

**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. 1078 & 1079

**REQUEST FOR CONFIDENTIAL TREATMENT OF LUMA EX. 1078 & 1079
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 the documents filed in support of LUMA Ex. 1078 and 1079 contain personal identifiers which must be protected from public disclosure, pursuant to the widely recognized right to privacy. 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 January 5, 2026, LUMA submitted its responses to two (2) of the Hearing Examiner’s bench orders,¹ by way of the LUMA Ex. 1078 and 1079, filed through the Accion Evidentiary Platform. The documents that accompany the referenced responses contain personal identifiers which must not be made publicly available, pursuant to the widely recognized right to privacy.

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. 1078 and 1079.

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

¹ Specifically, the bench orders captured in the 7th Row of the 1st page, and the 10th Row of the 2nd page of the 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>. (“Provide any contract for emergency restoration work / Contracts LUMA has given to affiliates”) & (“LUMA conflicts policy - 9 pg. document Saca referenced”), respectively.

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. 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

a. Right to Privacy

13. Portions of documents filed in support of LUMA Ex. 1078 and 1079 as identified in Section V of this memorandum, include personal identifiers such as names, addresses and signatures. LUMA respectfully requests that this protected information be maintained confidentially, given that disclosure raises the risk of misuse. The confidential treatment of this personal and sensitive 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 applies *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*, Article 4(vi) of the "Puerto Rico Open Government Data Act," Act No. 122-2019, 3 LPRA § 9894 (2025) (listing as an exception to the rule on public disclosure, "[i]nformation that, if disclosed, could constitute an invasion of privacy of a third party, or impair the fundamental rights of said third party").

14. 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 responses to the Hearing Examiner's bench orders, 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 Ex. 1078 & 1079

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. 1078</i> Late Filed Exhibit, Bench Order of December 8, 2025 Document titled <i>Conflict-of-Interest Policy</i>, Page	Signatures Pages 2 and 13	Right to privacy (<i>see e.g.</i> , Const. ELA, Art. II, Sections 8 and 10)	January 5, 2026
<i>LUMA Ex. 1079</i> Late Filed Exhibit, Bench Order of November 17, 2025 Emergency Restoration Contract (2026-L00039)	Names, addresses, signatures Pages 12, 14 and 19	Right to privacy (<i>see e.g.</i> , Const. ELA, Art. II, Sections 8 and 10)	January 5, 2026

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. 1078 and 1079 under seal of confidentiality.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 5th day of January, 2026.

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, mvazquez@vvlawpr.com; ratecase@genera-pr.com; regulatory@genera-pr.com; and

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