

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

NEPR

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**IN RE: PUERTO RICO ELECTRIC
POWER AUTHORITY RATE REVIEW**

CASE NO.: NEPR-AP-2023-0003

**SUBJECT: Request for Confidential
Treatment of Portions of *PC-of-LUMA-
NONPHYS_OPS-38.1 Attachment_1***

**REQUEST FOR CONFIDENTIAL TREATMENT OF PORTIONS OF PC-OF-LUMA-
NONPHYS_OPS-38.1 ATTACHMENT_1**

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 *PC-of-LUMA-NONPHYS_OPS-38.1 Attachment_1* contain insurance premium costs that must be protected from public disclosure, pursuant to the widely recognized right to confidentiality of trade secret information. 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. 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.

6. In what is pertinent to this memorandum, on August 22, 2025, LUMA submitted a response to a request for information (“ROI”) identified as *PC-OF-LUMA-NONPHYS_OPS-38*. Thereafter, on September 11, 2025, the Energy Bureau’s consultants posed a follow-up question to LUMA, which LUMA answered on September 24, 2025. The response included an attachment identified as *PC-OF-LUMA-NONPHYS_OPS-38.1_Attachment_1*, which includes confidential information that must not be made publicly available.

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.

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

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:

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.

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 the *Industrial and Trade Secret Protection Act of Puerto Rico*, Act 80-2011, 10 LPRA §§ 4131-4144, industrial or trade secrets are deemed to be any information:

- (a) That has a present or a potential independent financial value or ***that provides a business advantage***, insofar as such information is not common knowledge or readily accessible through proper means by persons who could make a monetary profit from the use or disclosure of such information, and
- (b) for which reasonable security measures have been taken, as circumstances dictate, to maintain its confidentiality

Id. § 4132, Section 3 of Act 80-2011. (Emphasis added).

15. Trade secrets include, but are not limited to, processes, methods, and mechanisms, manufacturing processes, formulas, projects, or patterns to develop machinery, and lists of specialized clients that may afford an advantage to a competitor. *See Statement of Motives, Act 80-2011.* As explained in the Statement of Motives of Act 80-2011, protected trade secrets include any information bearing commercial or industrial value that the owner reasonably protects from disclosure. *Id; see also* Section 4(x) of the *Puerto Rico Open Government Data Act*, Act 122-2019, 3 LPRA § 9894 (exempting the following from public disclosure: (1) commercial or financial information whose disclosure will cause competitive harm).

16. The Puerto Rico Supreme Court has explained that the trade secrets privilege protects free enterprise and extends to commercial information that is confidential in nature. *Ponce Adv. Med. v. Santiago Gonzalez*, 197 DPR 891, 901-02 (2017); *see also* *Next Step Medical Co. v. MCS Advantage Inc.*, KLCE201601116, 2016 WL 6520173 (P.R. Court of Appeals, September 13, 2016) (holding that in Puerto Rico, what constitutes trade secrets is evaluated applying a broad definition). A trade secret includes ***any and all information*** (i) from which a real or potential value or economic advantage may be derived; (ii) that is not common knowledge or accessible through other means; and (iii) as to which reasonable security measures have been adopted to keep the information confidential. *Ponce Adv. Medical*, 197 DPR, at p. 906.

17. Pursuant to Act 80-2011 and the applicable legal standards governing the protection of trade secrets and proprietary information, LUMA respectfully requests confidential treatment of those portions of *PC-OF-LUMA-NONPHYS OPS-38.1 Attachment 1* that identify the premium costs of all of LUMA's insurance coverages. These premium costs constitute trade secrets within Section 3 of Act 80-2011, as they provide a business advantage by virtue of not being generally known or readily accessible to competitors or the public. Moreover, reasonable measures have been taken to maintain the confidentiality of this information, consistent with statutory requirements.

18. In addition to undermining public policy favoring the protection of commercially valuable confidential information, disclosure of these premium costs would risk causing harm to LUMA by stifling future competitive processes and potentially increasing costs since insurance providers will have had the benefit of seeing monies previously expended by LUMA on insurance services. Accordingly, LUMA requests that the Energy Bureau grant confidential treatment to these portions of *PC-OF-LUMA-NONPHYS OPS-38.1 Attachment 1* to safeguard the integrity of trade secrets, ensure compliance with the statutory protections afforded under Puerto Rico law, and secure the orderly conduct of future acquisitions and competitive processes related to insurance services.

19. It is respectfully concluded that the redaction of the aforementioned information does not affect the public's or the Energy Bureau's review of *PC-OF-LUMA-NONPHYS OPS-38.1 Attachment 1* nor interfere with the captioned proceeding before this Energy Bureau. Therefore, on balance, the public interest weighs in favor of protection. Accordingly, LUMA requests that such treatment be granted.

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

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>PC-of-LUMA-NONPHYS_OPS-38.1 Attachment_1</i>	Information in columns labeled: Premium, Limits and Deductibles	Trade Secret, Act 80-2011, 10 LPRA §§ 4131-4144	November 18, 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 *PC-of-LUMA-NONPHYS_OPS-38.1 Attachment_1* under seal of confidentiality.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 29th 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@sbgbaw.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*, hriovera@jrsp.pr.gov; contratistas@jrsp.pr.gov; pvazquez.oipc@avlawpr.com; *Co-counsel for Instituto de Competitividad y Sustentabilidad Económica*, jporoman@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*

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