

**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 LUMA Ex. 1074

REQUEST FOR CONFIDENTIAL TREATMENT OF LUMA EX. 1074

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

1. LUMA respectfully submits this Motion requesting that the Honorable Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) determine that certain portions of LUMA Ex. 1074 contain single line diagrams constituting Critical Energy Infrastructure Information that garners protection from public disclosure in accordance with applicable federal statutes and regulations. As set forth below, applicable legal authority compels the relief requested herein.

II. Procedural Background

2. 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.

3. 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”, 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”).

4. Furthermore, the February 12th Order states that the Energy Bureau will decide each confidentiality claim expeditiously and will, in accordance with Article 6.15 of Act No. 57-2014, 22 LPRA § 1054n (2025), proceed if it deems 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.

5. In what is pertinent to this memorandum, the evidentiary hearings for this captioned proceeding were held from November 12, 2025, through December 19, 2025. Throughout said

hearings, the Energy Bureau’s Commissioners, the Honorable Hearing Examiner, and the Energy Bureau’s Consultants issued a series of requests for information that would later take the form of bench orders. Per the Hearing Examiner’s guidance, compliance with these bench orders would come by way of *late-filed exhibits* filed by the respective parties. Following the conclusion of the evidentiary hearings, on December 22, 2025, the Hearing Examiner issued an Order on Exhibits, Miscellaneous Post-Hearing Matters, and Legal Issues (“December 22nd Order”), identifying all pending bench orders and setting January 5, 2025 as the deadline for parties to comply with the same.

6. On December 30, 2025, the LUMA submitted its response to one of the Hearing Examiner’s bench orders,¹ by way of the LUMA Ex. 1074, filed through the Accion Evidentiary Platform. The referenced response includes single-line diagrams constituting confidential Critical Energy Infrastructure Information that must not be made publicly available, according to the applicable law.

7. 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 attachment mentioned above. These actions have been taken to protect the information considered confidential. LUMA is hereby submitting this memorandum of law that outlines and explains the legal basis for the confidential treatment of LUMA Ex. 1074.

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

¹ Specifically, the bench order captured in the 6th Row of Appendix to December 22nd Order, <https://energia.pr.gov/wp-content/uploads/sites/7/2025/12/20251222-AP20230003-Hearing-Examiners-Order-on-Exhibits-Miscellaneous.pdf>. (“Do the design plans for relocation of the Jobos substation specify a ring bus or breaker-and-a -half configuration? And once the work on Jobos substation is complete, what additional work would be required for two IPPs, each to interconnect a 100 MW solar facility? (specify what additional elements would be required)”).

8. 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).

9. In connection with the duties of electric power service companies, Section 1.10(i) of Act 17-2019 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).

10. 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 need 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).

11. 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 identifying the confidential information, a summary of the legal basis for the confidential designation, and a summary of the reasons each claim or designation meets the applicable legal basis for confidentiality. *Id.*, paragraph 3. The party that seeks confidential treatment of information filed with the Energy Bureau must also file both a "redacted" or "public version" and an "unredacted" or "confidential" version of the document that contains confidential information. *Id.*, paragraph 6.

12. The Energy Bureau's Policy on Confidential Information also states the following with regards to access to trade secret information once determined to be 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).

13. 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

14. Under Act No. 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.” PR Laws Ann. Tit. 3 § 10124(p) (2024), 3 LPRC § 10124(p) (2025).² 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 (2025), state that:

Critical energy infrastructure information means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that:

² With regards to Act 40-2024’s applicability to LUMA, as Operator of the T&D System, said statute provides the following:

The provisions of this chapter shall apply to the Executive Branch including all departments, boards, instrumentalities, commissions, bureaus, offices, agencies, administrations or bodies, political subdivisions, public corporations, and municipalities. **It shall likewise apply to every natural or juridical person doing business or having contracts with the Government including, but not limited to, private persons performing public services and duties**, but only with respect to the public services and duties being performed; any public or private administration exercise in which public resources or funds were committed or invested (directly or indirectly), or in which any public servant exercised his authority with regards to the data collected as a result of such activities.

Section 2 of Act 40-2024, PR Laws Ann. Tit. 3 § 10122, 3 LPRC § 10122 (2025) (emphasis ours).

- (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.

15. 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.*

16. The Critical Infrastructure Information Act of 2002, 6 U.S.C. §§ 671-674 (2025), part of the Homeland Security Act of 2002, protects critical infrastructure information (“CII”).³

³ Regarding protection of voluntary disclosures of critical infrastructure information, 6 U.S.C. § 673, provides in pertinent part, that CII:

- (A) shall be exempt from disclosure under the Freedom of Information Act;
- (B) shall not be subject to any agency rules or judicial doctrine regarding ex parte communications with a decision making official;
- (C) shall not, without the written consent of the person or entity submitting such information, be used directly by such agency, any other Federal, State, or local authority, or any third party, in any civil action arising under Federal or State law if such information is submitted in good faith;
- (D) shall not, without the written consent of the person or entity submitting such information, be used or disclosed by any officer or employee of the United States for purposes other than the purposes of this part, except—
 - (i) in furtherance of an investigation or the prosecution of a criminal act; or
 - (ii) when disclosure of the information would be—
 - (I) to either House of Congress, or to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee thereof or subcommittee of any such joint committee; or
 - (II) to the Comptroller General, or any authorized representative of the Comptroller General, in the course of the performance of the duties of the Government Accountability Office;
- (E) shall not, be provided to a State or local government or government agency; of information or records;
 - (i) be made available pursuant to any State or local law requiring disclosure of information or records;
 - (ii) otherwise be disclosed or distributed to any party by said State or local government or government agency without the written consent of the person or entity submitting such information; or

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. § 650 (4) (2025); 6 U.S.C. § 671 (3).⁴

17. LUMA Ex. 1074 includes two (2) single line diagrams containing: the existing Jobos Transmission Center 115 kV six-breaker ring bus with six services (Figure 2-2); and the proposed 115 kV breaker-and-a-half bus with an associated 38 kV double-bus (Figure 2-3). These diagrams, and their explanatory narratives, contain details on design and/or engineering information of critical electric system assets. The information in these diagrams, if disclosed, may reveal vulnerabilities of the electric system. Therefore, these diagrams and their related narratives constitute CEII that garners protection from public disclosures pursuant to federal statutes and regulations. See e.g., 6 U.S.C. §§ 671-674; 18 C.F.R. § 388.113 (2020).

18. The CEII designation of these diagrams and their explanatory narratives is a reasonable and necessary measure to protect critical infrastructure and enable LUMA to leverage the information and assessment on critical infrastructures without external threats. Given the importance of ensuring the safe and efficient operation of the generation assets and the T&D

(iii) be used other than for the purpose of protecting critical Infrastructure or protected systems, or in furtherance of an investigation or the prosecution of a criminal act.

(F) does not constitute a waiver of any applicable privilege or protection provided under law, such as trade secret protection.

⁴ CII includes the following types of information:

(A) actual, potential, or threatened interference with, attack on, compromise of, or incapacitation of critical infrastructure or protected systems by either physical or computer-based attack or other similar conduct (including the misuse of or unauthorized access to all types of communications and data transmission systems) that violates Federal, State, or local law, harms interstate commerce of the United States, or threatens public health or safety;

(B) the ability of any critical infrastructure or protected system to resist such interference, compromise, or incapacitation, including any planned or past assessment, projection, or estimate of the vulnerability of critical infrastructure or a protected system, including security testing, risk evaluation thereto, risk management planning, or risk audit; or

(C) any planned or past operational problem or solution regarding critical infrastructure or protected systems, including repair, recovery, construction, insurance, or continuity, to the extent it is related to such interference, compromise, or incapacitation.

6 U.S.C. § 650 (4).

System, LUMA respectfully submits that this information constitutes CEII that should be maintained confidentially to safeguard their integrity and protect them from external threats.

19. It is respectfully submitted that the protection of the confidential information discussed above does not affect the public's and the Energy Bureau's review of LUMA Ex. 1074, nor does it interfere with processes before this Energy Bureau. Therefore, on balance, the public interest to protect privacy and protect CEII, weighs in favor of protecting the relevant portions of LUMA Ex. 1074 from disclosure. Accordingly, LUMA requests that such treatment be granted.

V. Identification of Confidential Information within LUMA Ex. 1074

20. 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
<i>LUMA Ex. 1074</i> Late Filed Exhibit, Bench Order of November 14, 2025	Page 3: Figure 2-2, Jobos Transmission Center – Existing SLD, and related narrative. Page 4: Figure 2-3, Jobos Transmission Center – Proposed SLD, and related narrative.	Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674. Contains line diagrams which show details of engineering and/or design information of a critical electric system asset.	December 30, 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 Ex. 1074 under seal of confidentiality.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 30th day of December, 2025.

WE HEREBY CERTIFY that this Memorandum was filed using the electronic filing system of this Energy Bureau and that electronic copies of this Memorandum 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, m vazquez@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; mrrios@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;

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