

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

**NEPR**

**Received:**

**Oct 29, 2025**

**6:22 PM**

**IN RE: FISCAL YEAR 2026 EMERGENCY  
RESERVE ACCOUNT**

**CASE NO. NEPR-MI-2025-0004**

**SUBJECT: LUMA's Request for  
Reconsideration of Resolution and Order  
Entered on October 9, 2025 and For Leave  
to Withdraw Funds from the Fiscal Year  
2026 Emergency Reserve Account for  
Hurricane Erin Restoration Costs**

**REQUEST FOR RECONSIDERATION OF RESOLUTION AND  
ORDER ENTERED ON OCTOBER 9, 2025**

**TO THE HONORABLE PUERTO RICO ENERGY BUREAU:**

**COME NOW** LUMA Energy, LLC and LUMA Energy ServCo, LLC (collectively, “LUMA”), and respectfully state and request the following:

**I. INTRODUCTION**

1. LUMA, Puerto Rico’s transmission and distribution system operator under the Transmission and Distribution Operation and Maintenance Agreement (“T&D OMA”), respectfully submits this motion requesting authorization to access the Emergency Reserve Account (“ERA”) established by the Puerto Rico Energy Bureau (“Energy Bureau”) for Fiscal Year 2026 in its July 31, 2025 Resolution and Order in case no. NEPR-AP-2023-0003.

2. The ERA was expressly created to provide emergency liquidity for extraordinary, high-impact reliability events that exceed the scope of LUMA’s regular operating budget as established under the T&D OMA. As detailed in LUMA’s filings, Hurricane Erin constituted such an event. During August 2025, LUMA was required to undertake extensive emergency response and restoration activities following service interruptions across Puerto Rico caused by Hurricane Erin’s passage near the Island.

3. LUMA's Fiscal Year 2026 Provisional Budget, as approved by the Energy Bureau, **does not** include or contemplate the costs associated with restoring service after emergencies or catastrophic events such as hurricanes. Accordingly, access to the Emergency Reserve Account is not only warranted but **is the only mechanism available** to address these extraordinary, unbudgeted expenses.

4. This motion sets forth the procedural background, the factual and contractual basis, and the legal arguments supporting LUMA's request for access to the Fiscal Year 2026 Emergency Reserve Account. LUMA respectfully requests expedited consideration, given the urgent need to cover expenses already incurred during the emergency response and to ensure the continued liquidity and operational stability necessary for LUMA to fulfill its statutory and contractual obligations to the people of Puerto Rico.

## **II. PROCEDURAL BACKGROUND**

5. On July 31, 2025, the Energy Bureau entered a Resolution and Order ("July 31<sup>st</sup> Order") in case number NEPR-AP-2023-0003 establishing the Fiscal Year 2026 Provisional Rates and the Fiscal Year 2026 Provisional Budget. Furthermore, the Energy Bureau decided not to allocate funds to replenish the Outage Reserve Account to which LUMA is contractually entitled to draw funds to pay for activities not contemplated in the operating budgets, and decided to, in place of separate incremental operator-level reserves, establish the Fiscal Year 2026 Emergency Reserve Account ("Emergency Reserve Account" or "ERA"). See July 31 Order, Sec. III(J)(35). This account is a restricted account to be funded at \$15 million, to provide liquidity for extraordinary, high-impact reliability events that exceed the normal operating budgets of LUMA and Genera PR LLC ("Genera"). Id.

6. Per the requisites established in the order, withdrawals from the Emergency Reserve Account require prior, case-specific authorization from the Energy Bureau. In alignment with this, the July 31 Order sets forth the following directives:

- Account Establishment: PREPA must establish a new, separate, and segregated account with an initial balance of \$15 million within sixty (60) days of the Resolution. PREPA is required to submit proof of the account's creation and funding to the Energy Bureau.
- Account Administration: The account shall be held in trust. PREPA shall act as administrator, responsible for maintaining the account, but shall not authorize withdrawals.
- Withdrawal Protocol: To request funds, LUMA, Genera, or PREPA must file a petition with the Energy Bureau. The petition must include:
  - A full description of the emergency event;
  - A detailed, itemized estimate of the required funds; and
  - A sworn statement certifying that the petitioner's approved operational budget cannot cover the costs.

See July 31 Order, Sec. VI(U), pp. 37-38.

7. The Energy Bureau determined that the Emergency Reserve Account is to be used exclusively for extraordinary, high-impact reliability events, and only upon a showing of financial necessity and regulatory oversight. *Id.*, Sec. III(J)(35), p. 23.

8. On August 11, 2025, the Energy Bureau issued a Resolution and Order ("August 11 Order") in docket number NEPR-AP-2023-0003 stating that a separate resolution would be issued to establish the procedures by which LUMA, Genera, and PREPA may access the account. See August 11 Order, Sec. III, p. 2.

9. On August 20, 2025, LUMA submitted a Notice to the Energy Bureau to inform that it would require over \$3 million from the ERA to cover expenses incurred during the restoration in response to Hurricane Erin.

10. On September 10, 2025, the Energy Bureau entered a Resolution and Order (“September 10 Order”) in docket number NEPR-AP-2023-0003 by which it provided guidance on the use and administration of the ERA, clarifying its purpose, access criteria, and procedural requirements. The Energy Bureau determined that the ERA is not a replenishment or substitute for operator-level reserve accounts. *See* September 10 Order, Sec. III(A)(1). Instead, it is a system-wide, restricted emergency fund, funded through base rates, to provide liquidity for extraordinary, high-impact reliability events **that exceed normal operating budgets**. *Id.*, Sec. III (emphasis provided). In accordance with the September 10 Order, access to the ERA requires a case-specific showing of good cause, demonstrating that the event is extraordinary, high-impact, and “**that the requested costs (i) cannot be covered by the approved operating budget, (ii) are not available from another source** (including insurance, grants, or operator-level reserves), and (iii) have not been, funded from any OMA or Energy Bureau established reserve fund.” *Id.*, Sec. II(B) (emphasis added).

11. In compliance with the requirements outlined in the July 31 Order and the September 10 Order, on September 30, 2025 LUMA submitted a petition to access the ERA. *See Request for Leave to Withdraw Funds from the Fiscal Year 2026 Emergency Reserve Account for Hurricane Erin Restoration Costs* (“September 30 Motion”). The September 30 Motion addressed and showed that LUMA complied with all the requirements set forth in the September 10 Order to access the ERA funds. The motion was supported by the sworn statement of Mr. Ian Kreher, Vice

President of Transmission and Substations at LUMA, who served as Incident Commander during the emergency caused by Hurricane Erin. See Exhibit A, Statement of Ian Kreher.

12. Nonetheless, on October 9, 2025, the Energy Bureau entered a Resolution and Order (“October 9 Order”) stating that in the September 30 Motion “[a]lthough LUMA addressed the procedural filing requirements to access the ERA, the Energy Bureau does not find that the event and costs for which LUMA seeks funding qualify for access to the ERA.” See October 9 Order, Sec. II, p. 2. The Energy Bureau also found that “expenditures [presented by LUMA] do not rise above the level of storm related expenses for which the Energy Bureau created the ERA[]” and stated that “[t]he expenses for which LUMA seeks funding do not meet the required case-specific showing of good cause, that the event is extraordinary, of high impact and that the **costs exceed normal operating budgets.**” *Id.* The Energy Bureau concludes, stating that “LUMA failed to identify and itemize the extraordinary costs, **outside of the normal operating budget**, that it incurred because of the emergency event.” *Id.* (emphasis added).

13. LUMA respectfully requests that the Honorable Energy Bureau reconsider its October 9 Order. The funds necessary to recover the expenses incurred in response to Hurricane Erin are not included within the Fiscal Year 2026 Provisional Budget as approved by the Energy Bureau. As will be argued in detail in the following sections, the costs associated with restoration activities resulting directly from Hurricane Erin are precisely the type of extraordinary, unbudgeted expenses for which the Emergency Reserve Account was established and must be made available to system operators.

14. Moreover, denying access to the ERA for these recovery costs, **which are not contemplated in the Fiscal Year 2026 Provisional Budget**, forces LUMA to reallocate funds earmarked for specific activities and essential operations. This practice will directly contribute to

the severe financial constraints LUMA is currently facing, jeopardizing the operator's ability to fulfill its obligations under the T&D OMA. In practical terms, this threatens LUMA's capacity to provide safe and reliable electric service to all transmission and distribution customers, contrary to the public interest and the regulatory objectives of the Energy Bureau.

15. Wherefore, LUMA respectfully requests that the Honorable Energy Bureau find that LUMA has satisfied the case-specific criteria established in the September 10 Order. Accordingly, LUMA urges the Bureau to reconsider its decision in the October 9 Order and grant leave for LUMA to access the Fiscal Year 2026 Emergency Reserve Account. Such access is essential to ensure that the utility can fulfill its restoration obligations and maintain safe and reliable service for all transmission and distribution customers, in accordance with the regulatory framework and the public interest.

### **III. Request for Reconsideration of the October 9 Order**

16. The Energy Bureau has expressly recognized that LUMA complied with the procedural requirements set forth in the orders regulating access to the Emergency Reserve Account. See October 10 Order at Sec. II, p. 2. Accordingly, LUMA does not deem it necessary to restate every procedural step previously addressed. Nonetheless, LUMA submits that a detailed examination of the record further demonstrates that the event at issue is extraordinary in both context and funding allocation, that the costs were itemized and are, by their very nature, extraordinary, meaning outside the scope of the operating budgets assigned in the Fiscal Year 2026 Provisional Budgets, and that these costs would not have been incurred but for the direct and immediate effects of Hurricane Erin. The narrative included herein as **Exhibit 1** is presented in support of this request for reconsideration.

**a. Good Cause**

17. The October 9 Order denied LUMA’s request for access to the ERA, asserting that the record did not meet the case-specific standard for disbursement. This conclusion is unsupported by the facts and undermines the very purpose for which the ERA was established. The July 31 Order created the ERA as a “single, system-wide mechanism to address extraordinary, unbudgeted costs associated with emergency events.” *See* July 31 Order, Sec. VI(U), pp. 37–38. The order further clarified that access must be case-specific, requiring a demonstration that the event is extraordinary and that the costs cannot be recovered through the approved budget or other sources.

18. The Energy Bureau did not merely establish a procedural requirement; it expressly entrusted the system operators, LUMA and Genera, as “the most qualified parties to make [the] initial decision” on “criteria for access to the ERA.” *See* September 10 Order, Sec. II(F), p. 3. The September 10 Order further acknowledged that the criteria in the T&D OMA may apply to ERA access. LUMA’s petition did not simply comply with these requirements, it exceeded them. The request included a comprehensive event description, a detailed itemization of costs, and a sworn statement certifying that the requested funds were not available from the approved operating budget, insurance, grants, or other reserves. *See* September 30 Motion and the Statement of Ian Kreher, attached to the September 30 Motion as Exhibit A.

19. To deny access under these circumstances is to render the ERA inoperative as an emergency funding mechanism. This outcome is not merely a misapplication of regulatory intent; it is a fundamental failure of the system to protect the public interest in times of crisis.

20. Furthermore, the Energy Bureau is required to “balance [LUMA’s] demonstrated need against the appropriateness of requiring customers to bear the expense under priority needs of the electric system for safe and reliable service.” *See* September 10 Order, Sec. II(F), p. 3. In this

instance, the balance must weigh in favor of LUMA, as the restoration costs at issue are not only necessary for the continued provision of safe and reliable service, but are also precisely the type of costs the ERA was designed to address.

21. LUMA's request is neither capricious nor subjective. It is grounded in objective, factual evidence. The expenses incurred in the restoration efforts following Hurricane Erin are not part of the Fiscal Year 2026 Provisional Budgets. The underlying data upon which the budgets are developed, including the Fiscal Year 2025 budgets and the incremental costs included in the Fiscal Year 2026 Provisional Budgets, do not and cannot contemplate such unforeseen events. LUMA does not include these expenses in its operational budget because, under the T&D OMA, it is not contractually obligated to do so. The GridCo budgets, developed in compliance with the T&D OMA and supplemental documents, do not include restoration costs, as these costs are not to be recovered from the Operating Budget, Capital Budget-Federally Funded, Capital Budget-Non Federally funded and the Generation Budgets, which comprise the T&D OMA Budget definition. See T&D OMA, Art. 1, Sec. 1.1. Rather, such costs are to be paid from the Outage Event Reserve Account, which is to be funded directly by PREPA (T&D OMA, Art. 7, Sec. 7.5(d)), a responsibility PREPA has consistently defaulted on. This persistent default is the very reason the Emergency Reserve Account was created.

22. Thus, LUMA does not seek to fund the restoration of Hurricane Erin through the ERA as a matter of preference; rather, the ERA is, due to the lack of available funds in LUMA's Outage Event Reserve Account, the only source available to recover these expenses. The Outage Event Reserve Account, which should serve as a dedicated liquidity source, has not been funded since November 2023 and now reflects a deficit of approximately \$260 million. With neither the Outage Event Reserve Account nor the ERA available in practice, LUMA lacks a dedicated liquidity



source to support emergency restoration. In such conditions, LUMA must divert operational cash earmarked for operation, management, and project costs to finance outage event recovery. This pauses maintenance and capital projects that are already being postponed due to the ongoing liquidity issues.

**b. Extraordinary Event**

23. Hurricane Erin was not a routine LUMA operation, maintenance, or capital project activity. It was the very definition of an “extraordinary, high-impact reliability event” for which the ERA was designed. The T&D OMA defines an Outage Event as one in which at least 20,500 customers are interrupted or at least 150 outage jobs are logged within a 24-hour period due to an act of God or a storm designated as such by the U.S. National Weather Service. Hurricane Erin-caused effects exceeded every threshold: 171,800 customers interrupted, 1,586 restoration jobs, and NWS storm designation. See Sworn Statement of I. Kreher, ¶ 14, p. 6.

24. The Outage Event lasted four days, during which LUMA mobilized resources to restore service. The operational impact was unforeseen in terms of financial operation, as there are no approved budgets to cover these events, and day-to-day operation, maintenance, and capital-project activities do not include allocations to address emergency event effects. The Energy Bureau’s denial, based on a misinterpretation of LUMA’s “Type 4” event classification, ignores the operational reality. The Event Type and Activation Level are operational assessments, not financial measures. Activation of the Local Emergency Operations Center (LEOC) and the LUMA Emergency Roster (LER) signifies a departure from routine operations and triggers extraordinary, unbudgeted costs.

25. Even at an Event Type and Activation Level 4, activation of the LER and LEOC represents a departure from day-to-day operations as employees are reassigned from routine tasks to

emergency restoration, work shifts may be modified, and specialized materials and contractors may be deployed. These activities, by definition, generate extraordinary and unbudgeted costs that are not part of normal system operation.

26. To suggest that Hurricane Erin was anything less than extraordinary is to disregard both the objective meteorological data and the operational protocols that were activated. The activation of emergency protocols, regardless of level, means system reliability and public safety are at risk, and expenditures beyond those contemplated in the approved operating budget are incurred.

**c. Costs Exceeding the Normal Operating Budget**

27. LUMA's September 30 Motion included a detailed, itemized breakdown of costs for labor, materials, transportation, and vegetation management, totaling \$4,672,000. The Statement of I. Kreher certifies that these costs are not covered by the approved operating budget, insurance, grants, or other reserves.

28. Crucially, the restoration costs for Hurricane Erin, or restoration from any storm impact, were not included in the Fiscal Year 2026 Provisional Budget. The Energy Bureau's own orders make clear that the ERA is intended for costs that "cannot be covered by the approved operating budget, [and] are not available from another source." See September 10 Order, Sec. II(B).

**IV. CONCLUSION**

29. For all the reasons set forth herein and in the supporting record, LUMA respectfully requests that the Honorable Energy Bureau find that LUMA has satisfied the case-specific criteria established in the September 10 Order and the July 31 Order, including a clear showing of good cause, the extraordinary and high-impact nature of the event, and that the costs incurred exceed the normal operating budget and were necessitated solely by the emergency event. LUMA further requests that the Energy Bureau reconsider its decision in the October 9 Order and grant leave for

LUMA to access the Fiscal Year 2026 Emergency Reserve Account. Granting this relief is essential to ensure that the regulatory framework functions as intended, that the public interest is protected, and that LUMA is able to continue providing safe, reliable, and resilient electric service to all T&D Customers in Puerto Rico. The record demonstrates that the costs at issue are extraordinary, were incurred solely as a result of Hurricane Erin, and cannot be recovered through any other budgeted or available source. Denial of access to the ERA would not only undermine the integrity of the regulatory process and the contractual allocation of resources under the T&D OMA, but would also jeopardize the continued stability and reliability of Puerto Rico's electric system. LUMA respectfully requests that the Energy Bureau grant the relief requested herein without delay.

#### **V. REQUEST FOR RELIEF**

**WHEREFORE**, LUMA respectfully requests that the Energy Bureau:

- a. Reconsider the October 9 Order;
- b. Find that Hurricane Erin qualifies as an extraordinary, high-impact reliability event within the meaning of the Emergency Reserve Account, and that the conditions for access have been satisfied;
- c. Grant expedited consideration of this request; and
- d. Authorize LUMA to withdraw \$4,671,625 from the Fiscal Year 2026 Emergency Reserve Account to cover the costs of emergency response, stabilization, and restoration activities associated with Hurricane Erin, as detailed in this motion.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 29<sup>th</sup> day of October 2025.



**DLA Piper (Puerto Rico) LLC**

500 Calle de la Tanca, 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 No. 16,266

Margarita.Mercado@us.dlapiper.com

*/s Katuska Bolaños Lugo*

Katuska Bolaños Lugo

RUA No. 18,888

Katuska.Bolanos-Lugo@us.dlapiper.com

## Exhibit 1

# Exhibit 1

NEPR-MI-2025-0004

October 29, 2025

# Fiscal Year 2026 Emergency Reserve Account

## Introductory Statement

LUMA respectfully submits this request for reconsideration of the Puerto Rico Energy Bureau's (PREB) October 9, 2025, resolution denying access to the Emergency Reserve Account (ERA) to address costs incurred in response to Hurricane Erin. As detailed herein, the event in question satisfies in full the criteria established by PREB in its July 31, 2025 and September 10, 2025 orders. The event also qualifies as an Outage Event under the Transmission and Distribution Operating and Maintenance Agreement (T&D OMA). Accordingly, all relevant criteria currently in effect have been met for purposes of LUMA having access to the ERA and for costs incurred in connection with recovery and response activities to be covered from a reserve created for such purposes.

This filing outlines the factual, regulatory and contractual basis for LUMA's petition to access the ERA, demonstrates the extraordinary nature of the event and the associated costs, and proposes a clear basis for access to the ERA that aligns with the existing regulatory and contractual framework. LUMA submits that reconsideration is warranted to ensure the ERA functions as an effective and reliable mechanism to support emergency response, consistent with the regulatory entity's intent and in the public interest.

## 1.0 Emergency Reserve Account Access

In its July 31, 2025, Resolution and Order (July 31 R&O) establishing the FY2026 Provisional Rates and FY2026 Provisional Budget<sup>1</sup>, the PREB created the ERA as a single, system-wide mechanism to address extraordinary, unbudgeted costs associated with emergency events. While the ERA was conceptually created and funded at \$15 million, the resolution did not clearly define how or under which circumstances those funds could be accessed by LUMA, Genera, and PREPA. On September 10, 2025, PREB issued guidance on accessing this account via a Resolution and Order (September 10 R&O). As part of the September 10 R&O, PREB stated that request to access this account must be case-specific, requiring petitioners to demonstrate that an event is extraordinary and that the associated costs cannot be recovered through their approved budget or other available sources. The PREB further stated that it would not adopt automatic triggers and emphasized that LUMA, Genera, and PREPA are the **"most qualified parties to make that initial decision"** of whether an expenditure qualifies for ERA access. In the September 10 R&O, the PREB stated that some or all of the criteria in the Operation and Maintenance Agreements (in LUMA's case, the Puerto Rico Transmission and Distribution Operation and Maintenance Agreement or T&D OMA) for accessing the Outage Event Reserve Account, as such account is defined in the T&D OMA, may apply equally to access ERA funds.

Within this framework, LUMA filed a petition seeking authorization to use the ERA to cover costs incurred during Hurricane Erin, an event that meets the Outage Event (as such term is defined in the T&D OMA) criteria defined in the T&D OMA. The T&D OMA defines an Outage Event as one in which at least 20,500 customers are interrupted or at least 150 outage jobs are logged within a 24-hour period due to an act of God or a storm designated as such by the U.S. National Weather Service, and which ends only when fewer than 1,000 customers remain interrupted for eight consecutive hours. **Hurricane Erin satisfied each of these elements.** Hurricane Erin passed in close proximity to Puerto Rico, causing severe

---

<sup>1</sup> Resolution and Order in case no. NEPR-AP-2023-0003

## Fiscal Year 2026 Emergency Reserve Account

weather and widespread service interruptions across the Island. The outage event lasted four days, during which LUMA mobilized resources to restore service. At the peak of the response, LUMA managed 1,586 active outage restoration jobs, exceeding the T&D OMA's 150-job threshold, and approximately 171,800 customers were without service, above the 20,500-customer threshold. The U.S. National Weather Service designated the system as Tropical Storm Erin on August 11, 2025, later upgrading it to Hurricane Erin on August 15, 2025. LUMA further explained why the effects of Hurricane Erin on the island's T&D System qualified as an extraordinary event eligible for access to the ERA and why costs incurred in related recovery efforts are not contemplated in LUMA's FY2026 budget.

Despite LUMA demonstrating compliance with each of the known criteria at that point in time, on October 9, 2025 (October 9 R&O), the PREB denied LUMA's request for ERA access. The PREB argued that the record did not meet the case-specific standard for disbursement. LUMA respectfully states that this outcome creates a misalignment between the PREB's intent in establishing the ERA and its practical application and creates further obstacles to recovery from the already limited system liquidity currently being experienced. The September 10 R&O recognized that LUMA, as operator, would be best qualified to determine when an event qualifies for ERA access and that the criteria established in the T&D OMA for purposes of defining an Outage Event could be used to define eligibility. While LUMA based its request on these affirmations, the PREB's October 9 R&O effectively turns the ERA into an inoperative mechanism for purposes of providing the Energy System with an emergency reserve fund. The PREB's determinations dispossesses LUMA of another tool normally available to electric utilities in similar conditions, as well as a tool expressly accounted for in the T&D OMA.

This situation is further compounded by the status of the Outage Event Reserve Account under the T&D OMA, which has not been funded since November 2023, and now reflects a deficit of approximately \$260 million. With neither the Outage Event Reserve Account nor the ERA available in practice, LUMA lacks a dedicated liquidity source to support emergency restoration and is forced to use limited operational funds to fund restoration work, instead of performing ordinary maintenance and improvement work that does not respond, and is unrelated to, restoring services after an extraordinary Outage Event.

LUMA therefore respectfully requests that the PREB reconsider its decision regarding access to \$4.7 million to cover costs incurred during Hurricane Erin.

## 2.0 Characterization of Hurricane Erin Response

In the October 9 R&O, the PREB referenced that LUMA classified Hurricane Erin as a Type 4 event. LUMA respectfully submits that it is improper to use this classification for purposes of determining if the costs incurred in connection with an Outage Event are routine or extraordinary. The Event Type designation under LUMA's Emergency Response Plan (ERP) does not measure the financial impact or the degree to which the expenses incurred in restoring service after an Outage Event are ordinary or extraordinary; rather, it reflects an operational assessment of the expected severity and complexity of the impact of an emergency event on the T&D System, which in turn informs the scope and structure of the operational response required from LUMA, which is expressed through the Activation Level.

Under LUMA's ERP, a Level 4 activation—Partial Activation—reflects organized mobilization of specialized personnel, dedicated crews, and additional resources across regions to restore service safely



## Fiscal Year 2026 Emergency Reserve Account

and efficiently. The LUMA Emergency Operations Center (LEOC) designation allows for scalable responses, the designation cannot be used as a measure for determining expected financial impact, since such considerations are not taken into account when making such determinations. Even at an Event Type and Activation Level 4, activation of the LUMA Emergency Roster (LER) and use of the LEOC represents a departure from day-to-day operations as employees are reassigned from routine tasks to emergency restoration, work shifts may be modified, and specialized materials and contractors may be deployed. These activities, by definition, generate extraordinary and unbudgeted costs that are not part of normal system operation nor do they, as a general matter, substitute work performed in the ordinary course of business.

Accordingly, the PREB's reliance on the Event Type 4 and Activation Level 4 classification as an indicator of non-extraordinary circumstances is improper and does not accurately reflect the operational and financial reality of the LER and LEOC activation, while also ignoring LUMA's qualified assessment that the event in question, and the expenditures incurred in connection with it, qualifies for ERA access. The activation of the LEOC—regardless of level—signifies that system reliability and public safety are at risk, triggering emergency protocols and expenditures beyond those contemplated in the approved operating budget. Use of the ERP Event Type and Activation Levels as guidelines for determining ERA access further distorts the purposes of such designations under the ERP as it would serve as an incentive for the operator in question to designate the event at a level that would most likely achieve access to the ERA, as opposed to using the criteria normally used under the ERP for such purposes. Creating such an incentive is neither prudent nor in the best interest of emergency response activities.

### 3.0 Proposed Framework for Accessing the Emergency Reserve Account

LUMA respectfully submits that the PREB should establish firm and predictable requirements for accessing the ERA. The ERA was created to provide timely financial support for extraordinary, unbudgeted events while maintaining regulatory oversight. However, in the absence of defined access parameters, the account remains effectively inaccessible, limiting its intended role as a source of emergency liquidity.

LUMA's proposal is to align its ERA access with the existing Outage Event criteria under the T&D OMA—events as a result of which (i) at least 20,500 T&D Customers are interrupted or (ii) at least 150 outage jobs for the T&D System are logged, in each case within 24-hour period and due to an act of God or, in case of a storm, a storm that is designated as such by the U.S. National Weather Service. When these conditions are met, LUMA requests that the PREB recognize the event as eligible for ERA funding, subject to review of prudence and documentation.

To the extent the PREB intends to refine ERA access criteria for future access through the Rate Case, such deliberation should not preclude adopting interim criteria that allow the ERA to function as intended. In the absence of a funded Outage Event Reserve Account, establishing clear and applicable ERA criteria is essential to ensure timely cost recovery and maintain LUMA's ability to respond effectively to extraordinary events.