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

IN RE: PUERTO RICO ELECTRIC POWER AUTHORITY RATE REVIEW	**CASE NO.:** NEPR-AP-2023-0003 **SUBJECT: Motion to Compel PREPA's response to LUMA-of-PREPA-SUPPORT-9(c)**

MOTION TO COMPEL PREPA'S RESPONSE TO LUMA-OF-PREPA-SUPPORT-9(C)

TO THE HONORABLE PUERTO RICO ENERGY BUREAU, AND ITS HEARING EXAMINER, SCOTT HEMPLING:

COME NOW LUMA Energy, LLC ("ManagementCo"), and **LUMA Energy ServCo, LLC** ("ServCo") (jointly, "LUMA"), and respectfully move for an order compelling the Puerto Rico Electric Power Authority ("PREPA") to produce the latest version of the scoping report developed by FTI Consulting, as referenced in PREPA's Certified Fiscal Plan (the "FTI Scoping Report"), which PREPA has failed to produce in response to LUMA-of-PREPA-SUPPORT-9(c):

I. Introduction and Relevant Background

1. As part of the ongoing discovery process in the captioned proceeding, on September 26, 2025, LUMA served onto PREPA a request for information identified as LUMA-of-PREPA-SUPPORT-9. Therein, LUMA requested the following:

> Please describe PREPA's efforts at balance sheet remediation that can facilitate the evolution of rate based regulatory rate making as well as access to capital markets financing.
>
> a. When does PREPA anticipate that its balance sheet remediation will be complete?
>
> b. Identify the costs included in PREPA's rate petition that supports balance sheet remediation and provide the worksheets and/or any supporting documents or analysis that show the derivation of such costs.

> c. **Provide the scoping report developed by FTI Consulting referred to in PREPA's certified fiscal plan. Please provide a detailed description of any and all conclusions, assessments, and recommendations included therein.**

See LUMA-of-PREPA-SUPPORT-9 (Emphasis ours).

2. On October 17, 2025, PREPA, by way of its Comptroller, Mr. Juan Carlos Adrover Ramírez, uploaded its response to LUMA-of-PREPA-SUPPORT-9 onto the Accion Discovery Platform. Mr. Adrover responded as follows:

> a. The process is being managed by the Puerto Rico Fiscal Agency and Financial Advisory Authority ("AAFAF"). Therefore, PREPA does not have an estimated timeframe for the completion of the accounting remediation process.
>
> b. No costs were included in PREPA's rate petition that supports balance sheet remediation. As of the date of this response, the accounting remediation process is still being conducted and managed by AAFAF.
>
> c. **See PREPA's response to part a.**

See PREPA's Response to LUMA-of-PREPA-SUPPORT-9 (Emphasis added).

3. In other words, PREPA failed to produce the FTI Scoping Report, as requested by LUMA.

4. As outlined below, LUMA seeks an order requiring PREPA to produce, within three (3) days, the latest version of the FTI Scoping Report and any attachments or appendices.

II. Motion to Compel

5. As a threshold finding, the Honorable Hearing Examiner should conclude that PREPA's response to subpart (c) of LUMA-of-PREPA-SUPPORT-9 was plainly **unresponsive**. PREPA directing LUMA to "[s]ee PREPA's response to part a" does not answer LUMA's request.

6. LUMA asked for a specific, identified document – the FTI Scoping Report – but PREPA provided none, offered no objection, and asserted no privilege. A textbook nonresponsive answer of this sort frustrates discovery and – as expounded upon below – denies the record a

document that the Energy Bureau's very experts and LUMA's witnesses have suggested is pivotal to PREPA's alignment with the Federal Energy Regulatory Commission ("FERC")'s Uniform System of Accounting ("USoA") and balance sheet reconciliation. A simple directive to produce will remedy this deficiency promptly and fairly.

7. The FTI Scoping Report is squarely relevant to issues under consideration of and subject to adjudication by the Energy Bureau. The FTI Scoping Report concerns the state of PREPA's balance sheets and the steps necessary for remediation. These topics are central to multiple contested issues.

8. The FTI Scoping Report concerns a government-administered procurement to advance statutory financial public-reporting obligations. On March 14, 2024, the Puerto Rico Department of the Treasury ("PRDT"), and Chief Financial Officer of the Government of Puerto Rico, pursuant to the Government of Puerto Rico Accounting Act, Act No. 230 of July 23, 1974, and Executive Order 2021-018, issued RFP #2024-3 to assess PREPA's accounting, develop a remediation plan, and assist in execution so that PREPA can timely produce audited financial statements in support of the Commonwealth's consolidated reporting.[1]

9. The procurement was administered by AAFAF through a request for proposals ("RFP"). Per RFP #2024-3: i) the Evaluation Committee comprised PRDT, AAFAF, and the Public-Private Partnerships Authority; ii) proposals were submitted to an AAFAF-managed address; and iii) public notices were to be made through AAFAF and PRDT. RFP #2024-3 targeted public-interest objectives, such as reconciling PREPA's trial balances, establishing milestones and timelines for audit readiness, and facilitating accurate, timely financial reporting. The FTI Scoping

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[1] *Available* at https://www.colegiocpa.com/wp-content/uploads/2024/03/RFP-Project-Management-and-Accounting-Services-PREPA-Final-3.14.24-002.pdf

Report is referenced in PREPA's Certified Fiscal Plan.[2] Its government provenance and public purpose defeat any suggestion that the FTI Scoping Report lies beyond PREPA's possession, custody, or control, and further underscore why the FTI Scoping Report should be produced in this proceeding. LUMA notes that during RFP #2024-3 process, and in response to Requests for Clarifications ("RFCs"), AAFAF and PRDT clarified that the selected proponent would work with LUMA: *"The selected proponent(s) will work with PREPA (**including its agent, LUMA Energy ServCo**), PRDT, AAFAF, the Public-Private Partnerships Authority, and any other entity authorized by the Government and as established in the corresponding agreement(s) under this RFP."*[3]

10. The document is important for the Energy Bureau to be able to do its job. First, the Energy Bureau's rate case framework expects use of accounting that is consistent, to the extent feasible, with the FERC USoA. LUMA's ability to implement the USoA depends materially on the status and remediation of PREPA's legacy accounting records and the reconciliation of PREPA's balance sheet. The prefiled testimony of LUMA Chief Financial Officer, Mr. Andrew Smith, explains that the lack of a reconciled, current balance sheet constrains USoA presentation today, and that moving to USoA alignment turns on completing balance sheet remediation. *See* LUMA Ex. 2.0, Questions 38 through 40, at pp. 34-35. The FTI Scoping Report bears directly on that path, scope, sequence, and timing.

11. Second, the Energy Bureau's consultants, by way of the Expert Report of Ralph C. Smith and Mark S. Dady, expressly recommend the Bureau require LUMA and PREPA to work

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[2] *See* LUMA Ex. 1.01, Section 3.3.4, *Remediation of PREPA Financial Records*, at pp. 40-41 (*referencing* a Phase 1 Report that at the time, was underway).

[3] *Available* at https://docs.pr.gov/files/AAFAF/Administrative_Documents/RFPs%20_%20RFQs/2024/MARCH/Not-Resp-PCR-and-Questions-RFP-2024-3.pdf?csf=1&web=1&e=FKwFMG, at p. 7 (Emphasis added).

together to produce a reconciled balance sheet conforming with USoA guidance by June 30, 2026, citing Andrew Smith's testimony. *See* PC Ex. 62, Section II, at pp. 3-7. LUMA understands that the FTI Scoping Report is a foundational scoping work that informs what reconciliation entails, with what dependencies, and on what timeframe. The document will help the Energy Bureau evaluate the feasibility of that milestone and the steps required to meet it.

12. Third, the Energy Bureau is considering whether and when FERC accounting can be implemented, and what costs may be associated with that effort. Without a clear understanding of the current condition of PREPA's financials and the remediation steps identified by FTI, neither LUMA nor the Energy Bureau can reliably opine on the readiness or cost to transition to USoA-based accounting.

13. Fourth, Section VI(B)(1) of Annex I to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement ("T&D OMA") requires LUMA, in performing the O&M Services, to maintain a complete and separate set of financial and accounting records in accordance with GAAP and other applicable standards, including the FERC USoA. Without access to the scoping work reflected in the FTI Scoping Report LUMA is hindered in defining, sequencing, and implementing the remediation steps required to align its accounting and reporting processes with the T&D OMA's requirements. Production of the FTI Scoping Report therefore bears directly on LUMA's contractual compliance and the Energy Bureau's ability to evaluate USoA and GAAP alignment.

14. Fifth, the FTI Scoping Report will illuminate the basis for balances recorded historically, including the integrity of inherited CC&B data and accounts receivable. That information is necessary for assessing collectability, establishing a reliable bad-debt factor, and

ensuring appropriate treatment of legacy receivables. It also speaks to any observed deficiencies in financial statements that, by implication, affect LUMA's financial reporting as PREPA's agent.

15. Sixth, the Energy Bureau has raised the potential transition to a rate base methodology over time. LUMA cannot produce a T&D-only balance sheet suitable for rate base ratemaking without an understood, reconciled PREPA balance sheet as a starting point. LUMA understands that the FTI Scoping Report addresses the steps to get there.

16. Put simply, the FTI Scoping Report is relevant, noncumulative evidence that will materially aid the Hearing Examiner and the Energy Bureau in setting just and reasonable rates, establishing credible USoA compliance milestones, and assessing the practicality and timing of any accounting transition.

17. The reference in PREPA's Certified Fiscal Plan to the FTI Scoping Report establishes at a minimum PREPA's knowledge of, and practical access to, the document and the status of remediation efforts. PREPA should be required to produce the report or information within its possession, custody, or control regarding FTI's findings, or to promptly coordinate with AAFAF to secure its release. If PREPA believes the report contains sensitive information, the confidentiality framework established in this proceeding is available. None of the above, however, justifies outright nonproduction.

18. Lastly, the burden of production is minimal. PREPA either has the FTI Scoping Report or can obtain it promptly from AAFAF, PREPA's fiscal agent,[4] or from the Federal

[4] AAFAF, founded pursuant to the *Puerto Rico Fiscal Agency and Financial Advisory Authority Act,* Act 2-2017, was created for the "purpose of acting as fiscal agent, financial advisor, and reporting agent of all entities of the Government of Puerto Rico and to assist such entities in facing the serious fiscal and economic crisis that Puerto Rico is currently undergoing." *See* PR Laws Ann. Tit. 3 § 9365(a) (2025); 3 LPRA § 9365(a) (2025). Likewise, "the Authority shall be the government entity charged with supervising, executing, and administering the Fiscal Plan approved and certified in accordance with PROMESA and shall ensure that all the entities of the Executive Branch comply with the duly approved Fiscal Plan". *Id*., § 9365(b) (2025). In order to achieve its purposes, the Authority was

Oversight and Management Board, PREPA's exclusive title III representative. The document bears directly on multiple central issues and will reduce speculation about readiness, timelines, and cost by anchoring those questions to FTI's scoping work. Production will promote efficiency by avoiding repeated motion practice and allowing the Energy Bureau to tie any USoA or accounting-related directives to the actual state of PREPA's financial records.

19. LUMA appreciates the Hearing Examiner's efforts to keep discovery collaborative and efficient. This Motion to Compel is submitted to aid the Hearing Examiner in identifying a practical, collaborative mechanism to secure this plainly relevant document for use in the pending permanent-rate phase of the captioned proceeding and to facilitate the Energy Bureau's oversight of accurate, USoA-consistent accounting.

WHEREFORE, LUMA respectfully requests that the Energy Bureau and its Hearing Examiner **take notice** of the aforementioned and enter an order that:

a. Compels PREPA to produce the latest version of the FTI Scoping Report, as requested by LUMA by way of LUMA-of-PREPA-SUPPORT-9(c), within three (3) days;

b. To the extent PREPA contends it does not have possession, custody, or control of the FTI Scoping Report, directs PREPA to promptly coordinate with AAFAF to obtain and produce said document;

c. Provides that, if PREPA fails to produce the latest version of the FTI Scoping Report within the prescribed time, the Hearing Examiner may consider additional remedies as appropriate;

d. Grants such other and further relief as deemed just and proper.

RESPECTFULLY SUBMITTED.[5]

"conferred, and shall have and may exercise, all the rights and powers as are necessary or convenient to carry out such purposes", as outlined in Section 5(c) of Act 2-2017. *Id*., § 9365(c) (2025).

[5] 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

In San Juan, Puerto Rico, this 5th day of November, 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; alexis.ramsey@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; roger@maxetaenergy.com; Shadi@acciongroup.com; Gerard.Gil@ankura.com; Jorge.SanMiguel@ankura.com; Lucas.Porter@ankura.com; gerardo_cosme@solartekpr.net; jrinconlopez@guidehouse.com; kara.smith@weil.com; varoon.sachdev@whitecase.com;

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mandatory). In compliance with the Energy Bureau's standing directives regarding accessibility and ensuring citizen participation, LUMA is hereby submitting the corresponding Spanish-language summary of this Motion to Compel. *See* Exhibit 1.

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Exhibit 1

Moción para Compeler Respuesta de PREPA a LUMA-de-PREPA-SUPPORT-9(c) y producción del Informe de FTI
Presentada por LUMA Energy, LLC, and LUMA Energy ServCo, LLC

Mediante la presente Moción, LUMA Energy, LLC y LUMA Energy ServCo, LLC (conjuntamente, "LUMA") solicitan al Negociado de Energía de Puerto Rico que ordene a la Autoridad de Energía Eléctrica ("AEE") la producción de la versión más reciente del informe de contabilidad preparado por FTI Consulting ("Informe de FTI"), al que se ha referencia en el Plan Fiscal certificado de la AEE.

Como cuestión de umbral, LUMA sostiene en la Moción que la AEE incumplió con la solicitud de información LUMA-of-PREPA-SUPPORT-9(c), pues su respuesta fue no responsiva. LUMA requirió un documento específico – el Informe de FTI –, y la AEE ni lo produjo ni presentó objeciones o reclamos de privilegio. Esa omisión obstaculiza el descubrimiento y priva al expediente de una pieza probatoria clave.

A renglón seguido, se explica en la Moción por qué el Informe de FTI es directamente pertinente a las cuestiones que el Negociado de Energía debe adjudicar en el proceso de revisión de tarifas. El Informe de FTI aborda el estatus los estados financieros de la AEE, la reconciliación de la hoja de balance y los pasos de remediación necesarios para alinear la contabilidad con el "Uniform System of Accounts" ("USoA", por sus siglas en inglés) de la Comisión Federal Reguladora de Energía ("FERC", por sus siglas en inglés) y con los Principios de Contabilidad Generalmente Aceptados ("GAAP", por sus siglas en inglés), conforme al marco del caso y las obligaciones contractuales del *Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement* ("T&D OMA" por sus siglas en inglés). Evidencia que consta en el expediente – tanto del testimonio del Director de Finanzas de LUMA ("Chief Financial Officer"), Andrew Smith, como de uno de los informes preparados por los consultores del Negociado de Energía – señala la necesidad de completar la remediación para viabilizar el alineamiento con el USoA y recomienda un hito de balance reconciliado para el 30 de junio de 2026. El Informe de FTI – por su alcance, secuencia y cronogramas – informaría la viabilidad de la transición contable, así como los costos asociados.

Por otra parte, en la Moción se explica que el Informe de FTI se generó en el contexto de un proceso competitivo de solicitud de propuestas ("RFP," por sus siglas en inglés) RFP #2024-3, emitido por el Departamento de Hacienda y administrado por la Autoridad de Asesoría Financiera y Agencia Fiscal de Puerto Rico ("AAFAF"), con propósitos públicos definidos: reconciliar "trial balances", establecer hitos y cronogramas para auditoría, y facilitar reportes financieros precisos y oportunos. El RFP preveía coordinación con la AEE y su agente LUMA. En la Moción se argumenta que el documento está dentro de la "posesión, custodia o control" práctico de la AEE o que, en su defecto, la AEE debe gestionar obtenerlo. Además, si el informe contuviera información sensible, el caso de revisión de tarifas dispone de un marco de confidencialidad idóneo, por lo que no hay base para su no producción.

De igual forma, la moción detalla las razones por las que el Informe de FTI incide directamente en la supervisión regulatoria y el cumplimiento contractual de LUMA: la implementación de USoA y GAAP bajo el T&D OMA. Sin el informe, ni el Negociado de Energía ni LUMA pueden evaluar con precisión el estado actual, la ruta de remediación y los costos para la transición contable.

En la Moción, LUMA solicita que el Negociado le ordene a la AEE producir la versión más reciente del Informe de FTI y sus anexos en el período de tres días. Si la AEE aduce que no tiene posesión, custodia o control del referido Informe, LUMA solicita que se le requiera coordinar inmediatamente con AAFAF para obtener y producir el documento y que se deje abierta la posibilidad de imponer remedios adicionales en caso de incumplimiento.