

**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: Request for Confidential
Treatment of Portions of LUMA's
Response to Requests of Information PC-
of-LUMA-DST-89 AND PC-of-LUMA-
TRS-18**

**REQUEST FOR CONFIDENTIAL TREATMENT OF PORTIONS
OF RESPONSES TO REQUESTS OF INFORMATION
PC-OF-LUMA-DST-89 AND PC-OF-LUMA-TRS-18**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COME NOW LUMA Energy, LLC and **LUMA Energy ServCo, LLC** (jointly referred to as “LUMA”) and respectfully state and request the following:

I. Introduction

LUMA respectfully submits this Motion requesting that the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) determine that certain portions of LUMA’s responses to discovery requests PC-of-LUMA-DST-89 and PC-of-LUMA-TRS-18 contain Critical Energy Infrastructure Information (“CEII”) and, as such, must be protected from public disclosure. As set forth below, applicable legal authority compels the relief requested herein.

II. Procedural Background

On June 30, 2024, this Honorable Energy Bureau issued a Resolution and Order “to initiate [this] adjudicative process to review PREPA’s rates” (the “June 30th Order”) and opened this instant proceeding. *See* June 30th Order, p. 2.

Following a series of informal procedural events – including technical conferences and requests for information – aimed at receiving participants’ respective insights and concerns with regards to the upcoming rate review petition, on February 12, 2025, this Energy Bureau issued a Resolution and Order (“February 12th Order”), whereby it established “the filing requirements and procedures for the rate review of the [PREPA].” *See* February 12th Order, p. 1.

In what is pertinent to the present memorandum, the February 12th Order established confidentiality “procedures to balance the public’s right to access information about utility rates with the legitimate need to protect certain sensitive business information.” *See* February 12th Order, p. 10. These mandate that, if in compliance with the February 12th Order, “a person has the duty to disclose to the Energy Bureau information that the person considers privileged under the Rules of Evidence, the person shall identify the information, request the Energy Bureau to protect the information, and provide written arguments to support its claim for protection,” all as required by 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 Confidential Information”).

Furthermore, the February 12th Order states that the Energy Bureau will decide each confidentiality claim expeditiously and will proceed, in accordance with Article 6.15 of Act No. 57-2014, PR Laws Ann. Tit. 22 § 1054n (2025), 22 LPRA § 1054n (2025), if it deems that the protected material merits protection. *See* February 12th Order, p. 10. In its decision, “the Energy Bureau will state (i) which information and documents are confidential or privileged; and (ii) the rules that shall be observed to duly safeguard the information.” *Id.* On the other hand, the February 12th Order provides the following:

If the Energy Bureau denies a confidentiality claim, the Energy Bureau will also state the period after which the document or information will be available to the

public. Such period will give the submitter sufficient time to seek reconsideration or any other legal recourse to prevent disclosure if PREPA disagrees with the Energy Bureau's decision.

Id.

More recently, on August 19, 2025, the Hearing Examiner, Mr. Scott Hempling, issued an *Order on Confidentiality Matters* ("August 19th Order"), with the aim of clarifying the terminology and treatment of confidential documents filed during discovery, in a manner consistent with the Energy Bureau's Policy on Confidential Information. Specifically, per the August 19th Order, information filed as CEII will be available to participants who have a signed Non-Disclosure Agreement. On the other hand, information filed as a confidential trade secret will only be available to the Energy Bureau and its consultants.

As is widely known, on July 3, 2025, LUMA filed its *Motion Submitting Rate Review Petition* ("Rate Review Petition") with this Honorable Puerto Rico Energy Bureau ("Energy Bureau"), pursuant to the filing requirements outlined by the Energy Bureau, as modified by the Hearing Examiner.

The filing of LUMA's Rate Review Petition paved the way for the initiation of a discovery process in the captioned proceeding through which LUMA has received numerous requests for information from participants, intervenors, and consultants for the Energy Bureau.

In what is here pertinent, on October 14, 2025, LUMA submitted responses to requests for information ("ROI") identified as PC-of-LUMA-TRS-18 and PC-of-LUMA-DST-89. PC-of-LUMA-TRS-18 included one attachment, while PC-of-LUMA-DST-89 included four. PC-of-LUMA-TRS-18_Attachment_1, PC-of-LUMA-DST-89_Attachment_1, PC-of-LUMA-DST-89_Attachment_2, PC-of-LUMA-DST-89_Attachment_3 and PC-of-LUMA-DST-89_Attachment_4 include coordinates of different types of poles.

In accordance with the Energy Bureau's Policy on Confidential Information, LUMA submitted both an "unredacted" (confidential) version and a "redacted" (public) version of the attachments mentioned above. These actions have been taken to protect the information considered confidential.

Furthermore, LUMA is submitting a memorandum of law that outlines and explains the legal basis for the confidential treatment of the attachments to PC-of-LUMA-TRS-18 and PC-of-LUMA-DST-89.

III. Applicable Laws and Regulations for submitting information confidentially before the Energy Bureau

Section 6.15 of Act 57-2014 regulates the management of confidential information filed before this Energy Bureau. 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 Commission to treat such information as such” 22 LPRA § 1054n (2025). 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).

In connection with the duties of electric power service companies, Section 1.10(i) of Act 17-2019 further provide that electric power service companies shall submit information requested by customers, except for: (i) confidential information in accordance with the Rules of Evidence of Puerto Rico. 22 LPRA § 1141i (2025).

Access to 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.” Section 6.15(b) of Act 57-2014, 22 LPRA § 1054n (2025). 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 needs to know such information under nondisclosure agreements. However, the [Energy Bureau] shall direct that a non-confidential copy be furnished for public review”. *Id.*, Section 6.15(c).

Moreover, the Energy Bureau’s Policy on Confidential Information details the procedures that a party should follow to request that a document or portion thereof, be afforded confidential treatment. In essence, the Energy Bureau’s Policy on Confidential Information requires identification of the confidential information and the filing of a memorandum of law, “no later than ten (10) days after filing of the Confidential Information”, explaining the legal basis and support for a request to file information confidentially. *See* Policy on Confidential Information, 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 a summary of the reasons why each claim or designation conforms to the applicable legal basis of confidentiality. *Id.*, paragraph 3. The party who seeks confidential treatment of information filed with the Energy Bureau must also file both “redacted” or “public version” and an “unredacted” or “confidential” version of the document that contains confidential information. *Id.*, paragraph 6.

The Energy Bureau’s Policy on Confidential Information also states the following with regards to access to CEII once determined Validated Confidential Information:

2. Critical Energy Infrastructure Information (“CEII”)

The information designated by the [Energy Bureau] as Validated Confidential Information on the ground of being CEII may be accessed by the parties’ authorized representatives only after they have executed and delivered the Non-Disclosure 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., Section D (on Access to Validated Confidential Information).

Relatedly, Energy Bureau 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 honorable 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 accordingly to . . . Article 6.15 of Act No. 57-2015, as amended.”

IV. Legal Basis and Arguments in Support of Confidentiality

Act 40-2024, better known as the *Commonwealth of Puerto Rico Cybersecurity Act*, defines “Critical Infrastructure” as those “services, systems, resources, and essential assets, whether physical or virtual, the incapacity or destruction of which would have a debilitating impact on Puerto Rico’s cybersecurity, health, economy, or any combination thereof.” 3 LPRA § 10124(p) (2024). Generally, CEII or critical infrastructure information is exempt 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”). CII is 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).

The portions of the attachments to responses PC-of-LUMA-TRS-18 and PC-of-LUMA-DST-89 identified in Section IV of this Motion contain CEII, as they include coordinates to energy infrastructure, which qualifies as CEII. Coordinates provide a level of detail that could potentially be helpful to a person planning an attack on energy infrastructure facilities interconnected with or

served by this equipment. The information identified as confidential in this paragraph is not common knowledge, is not made publicly available, and if disclosed to the public, will expose key assets to security vulnerabilities or attacks by people seeking to cause harm to the systems. Therefore, it is in the public interest to keep the information confidential. Confidential designation is a reasonable and necessary measure to protect critical infrastructure from attacks and to enable LUMA to leverage information without external threats, *see e.g.*, 6 U.S.C §§ 671-674; 18 C.F.R. §388.113 (2020), and the Energy Bureau’s Policy on Confidential Information.

In several proceedings, this Energy Bureau has considered and granted requests by PREPA to submit CEII under seal of confidentiality. In at least two proceedings on Data Security and Physical Security, this Energy Bureau, *motu proprio*, has conducted proceedings confidentially, thereby recognizing the need to protect CEII from public disclosure.

V. Identification of Confidential Information within LUMA’s Rate Review Petition

In compliance with the Energy Bureau’s Policy on Confidential Information, CEPR-MI-2016-0009, a table summarizing the hallmarks of this request for confidential treatment is hereby included.

Document	Confidential Portions	Legal Basis for Confidentiality	Date Filed
PC-of-LUMA- TRS- 18_Attachment_1	“Lat” and “Lon” Columns G-H, cells 2-1998	Critical Energy Infrastructure Information 18 C.F.R. § 388.113; 6 U.S.C. §§ 650, 671-674	October 14, 2025
PC-of-LUMA- DST- 89_Attachment_1	Coordenades (NAD 83/Geograficas)/Coordinates (NAD83/Geographic) Column C, cells 2 - 4327	Critical Energy Infrastructure Information 18 C.F.R. § 388.113; 6 U.S.C. §§ 650, 671-674	October 14, 2025

Document	Confidential Portions	Legal Basis for Confidentiality	Date Filed
PC-of-LUMA-DST-89_Attachment_2	Coordinates (NAD83/Geographic) – Latitude Column C, cells 2 - 1156 Coordinates (NAD83/Geographic) – Longitude Column D, cells 2 - 1156	Critical Energy Infrastructure Information 18 C.F.R. § 388.113; 6 U.S.C. §§ 650, 671-674	October 14, 2025
PC-of-LUMA-DST-89_Attachment_3	Coordinates (NAD83/Geographic) – Latitude Column C, cells 2 - 1679 Coordinates (NAD83/Geographic) – Longitude Column D, cells 2 - 1679	Critical Energy Infrastructure Information 18 C.F.R. § 388.113; 6 U.S.C. §§ 650, 671-674	October 14, 2025
PC-of-LUMA-DST-89_Attachment_4	Coordenades (NAD 83/Geograficas)/Coordinates (NAD83/Geographic) Column C, cells 2-126	Critical Energy Infrastructure Information 18 C.F.R. § 388.113; 6 U.S.C. §§ 650, 671-674	October 14, 2025

WHEREFORE, LUMA respectfully requests that the Energy Bureau **take notice** of the aforementioned; and **grant** LUMA's request to keep the above-identified portions of LUMA's responses to **PC-of-LUMA-TRS-18** and **PC-of-LUMA-DST-89** under seal of confidentiality.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 28th day of October 2025.

WE HEREBY CERTIFY that this Motion 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

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