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

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| **IN RE:** PUERTO RICO ELECTRIC POWER AUTHORITY RATE REVIEW | **CASE NO.:** NEPR-AP-2023-0003<br><br>**SUBJECT**: **Request for Confidential Treatment of Portions of Responses to Follow-up Request of Information to PC-OF-LUMA-CAPEX-30** |

**REQUEST FOR CONFIDENTIAL TREATMENT OF PORTIONS OF RESPONSES TO FOLLOW-UP REQUEST OF INFORMATION TO PC-OF-LUMA-CAPEX-30**

**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 the follow-up to discovery request follow-up question to the PC-OF-LUMA-CAPEX-30 response contain personal identifiers 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 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 various technical conferences and requests for information – aimed at receiving participants' respective insights and concerns with regard 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 Puerto Rico Electric Power Authority ('PREPA')." *See* February 12th Order, p. 1.[1]

In what is pertinent to the present request, 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"[2], 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[3], 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:

[1] Although not relevant to the present request, LUMA notes that the filing requirements issued by this Energy Bureau through its February 12th Order were later modified by way of orders issued on February 27, 2025, March 24, 2025, April 21, 2025, April 25, 2025, May 29, 2025 and, most recently, on June 11, 2025.

[2] *See* February 12th Order, p. 10.

[3] Known as the "Puerto Rico Energy Transformation and RELIEF Act" (hereinafter, "Act 57-2014").

> 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.[4]

*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 Critical Energy Infrastructure Information ("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.

LUMA submitted responses to a follow-up request for information identified as PC-OF-LUMA-CAPEX-30. The supporting files to the responses, identified as PC-OF-LUMA-CAPEX-30-Attachment_1, contain personal identifiers, which garner confidentiality protections.

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.

LUMA is submitting this memorandum of law that outlines and explains the legal basis for the confidential treatment of the attachment of the PC-OF-LUMA-CAPEX-30 response.

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

[4] Lastly, the February 12th Order states that the "Energy Bureau's staff having access to Confidential Information will follow the *Puerto Rico Energy Bureau's Internal Guidelines for the Treatment of Confidential Information*." *See* February 12th Order, p. 10.

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[5] further provides 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).

[5] Known as the "Puerto Rico Energy Public Policy Act" (hereinafter, "Act 17-2019").

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 Validated Confidential Information:

> 1. Trade Secret Information
>
> Any document designated by the [Energy Bureau] as Validated Confidential Information on the grounds that it is a trade secret pursuant to Act 80-2011 may only be accessed by the Producing Party and the [Energy Bureau], unless otherwise set forth by the [Energy Bureau] or any competent court.
>
> 2. Critical Energy Infrastructure Information ("CEII")
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> 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.
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> 3. Attorney-Client Privilege
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> A designation of "attorney-client privilege" or attorney work-product will be evaluated by an Administrative Law Judge ("ALJ") appointed by the [Energy Bureau], and who will have the role of evaluating these types of claims. The [Energy Bureau] will delegate in this ALJ the authority to evaluate and determine the validity of claims of such nature.
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> The ALJ will notify its final determination to all parties in a proceeding before the [Energy Bureau]. Said decision will be final and will be subject to reconsideration and/or judicial review pursuant to the Uniform Administrative Procedure Act. In call the ALJ determines that the confidentiality claims are not warranted, that information related to the ALJ's determination will be disclosed in thirty (30) days from the notification of the determination, unless the Producing Party obtains another remedy or seeks reconsideration and/or judicial review.
>
> In cases when, in evaluating a document, the ALJ accepts certain confidentiality claims but rejects others, the ALJ may propose to disclose a redacted version of the document in which Validated Confidential Information is redacted, while information rejected confidentiality treatment is disclosed. In those cases, the ALJ, in notifying its determination, will provide a copy of the document as redacted by the ALJ so that the Producing Party has the opportunity to revise it and accept or object to the ALJ's determination.
>
> Any document that the ALJ validates as Confidential Information because it is protected under the attorney-client privilege or because it is attorney work-product will not be available to any party, to the [Energy Bureau], or to the general public.

*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

LUMA's response to the follow-up question for PC-OF-LUMA-CAPEX-30 includes the names, signatures, and/or roles of individuals who are or were LUMA employees, as well as names and information of third parties. Protecting this information is in the public interest and aligned with Puerto Rico's legal framework on privacy, which protects from the disclosure of personal information. *See e.g.*, Const. ELA, Art. II, Sections 8 and 10, which protect the right to control personal information and distinctive traits, which apply *ex proprio vigore* and against private parties. *See also e.g. Vigoreaux v. Quiznos*, 173 DPR 254, 262 (2008); *Bonilla Medina v. P.N.P.*, 140 DPR 294, 310-11 (1996), *Pueblo v. Torres Albertorio*, 115 DPR 128, 133-34 (1984). *See also* Act 122-2019, Articles 4(vi) and (xi), 3 LPRA § 9894 ((providing that the following information is excepted from public disclosure: information the disclosure of which could invade the privacy of third parties or affect their fundamental rights, as well as any type of information related to the street address, telephone number, emergency contact information, social security number, credit card number, tax and/or financial information, bank activity, confidential information of private third parties, trade secrets, tax returns, debt, or pin number, which is collected or maintained by a governmental body).

On balance, the public interest in protecting privacy weighs in favor of providing confidential treatment. It is respectfully concluded that the redaction of the aforementioned information does not affect the public's or the Energy Bureau's review of LUMA's response to the follow-up question to PC-OF-LUMA-CAPEX-30 nor interfere with processes before this Energy Bureau. Therefore, on

balance, the public interest in protecting privacy weighs in favor of protecting the relevant portions. Accordingly, LUMA requests that such treatment be granted.

## 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 |
|---|---|---|---|
| LUMA's response to PC-of-LUMA-CAPEX-30-A*ttachment_1* | **LUMA employee names**<br>Pages 3-7, 10-17, 20-22, 29-41, 43-46, 48, 50-53, 55, 57-61, 63, 65-71, 73, 81-84, 86-87<br>**LUMA employee job titles**<br>Pages 3-4, 7, 10, 13, 15, 17, 20-22, 29, 34-35, 38-41, 44, 46, 48, 53, 55, 57, 61, 63, 65, 68-71, 73, 81, 83-84, 86<br>**LUMA employee signatures**<br>Pages 4, 10, 14, 29, 33, 34, 35, 38, 41, 45, 48, 57, 65, 70, 73, 81, 84, 86<br>**LUMA employee emails**<br>Pages 5-6, 11-12, 30-31, 36-37, 43, 50-51, 58-59, 66-67, 82, 87<br>**Contractor names**<br>Pages 2-3, 7-9, 14-25, 28-29, 32-34, 39-41, 46-48, 53-54, 56-57, 61-62, 64-65, 71-72, 74-79, 84-85<br>**Contractor employee names**<br>Pages 9, 74, 75 | Right to privacy (*see e.g.*, Const. ELA, Art. II, Sections 8 and 10) | October 6, 2025 |

| Document | Confidential Portions | Legal Basis for Confidentiality | Date Filed |
|---|---|---|---|
| | **Contractor' Corporation's register number**<br><br>Pages 28, 41, 79 | | |

**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 response to PC-OF-LUMA-CAPEX-30 under seal of confidentiality.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 11th 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 Motion 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***

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