

**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: LUMA's Response to PREPA
Bondholders' Supplemental Response to
Provisional Rate Request

**LUMA'S RESPONSE TO PREPA BONDHOLDERS' SUPPLEMENTAL RESPONSE TO
PROVISIONAL RATE REQUEST**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COME NOW LUMA Energy, LLC ("ManagementCo"), and **LUMA Energy ServCo, LLC** ("ServCo"), (jointly referred to as "LUMA"), through the undersigned counsel, and respectfully state and submit the following:

1. LUMA filed its Motion Submitting Rate Review Petition on July 3, 2025. On July 11, 2025, the PREPA Bondholders (the "Bondholders") submitted their Preliminary Response to Provisional Rate Request ("Bondholders' Preliminary Response") asking that the Puerto Rico Energy Bureau ("Energy Bureau") deny LUMA's provisional rate request. On July 25, 2025, LUMA submitted a response to the Bondholders' Preliminary Response, and the Bondholders submitted a Supplemental Response to Provisional Rate Request ("Bondholders' Supplemental Response"). Through this filing, LUMA responds briefly to the Bondholders' Supplemental Response.

2. The Energy Bureau can and should disregard the arguments in the Bondholders' Supplemental Response. The Energy Bureau authorized the Bondholders to intervene in this proceeding because their "participation may assist in developing a sound record and contribute specialized knowledge through their alleged extensive experience in municipal finance and the

utility industry.”¹ The Bondholders’ arguments do not achieve those objectives and will not assist the Energy Bureau in determining a provisional rate.

3. The Bondholders’ Supplemental Response focuses on allegedly insufficient responses to certain Requests for Information (“ROIs”) and seeks to have the Energy Bureau disallow certain elements of LUMA’s provisional rate request to no apparent purpose. Plainly, the Bondholders are upset that LUMA’s provisional rate request did not include a specific amount for service of the Bondholders’ debt. But given that the amount and timing of repayment of that debt has not yet been determined in the PROMESA Title III proceeding, there was no other way for LUMA to account for it. Starving LUMA and Genera of funds needed to fulfill their obligations as utility operators on a provisional basis, while the Energy Bureau is determining the appropriate final rate, will not result in repayment of any of the Bondholders’ debt. It will just mean less funds are available to service Puerto Rico’s dilapidated energy infrastructure.

4. The Bondholders’ Supplemental Response also contains a lengthy – and irrelevant – quote from a letter LUMA received less than a week ago from the Puerto Rico Public Private Partnerships Authority (“P3A”), seeking to invoke a dispute-resolution process under the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (“T&D OMA”) between P3A, the Puerto Rico Electric Power Authority (“PREPA”), and LUMA.² This is the equivalent of quoting from a plaintiff’s complaint in a lawsuit and claiming the Energy Bureau should conclude all of the allegations in that complaint are true. Needless to say, LUMA disputes vigorously the allegations in P3A’s letter. LUMA has not yet had an opportunity to respond substantively to the allegations in P3A’s letter, and the disputes raised in that letter need

¹ Energy Bureau Resolution and Order of July 3, 2025 at 4.

² Bondholders’ Supplemental Response at 13-14.

to be adjudicated in a separate forum between the actual parties to the T&D OMA, not before the Energy Bureau in this proceeding.³ Indeed, even the Bondholders can't seem to figure out what the Energy Bureau should do with P3A's allegations, stating only that they somehow "bear on this proceeding" and "deserve due consideration."⁴ The only conceivable purpose for the Bondholders submitting this lengthy, one-sided screed was to poison the well.

5. At bottom, LUMA has submitted a provisional rate request that it believes is just and reasonable,⁵ and it has provided ample evidentiary support for each component of that proposed provisional rate. LUMA has worked tirelessly to supplement its submission as new information has come to light, and to respond to myriad requests for information from the Hearing Examiner, the Bondholders, and others on an expedited basis, given the "uncomfortably tight" schedule (the words of the Hearing Examiner) in this proceeding.⁶ Any suggestion that LUMA has not been forthcoming, has not adequately supported any component of the proposed rate, or is

³ See Order by the Hearing Examiner, July 14, 2025 with the subject *Hearing Examiner's Order Posing Provisional Rate Review Questions; Addressing PREPA's Challenge to LUMA's Request for Incremental Funding*, at 2 (*declining to consider PREPA's challenge to LUMA's provisional rate request and noting that "[t]o some extent, PREPA's complaints about LUMA amount to an assertion that LUMA is violating its obligations under the OMA. PREPA is free to bring its concerns to the P3A, LUMA's counterparty to the OMA. In the instant proceeding, the Energy Bureau's focus is on setting rates that, prospectively, provide the funds necessary to provide the service that customers deserve."*).

⁴ Bondholders' Supplemental Response at 12.

⁵ See Act 57-2014, Article 6.25(b) of the Puerto Rico Energy Transformation and RELIEF Act, Act No. 57-2014, as amended, ("Act 57-2014") (*providing that during any rate review process, the burden of proof shall lie on the requesting electric power service company to show that the proposed rate is just and reasonable, consistent with sound fiscal and operational practices that provide a safe and adequate service at the lowest reasonable cost*), and Article 6.25(e) of Act 57-2014 (*providing 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. Act 57-2014*"). PR Laws Ann. Tit. 22 § 1054x(a) and (e), 22 LPRA § 1054x (a) and (e) (2025).

⁶ July 27, 2025 Email from S. Hempling.

“attempting to push through significant unnecessary and/or unsubstantiated expenses for [its] own benefit,”⁷ is simply untrue and unhelpful. LUMA has requested approval by the Energy Bureau of incremental costs that are necessary in order to satisfy its duties under the T&D OMA and to provide reliable electric service to the people of Puerto Rico. The Bondholders have no such obligations – and, frankly, no similar interest in ensuring that the electricity in Puerto Rico stays on. The Energy Bureau should disregard their efforts to starve the system of much-needed funds.

6. Below, we address briefly the Bondholders’ extraneous critiques of specific items in LUMA’s submission.

I. \$157 Million for Federal Cost Share Match.

7. The Bondholders are wrong that LUMA should not have included a \$157 million Federal Cost Share Match in its proposal. The Energy Bureau ordered LUMA “to ensure that Federal Funding is not jeopardized to the unavailability of matching funds” and to “include an allocation for these funds in its budgets beginning in FY2025 to account for the possibility that matching funds may not be available for other sources.”⁸ That is precisely what LUMA did. LUMA explained this in its response to the Bondholders’ ROI on this topic.⁹

8. The Bondholders contend that the Energy Bureau’s order issued in February 2023 and is therefore “obsolete” in view of the more recent PREPA fiscal plan.¹⁰ That is not true, as

⁷ Bondholders’ Supplemental Response at 2.

⁸ Page 18 of Resolution and Order RE: Determination on LUMA’s FY23 Annual Budgets and LUMA’s FY24 Annual Budgets pre-filing requirements dated February 23, 2023, Docket No. NEPR-MI-2021-0004. Available at <https://energia.pr.gov/wp-content/uploads/sites/7/2023/02/20230227-MI20210004-Resolution-and-Order.pdf>.

⁹ See Response to NPFGC-of-LUMA-PROV-16.

¹⁰ Bondholders’ Supplemental Response at 6.

explained below. But even if it were, LUMA cannot simply disregard the Energy Bureau's order. As LUMA made clear in its response to the Bondholders' ROI, "[i]t is LUMA's understanding that the Government of Puerto Rico would work towards identifying alternate sources of funding that could be directed towards supporting state cost share requirements. To the extent those funds are identified and made available by the Government, then the corresponding amount otherwise required to be collected from base rates would be assigned to other capital projects *or reduced from the base rates, whichever the Energy Bureau approves.*"¹¹ The Bondholders simply ignore this response.

9. Further, the Bondholders are incorrect that PREPA's fiscal plan obviates the need to include the Federal Cost Share Match in LUMA's submission. As LUMA truthfully stated in its response to the Bondholders' ROI, "LUMA is not aware of any such funds being made available as cost share for transmission and distribution (T&D) related projects."¹² The Bondholders argue that PREPA's fiscal plan states the Federal Cost Share Match is "*expected* to be covered by the \$500 million funding from the CDBG-DR ER1 program."¹³ "Expected" to be covered is not *certain* to be covered. If and when coverage of those costs becomes certain, LUMA can remove those costs from its proposal. Until then, the prudent thing to do was to include it in LUMA's provisional rate request, pursuant to the Energy Bureau's express order.

II. \$120 Million for Outage Reserve Account.

10. The Bondholders are incorrect that LUMA has failed to explain why it proposed a \$120 million charge for the Outage Reserve Account, which "is only contractually set to be funded

¹¹ See Response to NPFGC-of-LUMA-PROV-16.

¹² See *id.*

¹³ 2025 Fiscal Plan at p.98 (emphasis added).

at \$30 million.”¹⁴ As LUMA stated in its response to the Bondholders’ ROI, “[t]his request aims to ensure proper funding of the Outage Reserve Account, including *recovery of unfunded amounts* (\$209 million) that have accumulated over time, and to maintain a minimum balance of \$30 million, as required by the T&D OMA.”¹⁵ LUMA “has no working capital,” and has therefore “had to divert funds from its Operating Account to respond to emergencies,” leading to “accumulated storm costs.”¹⁶ This was also clearly stated in the testimony of Alejandro Figueroa as part of LUMA’s provisional rate request.¹⁷ While LUMA can manage a temporary cash shortfall by adjusting vendor payment terms, the need for immediate funding remains urgent. The request is intended to address this gap and ensure timely recovery of storm-related costs.

III. \$13 Million 2% Adder.

11. The Bondholders are wrong that LUMA has failed to explain its proposed 2% adder (equating to \$13 million) – rather, they just don’t like LUMA’s response.¹⁸ As LUMA stated in its response to the Bondholders’ ROI, the purpose of the 2% adder is “for excess expenditures that may arise,” LUMA included the maximum percent permitted by the T&D OMA, and it did so “in the same manner as LUMA has done in previous budget filings that have been reviewed and approved by the Energy Bureau.”¹⁹ Indeed, the Energy Bureau has consistently applied the 2% adder in previous budgets and has not found the percentage unreasonable. LUMA’s proposal

¹⁴ Bondholders’ Supplemental Response at 7.

¹⁵ Response NPFGC-of-LUMA-PROV-21 (emphasis added).

¹⁶ Response NPFGC-of-LUMA-PROV-21.

¹⁷ See Ex. 1.0, Testimony of Alejandro Figueroa, submitted with LUMA’s Motion Submitting Rate Review Petition (July 3, 2025), at 80–82 (response to question 129).

¹⁸ Bondholders’ Supplemental Response at 11.

¹⁹ Response PFGC-of-LUMA-PROV-18.

adheres to this established regulatory practice, which is permitted by the T&D OMA, and does not represent any departure from precedent.

12. The Bondholders cannot seriously contest that LUMA incurs unexpected, excess expenditures over the course of the year that are not accounted for by “the budget inflation rate that LUMA already applied.”²⁰ The Energy Bureau is well aware that unpredictable expenditures occur and need to be accounted for separate from inflation; indeed, that is precisely why the T&D OMA provides for such an adder, and why the Energy Bureau has approved previous budgets including this 2% adder. As for the Bondholders’ criticism that LUMA has not adequately justified the specific percentage rate, this is a provisional rate request that is necessarily relying on LUMA’s historical budgeting, which has included the 2% adder. LUMA has submitted detailed and comprehensive information supporting the provisional rate request, including the rationale for the 2% adder. These justifications have also been presented in testimony, discovery responses, and prior filings. The Energy Bureau has before it a complete and well-supported explanation from LUMA that is consistent with regulatory precedent and the T&D OMA.

* * * * *

13. For the foregoing reasons, the Bondholders’ arguments are unavailing, and the Energy Bureau should grant LUMA’s provisional rate request.

WHEREFORE, LUMA respectfully requests that the Energy Bureau **grant** its provisional rate request.²¹

²⁰ Supplemental Bondholders’ Response at 11.

²¹ On May 9, 2025, this Energy Bureau issued a Resolution and Order, requiring that all substantive English-language filings be accompanied by concise Spanish summaries to enhance public accessibility and participation. *See also* Energy Bureau Resolution and Order of June 4, 2025 (*clarifying* that full translations are optional but summaries are mandatory. In compliance with the Energy Bureau’s standing directives regarding accessibility and ensuring citizen participation, LUMA will submit later today, a Spanish-language summary of this Motion.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 29th 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; José J. Díaz Alonso, jdiaz@sbgblaw.com; Stephen Romero Valle, sromero@sbgblaw.com; Giuliano Vilanova-Feliberti, gvilanova@vvlawpr.com; Maraliz Vázquez-Marrero, m vazquez@vvlawpr.com; ratecase@genera-pr.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, jpouroman@outlook.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; monica@emmanuelli.law; cristian@emmanuelli.law; lgnq2021@gmail.com; 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; mrrios@arroyorioslaw.com; ccordero@arroyorioslaw.com; Wal-Mart Puerto Rico, Inc., Cfl@mcvpr.com; apc@mcvpr.com; Mr. Victor González, victorluisgonzalez@yahoo.com; and the Energy Bureau's Consultants, jrinconlopez@guidhouse.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;

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