

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

NEPR

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IN RE:

THE PERFORMANCE OF THE PUERTO
RICO ELECTRIC POWER AUTHORITY

CASE NO.: NEPR-MI-2019-0007

**SUBJECT: Motion in Compliance with the
Resolution and Order of June 18, 2025, and
Request for Confidential Treatment**

**MOTION IN COMPLIANCE WITH THE RESOLUTION AND ORDER OF JUNE 18,
2025, AND REQUEST FOR CONFIDENTIAL TREATMENT**

TO THE PUERTO RICO ENERGY BUREAU:

COMES NOW, LUMA ENERGY SERVCO, LLC (“LUMA”), through the undersigned legal counsel and respectfully states and requests the following:

I. Relevant Procedural Background

The requirement to submit quarterly reports on specified system data of the Puerto Rico Electric Power Authority (“PREPA”) arises under the *Resolution and Order* issued by the Puerto Rico Energy Bureau (“Energy Bureau”) on May 14, 2019, in this proceeding. In accordance with the *Resolution and Order* issued on December 30, 2020, the quarterly system data is due on the 20th day of the month after each quarter closes.¹

¹ In a *Resolution and Order* of August 18, 2022, this Energy Bureau granted LUMA’s request to align the quarterly filings of system data in this proceeding with the filing of the quarterly operation report submitted after each quarter of the fiscal year closes. Consequently, the quarterly reports are now due in the following months: October (with data for the months of July through September), January (with data for the months of October through December), April (with data for the months of January through March), and July (with data for the months of April through June). See *Request for Modification of Schedule to File System Data and Submission of Quarterly Performance Metrics Report for June 2022* (“Request to Modify Schedule”) and Exhibit 1 (Schedule of proposed changes) and Exhibit 2 (Proposed Filing Schedule).

Pursuant to Section 5.6 of the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement,² LUMA, as an agent of PREPA, submits systems data regarding the Transmission and Distribution System (“T&D System”).

On January 17, 2025, the Energy Bureau issued a Resolution and Order (“January 17 Resolution”) in which it issued a new data template to be used starting with the FY2025 Q3 submission. The Energy Bureau requested LUMA and Genera to provide with the FY2025 Q3 submission any additional recommended changes to the data template that would increase clarity or reduce confusion. The Energy Bureau also ordered LUMA to provide in FY2025 Q3 submission the historical data for the new metrics or existing metrics for which LUMA has changed the methodology, dating back to when LUMA began operations.

On April 21, 2025, based on the revised data template set forth in the January 17 Resolution, LUMA filed its *Motion Submitting Quarterly Report on System Data for January through March 2025* (“April 21 Submission”).³ Consistent with the Energy Bureau’s directives in the January 17 Resolution, LUMA provided historical data for metrics for which LUMA modified the methodology.

On June 18, 2025, the Energy Bureau issued a Resolution and Order (“June 18th Order”) whereby it stated that it required additional information on the underlying data and calculations for some of the metrics submitted in the April 21 Submission. Therefore, the Energy Bureau ordered LUMA to submit supporting workpapers for the metrics discussed in the June 18th Order,

² PREPA, Puerto Rico Public-Private Partnerships Authority LUMA Energy, LLC and LUMA Energy ServCo., LLC, *Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement* (June 22, 2020).

³ On January 21, 2025, LUMA filed its *Submission of Quarterly Report on System Data for January through March 2025* (“January 21st Submission”). However, since the quarterly report was for the FY2025 Q3 submission, LUMA used the revised data template from a previous resolution. *See* October 18, 2024, Resolution and Order of October 18, 2024.

with the minimum required data listed in Attachment A, on or before twenty (20) calendar days of the notification of the order. *See* June 18th Order.

On July 3, 2025, LUMA filed a *Motion in Partial Compliance with June 18, 2025, Order and Request for Extension of Time to Comply with Inspections Metrics Data* (“July 3rd Motion”), whereby it submitted the supporting workpapers for most of the performance metrics listed in Attachment A of the June 18th Order for the period of July 2021 through March 2025. However, Exhibit 1 of the July 3rd Motion did not include the Inspections metrics data requested in the June 18th Order. In the July 3rd Motion, LUMA detailed the reasons why it was unable to submit the required Inspections metrics data by the July 8, 2025, deadline and requested an extension of time, until August 1, 2025, to submit the data files for the Inspections metrics (System’s Transmission Line Inspections (FYTD), Distribution Line Inspections (FYTD) and T&D Substation Line Inspections (FYTD) metrics).

II. Submittal of the Inspections Metrics Data Files

In accordance with the July 3rd Motion, LUMA hereby submits the supporting workpapers for the inspection metrics, following the data specifications listed in Attachment A of the June 18th Order for the period of July 2021 through March 2025, in Microsoft Excel format, with all formulas intact (“**Exhibit 1**”). **Exhibit 1** contains the following titled spreadsheets: 2025-06-18_R&O_Transmission line inspections_Confidential.xlsx, 2025-06-18_R&O_Distribution line inspections_Confidential.xlsx, and 2025-06-18_R&O_T&D substation inspections_Confidential.xlsx. The workpapers in **Exhibit 1** include the raw data used to calculate the values provided in LUMA’s April 21 Submission, demonstrate the steps taken to calculate the values, and document the source for all data contained therein, as requested by the Energy Bureau.

In addition, LUMA respectfully submits that **Exhibit 1** contains confidential information, including line identification markers, assets (*i.e.*, Feeder) numbers and substation site names that should be protected as Critical Energy Infrastructure Information (“CEII”) that garners protection from public disclosure pursuant to federal statutes and regulations, *see, e.g.*, 6 U.S.C. §§ 671-674; 18 C.F.R. § 388.113 (2020), and 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 (“Policy on Management of Confidential Information”). Therefore, LUMA further submits that this information must be protected from disclosure.

In compliance with the Policy on Management of Confidential Information, LUMA includes below the corresponding Memorandum of Law stating the legal basis for which certain portions of **Exhibit 1** should remain under seal of confidentiality.

III. Memorandum of Law in Support of Request for Confidentiality

A. Applicable Laws and Regulation to Submit Information Confidentially before the Energy Bureau

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 Bureau] believes that the information to be submitted has any confidentiality privilege, such person may request the [Energy 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.* § 1054n(a).

Access to 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 need to know such information under nondisclosure agreements. However, the [Energy Bureau] shall direct that a non-confidential copy be furnished for public review.” *Id.* § 1054n(c).

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 in accordance with the Rules of Evidence of Puerto Rico.

Moreover, 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 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 a “redacted” or “public version” and an “unredacted” or “confidential” version of the document that contains confidential information. *Id.* at ¶ 6.

The Energy Bureau's Policy on Management of Confidential Information states the following with regard to access to validated CEII:

Critical Energy Infrastructure Information ("CEII")

The information designated by the [Energy Bureau] as Validated Confidential Information on the grounds of being CEII may be accessed by the parties' authorized representatives only after they have executed and delivered the Nondisclosure Agreement.

Those authorized representatives who have signed the Non-Disclosure Agreement may only review the documents validated as CEII at the [Energy Bureau] or the Producing Party's offices. During the review, the authorized representatives may not copy or disseminate the reviewed information and may bring no recording device to the viewing room.

Id. at § D (on Access to Validated Confidential Information).

Regulation No. 8543, *Regulation on Adjudicative, Notice of Noncompliance, Rate Review, and Investigation Proceedings*, also includes a provision for filing confidential information in proceedings before this 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 according to [...] Article 6.15 of Act No. 57-2015, as amended." *See also* Energy Bureau Regulation No. 9137 on *Performance Incentive Mechanisms*, § 1.13 (addressing disclosure before the Energy Bureau of Confidential Information and directing compliance with Resolution CEPR-MI-2016-0009).

B. Request for Confidentiality

Exhibit 1 contain portions of CEII that, under relevant federal law and regulations, are protected from public disclosure. LUMA stresses that the Inspection metrics supporting workpapers containing line identification markers, asset (*i.e.*, feeder) numbers and the names of

the T&D substations deserve confidential treatment to protect critical infrastructure from threats that could undermine the system and negatively affect electric power services to the detriment of the interests of the public, customers, and citizens of Puerto Rico.

Generally, CEII or critical infrastructure information is exempted from public disclosure because it involves assets and information that pose public security, economic, health, and safety risks. Federal Regulations on CEII, particularly, 18 C.F.R. § 388.113, state that:

Critical energy infrastructure information means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that:

- (i) Relates details about the production, generation, transportation, transmission, or distribution of energy;
- (ii) Could be useful to a person in planning an attack on critical infrastructure;
- (iii) Is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552; and
- (iv) Does not simply give the general location of the critical infrastructure.

Id.

Additionally, “[c]ritical electric infrastructure means a system or asset of the bulk-power system, whether physical or virtual, the incapacity or destruction of which would negatively affect national security, economic security, public health or safety, or any combination of such matters.

Id. Finally, “[c]ritical infrastructure means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.” *Id.*

The Critical Infrastructure Information Act of 2002, 6 U.S.C. §§ 671-674 (2020), part of the Homeland Security Act of 2002, protects critical infrastructure information (“CII”).⁴ CII is

⁴ Regarding protection of voluntary disclosures of critical infrastructure information, 6 U.S.C. § 673, provides in pertinent part, that CII:

- (A) shall be exempt from disclosure under the Freedom of Information Act;
- (B) shall not be subject to any agency rules or judicial doctrine regarding ex parte communications with a decision-making official;

defined as “information not customarily in the public domain and related to the security of critical infrastructure or protected systems [...]” 6 U.S.C. § 671 (3).⁵

Portions of **Exhibit 1** qualify as CEII because these spreadsheets contain a list of line identification markers, asset (*i.e.*, feeder) numbers and the names of the T&D substations (18 C.F.R. § 388.113(ii)), information that could potentially be helpful to a person planning an attack

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- (C) shall not, without the written consent of the person or entity submitting such information, be used directly by such agency, any other Federal, State, or local authority, or any third party, in any civil action arising under Federal or State law if such information is submitted in good faith;
 - (D) shall not, without the written consent of the person or entity submitting such information, be used or disclosed by any officer or employee of the United States for purposes other than the purposes of this part, except—
 - (i) in furtherance of an investigation or the prosecution of a criminal act; or
 - (ii) when disclosure of the information would be--
 - (I) to either House of Congress, or to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee thereof or subcommittee of any such joint committee; or
 - (II) to the Comptroller General, or any authorized representative of the Comptroller General, in the course of the performance of the duties of the Government Accountability Office
 - (E) shall not, be provided to a State or local government or government agency; of information or records;
 - (i) be made available pursuant to any State or local law requiring disclosure of information or records;
 - (ii) otherwise be disclosed or distributed to any party by said State or local government or government agency without the written consent of the person or entity submitting such information; or
 - (iii) be used other than for the purpose of protecting critical Infrastructure or protected systems, or in furtherance of an investigation or the prosecution of a criminal act.
 - (F) does not constitute a waiver of any applicable privilege or protection provided under law, such as trade secret protection.

⁵ CII includes the following types of information:

- (A) actual, potential, or threatened interference with, attack on, compromise of, or incapacitation of critical infrastructure or protected systems by either physical or computer-based attack or other similar conduct (including the misuse of or unauthorized access to all types of communications and data transmission systems) that violates Federal, State, or local law, harms interstate commerce of the United States, or threatens public health or safety;
- (B) the ability of any critical infrastructure or protected system to resist such interference, compromise, or incapacitation, including any planned or past assessment, projection, or estimate of the vulnerability of critical infrastructure or a protected system, including security testing, risk evaluation thereto, risk management planning, or risk audit; or
- (C) any planned or past operational problem or solution regarding critical infrastructure or protected systems, including repair, recovery, construction, insurance, or continuity, to the extent it is related to such interference, compromise, or incapacitation.

on the energy facilities listed as part of this response. The information identified as confidential in this paragraph is not common knowledge and is not made publicly available. Therefore, it is respectfully submitted that, on balance, the public interest in protecting CEII weighs in favor of protecting the relevant portions of this response with CEII in **Exhibit 1** from disclosure, given the nature and scope of the details included in those portions of the Exhibit.

22. Based on the above, LUMA respectfully submits that portions of **Exhibit 1** should be designated as CEII given the importance of ensuring the safe and efficient operation of the T&D System assets. LUMA respectfully submits that these materials constitute CEII that should be maintained confidentially to safeguard their integrity and protect them from external threats.

C. Identification of Confidential Information

23. In compliance with the Energy Bureau's Policy on Management of Confidential Information (CEPR-MI-2016-0009) below, find a table summarizing the portions of **Exhibit 1** for which we present this request for confidential treatment.

Document	Name	Pages in which Confidential Information is Found, if applicable	Summary of Legal Basis for Confidentiality Protection, if applicable	Date Filed
Exhibit 1	2025-06-18_R&O_Transmission line inspections_Confidential.xlsx	Inspections and Assets Database Tabs, Column LineID	Critical Energy Infrastructure Information, 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674.	August 1, 2025
Exhibit 1	2025-06-18_R&O_Distribution line inspections_Confidential.xlsx	Inspections and Assets Database Tabs, Column Asset (Feeder)	Critical Energy Infrastructure Information, 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674.	August 1, 2025

Document	Name	Pages in which Confidential Information is Found, if applicable	Summary of Legal Basis for Confidentiality Protection, if applicable	Date Filed
Exhibit 1	2025-06-18_R&O_T&D substation inspections_Confidential.xlsx	Inspections and Assets Database Tabs, Column Site	Critical Energy Infrastructure Information, 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674.	August 1, 2025

LUMA submits as *Exhibit A*, herein, a redacted version of **Exhibit 1**, in which the information identified above is redacted. LUMA respectfully requests the Energy Bureau to accept *Exhibit A* herein as the public version of **Exhibit 1**. *Exhibit A* contains the following titled spreadsheets: 2025-06-18_R&O_Transmission line inspections.xlsx, 2025-06-18_R&O_Distribution line inspections.xlsx, and 2025-06-18_R&O_T&D substation inspections.xlsx

WHEREFORE, LUMA respectfully requests that this Honorable Bureau **take notice of** the aforementioned; **grant** confidential treatment to **Exhibit 1**, which contains the Inspections metrics data; **accept** *Exhibit A* as the public version of **Exhibit 1**; and **deem** LUMA in full compliance with the June 18th Order.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 1st day of August 2025.

I hereby certify that we filed this motion using the electronic filing system of this Energy Bureau and that I will send an electronic copy of this motion to PREPA's counsel of record, Alexis Rivera Medina, arivera@gmlex.net and Mirelis Valle Cancel, mvalle@gmlex.net, and Genera PR LLC, through its counsel of record Jorge Fernández-Reboredo, jfr@sbgbllaw.com and Jennise M.

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/s/ Margarita Mercado Echegaray

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Exhibit 1
Confidential Inspections metrics supporting workpapers
[Files to be submitted via email in Excel format]

Exhibit A

Redacted/public Inspection metrics supporting workpapers
[*Files to be submitted via email in Excel format*]