Further, LUMA requests that the Hearing Examiner direct the parties to identify and separate any requests for information they may issue by stating whether they are referring to the provisional rate adjustment request or the permanent rate adjustment request.³ This will assist

³ Pursuant to the Energy Bureau's July 7th Order, all requests for information regarding provisional rates are required to be submitted exclusively through the Accion platform. In light of this procedural requirement, LUMA respectfully suggests that the Energy Bureau consider directing the Accion platform

the parties in efficiently organizing any responses and supporting materials accordingly and does not impose a burden on the intervenors.

14. Finally, the July 7th Order issued by the Hearing Examiner references procedures governing the process for parties to conduct discovery and participate in hearings only with respect to LUMA's request for provisional rates. The Order does not set forth equivalent procedures or deadlines for the consideration of PREPA's or Genera's requests for temporary rate adjustments. LUMA respectfully notes that it can only respond to discovery requests pertaining to LUMA's provisional and permanent rate requests. Any discovery requests regarding provisional rate requests from Genera or PREPA must be addressed to and by Genera and PREPA, respectively. Addressing the discovery requests to the proper party will reduce any objections that may be raised in that regard and expedite the discovery stage.

B. Request on procedures for informal communications

15. Regarding that portion of the July 7th Order whereby the Hearing Examiner directed that the Energy Bureau's consultants may issue requests for clarification directly to LUMA's witnesses, LUMA respectfully submits that such requests for clarification are more appropriately sent to the undersigned counsels. The undersigned counsels will promptly relay the request(s) to the witness(es) and facilitate a timely response. LUMA is also willing to provide a summary for the record of the requests for clarification and LUMA's responses.

16. Given that LUMA submitted twenty (20) pre-filed testimonies by several witnesses whose day-to-day tasks involve time-sensitive tasks to operate the Transmission and Distribution System, LUMA respectfully submits that its proposal will facilitate, rather than delay, responses.

team to implement an additional feature: a checkbox or similar mechanism that would allow the parties to clearly indicate whether a particular request for information pertains to provisional rates or to the general rate modification request. Such a feature would promote administrative efficiency, facilitate the prompt identification and processing of requests, and ensure compliance with the Energy Bureau's directives.

Sending the requests for clarification through counsel will allow the undersigned and LUMA's Regulatory Department to activate protocols and procedures to make the witness available and/or provide a timely response to the Energy Bureau's consultants.

WHEREFORE, LUMA respectfully requests that the Energy Bureau **take notice** of the aforementioned; **order** the continuance of the Virtual Conference until after July 20, 2025; **order** the parties to identify their discovery requests under the provisional rate or permanent rate labels; and **grant** LUMA's petition that requests for clarification be issued by the Energy Bureau's consultants to LUMA's counsels of record.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 8th day of July, 2025.

WE 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; 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; Juan González, jgonzalez@gmlex.net; Alexis G. Rivera Medina, arivera@gmlex.net; and Juan Martínez, jmartinez@gmlex.net; and to *Genera PR, LLC*, through: Jorge Fernández-Reboredo, jfr@sbgblaw.com; Gabriela Castrodad, gcastrodad@sbgblaw.com; Jennise Alvarez, jennalvarez@sbgblaw.com; regulatory@genera-pr.com; and legal@genera-pr.com; *Co-counsel for Oficina Independiente de Protección al Consumidor*, hrivera@jrsp.pr.gov; contratistas@jrsp.pr.gov; pvazquez.oipc@avlawpr.com; *Co-counsel for Instituto de Competitividad y Sustentabilidad Económica*, victorluisgonzalez@yahoo.com; agraitfe@agraitlawpr.com; *Co-counsel for National Public Finance Guarantee Corporation*, epo@amgprlaw.com; loliver@amgprlaw.com; acasellas@amgprlaw.com; matt.barr@weil.com; robert.berezin@weil.com; Gabriel.morgan@weil.com; Corey.Brady@weil.com; *Co-counsel for GoldenTree Asset Management LP*, lramos@ramoscruzlegal.com; tlauria@whitecase.com; gkurtz@whitecase.com; ccolumbres@whitecase.com; iglassman@whitecase.com; tmacwright@whitecase.com; jcunningham@whitecase.com; mshepherd@whitecase.com; jgreen@whitecase.com; *Co-counsel for Assured Guaranty, Inc.*, hburgos@cabprlaw.com;

dperez@cabprlaw.com; mmcgill@gibsondunn.com; lshelfer@gibsondunn.com;
howard.hawkins@cwt.com; mark.ellenberg@cwt.com; casey.servais@cwt.com;
bill.natbony@cwt.com; thomas.curtin@cwt.com; *Co-counsel for Syncora Guarantee, Inc.*,
escalera@reichardescalera.com; arizmendis@reichardescalera.com;
riverac@reichardescalera.com; susheelkirpalani@quinnemanuel.com;
erickay@quinnemanuel.com; *Co-Counsel for the PREPA Ad Hoc Group*,
dmonserrate/msglawpr.com; fgierbolini/msglawpr.com; rschell/msglawpr.com;
eric.brunstad@dechert.com; Stephen.zide@dechert.com; david.herman@dechert.com;
michael.doluisio@dechert.com; stuart.steinberg@dechert.com; *Sistema de Retiro de los*
Empleados de la Autoridad de Energía Eléctrica, nancy@emmanuelli.law;
rafael.ortiz.mendoza@gmail.com; rolando@emmanuelli.law; *Official Committee of Unsecured*
Creditors of PREPA, jcasillas@cstlawpr.com; jnieves@cstlawpr.com; *Solar and Energy Storage*
Association of Puerto Rico, Cfl@mcvpr.com; apc@mcvpr.com; javrua@sesapr.org; and *the*
Energy Bureau's Consultants, jrinconlopez@guidehouse.com; Josh.Llamas@fticonsulting.com;
Anu.Sen@fticonsulting.com; Ellen.Smith@fticonsulting.com; Intisarul.Islam@weil.com;
jorge@maxetaenergy.com; rafael@maxetaenergy.com; RSmithLA@aol.com;
msdady@gmail.com; mcranston29@gmail.com; dawn.bisdorf@gmail.com; ahopkins@synapse-energy.com;
clane@synapse-energy.com; guy@maxetaenergy.com;
Julia@londoneconomics.com; Brian@londoneconomics.com; luke@londoneconomics.com;
kbailey@acciongroup.com; hjudd@acciongroup.com; zachary.ming@ethree.com;
PREBconsultants@acciongroup.com.



DLA Piper (Puerto Rico) LLC
 Calle de la Tanca #500, Suite 401
 San Juan, PR 00901-1969
 Tel. 787-945-9122 / 9103
 Fax 939-697-6092 / 6063

/s/ Margarita Mercado Echegaray
 Margarita Mercado Echegaray
 RUA 16,266
margarita.mercado@us.dlapiper.com

Jan M. Albino López
RUA 22,891
jan.albinolopez@us.dlapiper.com