

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

NEPR

Received:

Oct 4, 2025

3:44 PM

IN RE: PUERTO RICO ELECTRIC POWER
AUTHORITY RATE REVIEW

CASE NO. NEPR-AP-2023-0003

SUBJECT: LUMA's Response to Request of
Information of October 3, 2025

**LUMA'S MOTION IN COMPLIANCE WITH RESOLUTION AND ORDER OF
OCTOBER 3, 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:

1. On October 3, 2025, this Honorable Puerto Rico Energy Bureau ("Energy Bureau") issued a Resolution and Order with a Request of Information ("October 3rd Order") to LUMA directing that, within twenty-four (24) hours, LUMA shall submit detailed information on the status of a disbursement by the Department of Energy ("DoE") of \$41.552 million earmarked for the Electric System Priority Stabilization Plan ("PSP"). This Energy Bureau expressed its understanding that said amount of funding had been *disbursed* by the DoE.

2. LUMA is aware that the DoE approved an award for Electric Grid Resilience and Stabilization. As of the date of this filing, however, LUMA has not received disbursements in connection with said award for Transmission and Distribution ("T&D") projects.

3. In the past days, LUMA exchanged correspondence with the Puerto Rico Electric Power Authority ("PREPA") in response to PREPA's request that LUMA be designated as sub-

recipient of the DoE award.¹ *See Exhibits 1 and 2* (LUMA letters to PREPA dated September 24, 2025 and September 29, 2025). LUMA informed PREPA that a designation as sub-recipient is unnecessary given that per the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement of June 22, 2020 (“T&D OMA”),² LUMA acts as PREPA’s agent for, among others, executing T&D projects that are federally-funded. *Id.* LUMA also stated its position that a designation as subrecipient runs counter to the T&D OMA, is not contemplated in the T&D OMA, and subverts the contractual framework that rules LUMA’s role as PREPA’s agent. *See id.*

4. LUMA did not participate in discussions between PREPA and the DoE regarding the terms and conditions of the grant award and thus, is not privy to what PREPA may have discussed with the DoE on the requirement to designate LUMA as a grant sub-recipient.

5. LUMA remains committed to support the DoE award and perform the work to be funded through said award. As LUMA informed PREPA, LUMA looks forward to resolving the pending matters, including its role in connection with the award, in a manner that is consistent with the T&D OMA and allows LUMA to further its role as operator of the T&D System to benefit customers.

6. LUMA will timely inform the Energy Bureau if it receives any disbursements in connection with the DoE award.

¹ LUMA also stated its position on other matters, including a purported prohibition by PREPA regarding use of seconded employees, which position is also contrary to the T&D OMA. *See Exhibit 1.*

² *See e.g.*, Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement executed on June 22, 2020, Section 5.9(e)(ii); *see also id.*, Section 5.6 (a) (*designating* LUMA as PREPA’s agent before the Energy Bureau and any Governmental Body, including “any U.S. federal, state, Commonwealth, regional, municipal or local legislative, executive, judicial or other governmental board, agency, authority, commission, bureau, administration, court, instrumentality or other duly authorized body [.]”).

WHEREFORE, LUMA respectfully requests that the Hearing Examiner **take notice** of the above and **deem** LUMA in compliance with the Request for Information of the October 3rd Order.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 4th day of October, 2025.

WE HEREBY CERTIFY that this Motion was filed using was filed using the electronic filing system of this Energy Bureau and that electronic copies of this Notice 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; Juan Martínez, jmartinez@gmlex.net; and Natalia Zayas Godoy, nzayas@gmlex.net; and to *Genera PR, LLC*, through: Jorge Fernández-Reboredo, jfr@sbgblaw.com; Giuliano Vilanova-Feliberti, gvilanova@vvlawpr.com; Maraliz Vázquez-Marrero, mvazquez@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; mrios@arroyorioslaw.com; ccordero@arroyorioslaw.com; *Wal-Mart Puerto Rico, Inc.*, Cfl@mcvpr.com; apc@mcvpr.com; *Solar United Neighbors*, ramonluisnieves@rlnlegal.com; *Mr. Victor González*, victorluisgonzalez@yahoo.com; and *the Energy Bureau's Consultants*, 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; carl.pechman@keylogic.com; bernard.neenan@keylogic.com; tara.hamilton@ethree.com; aryeh.goldparker@ethree.com;

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DLA Piper (Puerto Rico) LLC
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/s/ Margarita Mercado Echegaray
RUA No. 16,266
margarita.mercado@us.dlapiper.com

Exhibit 1

Transmittal # LUMA-PREP-T-01063

September 24, 2025

To: Puerto Rico Electric Power Authority

Attention: Eng. Mary C. Zapata Acosta
Executive Director
PO Box 364267
San Juan, Puerto Rico 00936-4267

RE: DOE PR-ERF Electric Grid Resilience & Stabilization Award - Required Confirmations

Dear Executive Director Zapata:

On September 22, 2025, at 1:44 p.m., ARI-Group, LLC transmitted an electronic communication regarding the Department of Energy's ("DOE") request for final documentation under the PR-ERF Electric Grid Resilience & Stabilization Award, with a submission deadline by close of business that same day. Unfortunately, the materials and action items provided contained changes that differ from our discussion held during our joint technical meeting with the DOE on September 17, 2025, leaving insufficient time for a thorough review. Nevertheless, we hereby submit LUMA's position to aid the finalization of the Grant process.

1. Commitment to Proceed:

LUMA is fully prepared to move forward with the work supported by the DOE Grant. We remain committed to coordinating closely to ensure timely execution and full compliance with all applicable requirements, enabling projects to progress efficiently.

2. SOPO Revisions Not Reflected:

The final version of the Statement of Project Objectives ("SOPO") provided does not incorporate the revisions submitted by LUMA following the technical meeting with DOE on September 17, 2025. LUMA is currently reviewing the changes made to ensure the final submission represents an accurate version of our contractual relationship with PREPA and what needs to be executed.

3. Waiver Requests:

We support pursuing waivers where appropriate, but only after a proper determination confirms that no U.S. based manufacturers can supply the required equipment and no existing waivers or exemptions apply.

4. Subrecipient Designation:

LUMA must respectfully reject the designation as a "subrecipient". Under the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement ("T&D OMA"),¹ LUMA acts solely as PREPA's agent—the recipient of the funds.² The T&D OMA already provides the legal

¹ The Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement executed on June 22, 2020, by and amongst the Puerto Rico Electric Power Authority ("PREPA"), the Puerto Rico Public-Private Partnerships Authority ("P3A") and LUMA Energy, LLC and LUMA Energy ServCo, LLC (collectively, "LUMA").

² Section 5.9(e)(ii) of the T&D OMA.



framework for LUMA to perform the work on PREPA's behalf. Introducing a "subrecipient" designation would unnecessarily complicate the process.

5. Use of Seconded Resources:

As explained in the First Appeal for FEMA Project 723085 which PREPA authorized LUMA to submit on its behalf, the use of seconded personnel is expressly permitted under the T&D OMA and aligns with standard industry practice and complies with the federal procurement standards as they apply to PREPA.³ This model allows for the efficient deployment of qualified personnel from affiliated entities to support project execution. As the appeal of FEMA's preliminary determination remains pending, there is no final decision from FEMA with respect to the use of seconded employees. In addition, DOE has not taken a similar position as FEMA on these costs. A blanket prohibition on the use of seconded employees would unnecessarily delay DOE-funded work by triggering avoidable procurement and onboarding processes. It would also be inconsistent with our conversations with DOE, which have emphasized the need for expediency in completing these projects. See attached Certification of Conflict of Interest and Compliance.

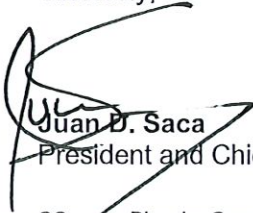
6. Terms and Conditions:

LUMA continues to review the Terms and Conditions and will identify any language that should be of concern to PREPA on or before September 25, 2025.

Conclusion:

LUMA is ready to proceed under the DOE Grant in full compliance with DOE requirements and the T&D OMA framework. However, we urge that no additional or duplicative restrictions be imposed that could hinder timely execution. We remain available to discuss these matters further and to support PREPA in completing the required submissions.

Sincerely,



Juan D. Saca
President and Chief Executive Officer

CC: Blanche González Hodge, Associate Director, PREPA; blanche.gonzalez@prepa.pr.gov
 Tina Francone, Senior Advisor, Grid Deployment Office, U.S. DOE; tina.francone@hq.doe.gov
 Catherine Jereza, Senior Advisor, Office of the Undersecretary of Infrastructure, U.S. DOE; catherine.jereza@hq.doe.gov
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 Patrick Arns, Vice President, Quality & System Standards, LUMA; patrick.arns@lumapr.com

³ Section 4.2(k) of the T&D OMA.

Exhibit 2

September 29, 2025

To: Puerto Rico Electric Power Authority ("PREPA")

Attention: Eng. Mary C. Zapata Acosta
Executive Director
PO Box 364267
San Juan, Puerto Rico 00936-4267

RE: LUMA's legal prohibition from serving as subrecipient of PREPA's federal funding

Dear Executive Director Zapata:

We are in receipt of your September 26, 2025, letter to which you attach a letter from David J. Staudt, Contracting Officer at the U.S Department of Energy's ("DOE") National Energy Technology Laboratory, also dated September 26, 2025.

Your letter insists on the requirement that LUMA be designated as a subrecipient under the DOE PR-ERF Electric Grid Resilience & Stabilization Award. To support your position, you reference Mr. Staudt's letter, which states that the "subrecipient designation was integral to [LUMA's] involvement in this project."

LUMA's representatives were excluded from any conversation with DOE in which the terms and conditions of the grant were established, including the apparent requirement that LUMA be designated as subrecipient. We are unaware of any reasonable basis for doing so, and we are unaware why PREPA would insist on such position, particularly as it is unnecessary given PREPA's irrevocable delegation of authority to LUMA, as its agent, to perform all Operation and Maintenance ("O&M") Services on PREPA's behalf, and the expansive scope of work for which PREPA has contracted LUMA to perform, including the execution of any work supported, all or in part, by federal fund or any other federally-funded program.¹

In performing O&M Services, LUMA operates and maintains the Transmission and Distribution ("T&D") System and serves as PREPA's agent. Specifically, LUMA has irrevocable authority to "act as agent of [PREPA]...in connection with any Federal Funding requests related to the T&D System submitted to federal agencies".² LUMA also "represent[s] Owner before any Governmental Body and any other similar industry or regulatory institutions or organizations having regulatory jurisdiction",

¹ The extensive scope of duties LUMA is to perform to maintain and operate PREPA's T&D System (the "O&M Services") are set out in the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement ("T&D OMA") executed on June 22, 2020, by and amongst PREPA, the Puerto Rico Public-Private Partnerships Authority ("P3A") and LUMA, at Article 5 and Annex I. The O&M Services include "management, operation, maintenance, repair, restoration and replacement and other related services" in accordance with industry standards. The O&M Services also include activities such as performing and supervising Capital Improvements, including engineering and related design and construction management services See *Section 5.1 and Annex 1 of the T&D OMA*.

² See *Section 5.9(e)(ii) of the T&D OMA*.



including federal agencies.³ The designation of LUMA as subrecipient ignores this fundamental contractual relationship.

Mr. Staudt's letter also fails to identify any legal or regulatory provision that supports PREPA's adamant stance that LUMA must be designated as subrecipient to perform the relevant work and for such work to be eligible for reimbursement through the DOE grant. As a matter of fact, regulations applicable to the awarding of federal grants support LUMA's position that its designation as subrecipient is not only unnecessary, but also in conflict with those same regulations.

The Uniform Rules at 2 CFR § 200.331 provide guidance to awarding agencies and pass-through entities to help distinguish between subrecipients and contractors. Among those factors is that a subrecipient "implements a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity".⁴ Meanwhile, "a contract is for the purpose of obtaining goods and services for the recipient's or subrecipient's use and creates a procurement relationship with a contractor".⁵ Further, a contractor "provides goods or services that are ancillary to [i.e. in support of] the implementation of a Federal program".⁶

When performing federally funded work, LUMA must do so "in compliance with the Federal Funding Requirement to maximize the potential realization of the Federal Funding anticipated or received and ensure such funding is administered in accordance with all such requirements".⁷ But the T&D OMA also establishes that "Owner shall retain the exclusive right to receive amounts from all Federal Funding for the T&D System".⁸ Further "Owner may, in accordance with Applicable Law, transfer its right to receive amounts from Federal Funding for the T&D System to Administrator (P3A) or another Governmental Body (provided that any such transferee shall, as part of any such transfer, agree to be bound by Owner's obligations hereunder)".⁹ LUMA is not a Governmental Body¹⁰ – and therefore cannot be designated as a subrecipient of federal funds under the T&D OMA.

As we have stated in our previous communications, we reaffirm our commitment to perform the work subject to the DOE award efficiently and in full alignment with the policy objectives furthered by the DOE. To that end, and as we've discussed extensively, such work is currently ongoing such that our customers, Puerto Rico's residents, can benefit from these improvements without delay. We look forward to an expedient resolution to this matter such that the terms and conditions of the award are

³ See Section 5.6(a) of the T&D OMA.

⁴ 2 C.F.R. § 200.331(a)(5).

⁵ 2 C.F.R. § 200.331(b).

⁶ 2 C.F.R. § 200.331(b)(4).

⁷ See Section 5.9(a) of the T&D OMA.

⁸ See Section 5.9(a) of the T&D OMA.

⁹ See Section 5.9(e)(i) of the T&D OMA.

¹⁰ See Section 1.1 of the T&D OMA.



reflective of the contractual structures in place and are devoid of unnecessary and unreasonable requirements that are of little value and only delay the execution of critical work.

Respectfully,



Juan Saca
President and Chief Executive Officer

CC: David J. Staudt, Contracting Officer, U.S. DOE; david.staudt@netl.doe.gov
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