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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**: **LUMA's Motion for Reconsideration**

LUMA'S MOTION FOR RECONSIDERATION OF FINAL RATE ORDER

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

On April 15, 2026, the Puerto Rico Energy Bureau ("Energy Bureau") issued a Final Resolution and Order on Electricity Rates ("Final Rate Order") in this proceeding, Case No. NEPR-AP-2023-0003. As set forth below, critical portions of the Final Rate Order warrant reconsideration.

LUMA hereby respectfully requests reconsideration of the following determinations of the Final Rate Order: (i) the three-category framework for classifying capital projects; (ii) the directive to return unspent NFC funds, which is internally inconsistent with the budget oversight framework and LUMA's contractual flexibility to reallocate funds within a 5% threshold; (iii) fee caps and reporting requirements applicable to legal costs and the denial of Title III costs; (iv) the denial of $30 million to fund the Outage Event Reserve Account ("OERA"), a mandatory contractual mechanism under the Puerto Rico Transmission and Distribution System Operation and

Maintenance Agreement ("T&D OMA"); (v) the denial of capital costs to acquire meters for Net Energy Metering customers; (vi) the monthly reporting cadence on vegetation management; and (vii) factual determinations that are not supported by the record or are contrary to substantial evidence and must be reconsidered.

II. Applicable Standards

This Motion for Reconsideration is ruled by Section 11.01 of Energy Bureau Regulation 8543, which provides that: "[a]ny party dissatisfied with the Commission's final decision may file a motion for reconsideration before the Commission, which shall state in detail the grounds supporting the petition and the remedy that, according to petitioner, the Commission should have granted." PREB, Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings, No. 8543, Section 11.01 (Dec. 18, 2014). Section 11.01 of Regulation 8543 adds that this request shall be filed and served in accordance with the terms and provisions of the Puerto Rico Uniform Administrative Procedure Act, Act No. 170 of August 12, 1988, which was repealed and substituted by Act 38-2017, known as the LPAU. PR Laws Ann. Tit. 3 §§ 9601-9713, 3 LPRA §§ 9601-9713 (2026). The LPAU states on Section 3.15, 3 LPRA § 9655 (2026), that a party adversely affected by a partial or final resolution or order may request reconsideration within 20 days of the notification of the resolution or order.

While broad deference is afforded to an agency's determinations in recognition of their presumed expertise, a standard of reasonableness applies, which consists of determining whether the agency acted in an arbitrary or illegal manner, or so unreasonably that its actions constitute an abuse of discretion. *See Graciani Rodríguez v. Garage Isla Verde*, 202 DPR 117, 126-127 (2019) (citing cases). Factual determinations made by an agency in an adjudicative proceeding will be sustained only if supported by substantial evidence in the administrative record, or such relevant

evidence that a reasonable mind might accept as adequate to support a conclusion. *See Otero Mercado v. Toyota de Puerto Rico*, 163 DPR 716, 728 (2005); PR Laws Ann. Tit. 3 § 9675, 3 LPRA § 9675 (2026).

III. Discussion

A. The Energy Bureau should reconsider the three-category standard for excluding needed capital investments from base rates.

In the Final Rate Order this Energy Bureau acknowledges the dire state of Puerto Rico's Transmission and Distribution System ("T&D System"). The Energy Bureau found that "[p]oor conditions exist throughout the electric system: generation, transmission, distribution, substations, and financial recordkeeping" and recognized that years of underspending have left the system "unreliable and in disrepair." *See* Final Rate Order, Chapter One at 1. It further found that transmission infrastructure faces "an unsustainable trend of emergent failures" and that thousands of critical conditions exist across the system, that over 25 substation transformers are currently out of service and another 50 are in critical condition. *Id.* at 2-3. Despite these findings, the Energy Bureau opted to deny hundreds of millions of dollars in needed capital investments from base rates on the expectation that federal funding will materialize in the necessary amounts and on the necessary timeline.

The evidentiary record overwhelmingly demonstrates that relying on Federal Emergency Management Agency ("FEMA") funds as a substitute for rate-base capital to address immediate system reliability needs is neither prudent nor practicable. LUMA's Chief Financial Officer, Mr. Andrew Smith, testified that LUMA's "single biggest obstacle to performing work today is [lack of] money," Tr. 12/18, 428:6-7, that FEMA-obligated fund balances "reflect reserved federal authority to fund work, not cash on hand," Ex. 79, 24:523-525, and that normal procedures require project costs to be advanced using LUMA's own capital before reimbursement conditions can be

satisfied. *Id.*, 24:527-528. Mr. Smith further warned that "[w]ithout being bridged by NFC funds, there would be pauses in the work performed with significant schedule and budget ramifications." *Id*., 26:574-576. LUMA's expert witness Jack Shearman recommended that PREB "[r]esist the temptation to use FEMA funds to offset . . . NFC funds" because federal funds are meant to accelerate the repair and rebuilding of the system, not to suppress rates. Tr. 11/17, 499:9-17, 515:19-25; 516:1-13. The Energy Bureau's own expert, Eng. Guímel Cortés, confirmed that FEMA processes are subject to delays and that the time from damage assessment to formal funding obligation can range from **months to years.** *See* Final Rate Order, Chapter One at 20 (*citing* Ex. 65 at 8).

Federal funding on many projects remains uncertain. What is certain is that delaying needed work in the hope such funds arrive in time guarantees delayed reliability benefits and the chance of further degradation. As the Energy Bureau identified in the Final Rate Order, citing Mr. Pedro Meléndez's ("Mr. Meléndez") testimony, reliability will be impacted if projects are shifted to the federal pipeline and delayed: "You're not going to get the reliability value because they're going to be delayed. You're not going to see the frequency of outages reductions. You're not going to see the duration of the outages reduction. . . . [R]eliability will be impacted. There's no doubt about it." *Id.*, Chapter One at 15 n.21.

1. Adoption of the Three-Category Framework Constitutes an Unreasonable and Arbitrary Exercise of Regulatory Authority.

Chapter One, Part III of the Final Rate Order adopts a three-category framework for determining whether capital projects should be charged to ratepayers or excluded from base rates based on the availability of federal funding. Under this framework, ratepayer-funded capital is treated as a "funding source of last resort" and projects are excluded from base rates if they have a "demonstrated federal pathway" to receiving federal or other public funding within FY26–FY28.

Final Rate Order, Chapter One at 11-12. Later, in Chapter Three of the Final Rate Order, the standard applied was materially different. LUMA respectfully submits that this framework—both as articulated and as applied—must be reconsidered because no parties had prior notice of it, it is not supported by the text of the statute or any precedent, and is arbitrary and capricious as applied.

Section 6.25(b)(9)(i) of Act No. 57-2014 requires that the Energy Bureau approve a rate that "allows electric power service companies to recover all operating and maintenance costs, capital investments, financing costs, statutory costs, as well as any other cost lawfully incurred in the provision of electric power services" that PREB deems "prudent, reasonable, and consistent with the sound fiscal and operating practices which help provide a reliable service at the lowest possible cost." PR Laws Ann. Tit. 22 § 1054(x), 22 LPRA §1054(x) (2026). The statute further provides that rates shall "allow[] electric power companies to perform maintenance works and prudent capital investments as are necessary to provide electric power service in accordance with the parameters and quality standards established by the Energy Bureau." Section 6.25(b)(9)(iii) of Act No. 57-2014, PR Laws Ann. Tit. 22 § 1054(x), 22 LPRA § 1054(x) (2026). The just and reasonable cost standard for recovery of a utility's cost of service is the governing legal criterion. It does not treat rate-base funding as a mechanism of last resort. In other words, the statute does not condition ratepayer-funded capital spending on prior exhaustion of federal or any other external funding sources. *See* LUMA's Revenue Requirement Reply Brief ("LUMA's RR Reply") at 3-4.

Thus, the three-category framework does not arise from the governing statute. Nor can it reasonably be inferred from the statutory text. Lowest-cost cannot be read to imply no cost or that a regulated utility must affirmatively *disprove* even the remote possibility of obtaining funding from other sources. Doing so requires the utility to prove a negative and requires so much

speculation that it is almost impossible for the Energy Bureau's categorizations to be based on evidence. In other words, the three-category approach and, as discussed below, the way it has been implemented in the Final Rate Order, inevitably results in arbitrary decision making.

More fundamentally, there is also a notice problem here. The three-category framework does not arise from the statute, nor does it come from any Energy Bureau regulation giving notice to regulated entities that the Energy Bureau will exercise any such authority over the treatment of federal funding in the rate-setting context. The Energy Bureau's own Regulation 8543, Chapter III, which governs rate review proceedings, adopts the just-and-reasonable standard set forth in Act No. 57-2014 without requiring exhaustion of federal funding as a prerequisite to rate approval. Moreover, the Energy Bureau lacks a regulation with intelligible criteria to tie the prudent cost-recovery statutory mandate to the availability of funding sources outside rates. *See* LUMA's RR Reply at 3.

Compounding the notice problem further, the three-category standard was not even discussed as a *proposal* in the rate proceeding. It appeared for the first time in the Final Rate Order, yet the Energy Bureau applied it to budgetary and spending proposals that the operators prepared without the benefit of any guidance on the criteria, much less the standard, that the Energy Bureau would apply in its decision-making process. Applying the three-category novel standard to deny rate-based funding for capital projects undermines the integrity of the adjudicative process because it denied LUMA (and the utility it represents) the opportunity to present evidence to meet a standard that was never proposed, noticed, or subjected to adversarial testing. It also denied the parties the ability to make legal arguments for or against the standard's adoption in the first instance.

This presents a serious due-process problem. Where, as here, an administrative agency adopts a standard that is not rooted in the enabling statute and was not the product of a prior rulemaking or other process affording notice to regulated parties, the risk of arbitrary decision-making is heightened. *See Asoc. Fcias. Com v. Depto. De Salud*, 156 DPR 105, 135-36 (2002) (holding that agencies cannot act arbitrarily when they change their regulations or adopt new rules and stating that the requirement that agencies adopt proper regulations avoid arbitrary decisions and ensures that agencies comply with due process of law requirements regarding notice to the public of the law, and explaining that, absent standards that govern the exercise of the discretion that the law delegates to an administrative agency, arbitrary and discriminatory applications of the law are possible). Where an agency does not afford fair warning of the criteria to apply in its decision, it deprives the regulated entity of threshold due process guarantees, including fair warning, an opportunity to be heard and present evidence. *See F.C.C. v. Fox Television Stations, Inc.,* 567 U.S. 239, 253 (2012) ("A fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of the conduct that is forbidden or required[,]" and holding that "[t]he requirement of clarity in regulation is essential to the protections provided by the Due Process Clause of the Fifth Amendment[,] and that the "void for vagueness doctrine addresses at least two due process concerns: "first, that regulated parties should know what is required of them so they may act accordingly; second, precision and guidance are necessary so that those enforcing the law do not act in an arbitrary or discriminatory way."); *Kisor v. Wilkie*, 588 U.S. 558, 579 (2019) (holding that an agency's reading of a rule must reflect "fair and considered judgment" and that "a court may not defer to a new interpretation, whether or not introduced in litigation, that creates "unfair surprise" to regulated parties . . . . "); *Katiria's Café v. Mun. de San Juan*, 2025 TSPR 33, *7-8 (holding that administrative processes must be just and

impartial and stating that procedural due process guarantees applicable to administrative agencies include fair notice, opportunity to be heard and that the decision is based on the record).

And even if there had been notice, the standard itself is questionable. There is a lack of statutory and regulatory guidance in this area. Indeed, none was cited. That makes the standard quite literally unprecedented. In adopting an unprecedented new standard, the Energy Bureau necessarily faces heightened scrutiny to justify the lawful exercise of its authority. Inherent in that scrutiny is adherence to the requirement of prior notice, which would have provided both an opportunity to challenge the legality of the standard itself and the opportunity to present evidence and make argument in accordance with the standard once it is adopted.

Unfortunately, the process here gave no notice at all, which resulted in an arbitrary order. The three-category framework was not announced in the rate case filing requirements issued by the Energy Bureau on February 12, 2025, where the Energy Bureau set forth the requirements for rate petitions that LUMA used to build its budgets, including the capital budget. *See In re: Puerto Rico Electric Power Authority Review*, Resolution and Order, Case No. NEPR-AP-2023-0003 (P.R. Energy Bureau Feb. 12, 2025). The pre-filing requirements do not lay out any likely or proposed standard for determining when a capital project would be funded through rates. The first time any of the parties were made aware of it was when they received the Final Rate Order.

Beyond these fundamentally problematic notice-based due-process problems, there are also serious problems with the standard itself because it rests on faulty foundations. For example, there is substantial evidence on the record of the uncertainties and delays inherent in FEMA processes to obligate projects and reimburse costs. These well-documented uncertainties are compounded by the general timeline realities of the FEMA process, where the time from damage assessment to formal funding obligation can range from months to years. *See* Final Rate Order,

Chapter One at 20 (*citing* Ex. 65 at 8). As Mr. Smith stated in his surrebuttal testimony for LUMA, federal funds are not a financing mechanism and cannot be treated as available cash for the system. Mr. Smith testified that FEMA-obligated fund balances reflect reserved federal authority to fund work, not cash on hand, and disbursements occur only after compliance milestones are met. *See* Ex. 79, 23:510-519. Without being bridged by NFC funds, there would be pauses in the work performed with significant schedule and budget ramifications. *Id.,* 26:574-576.

Accordingly, it is hard to find any evidentiary support for a conclusion that the best interests of either ratepayers or the needs of the T&D system are served in denying rate-base funding on a hopeful, but speculative "expectation" of future obligations of federal funding, much less entirely speculative estimations that projects may or could be obligated by FEMA.

The better approach, as Genera argued in its Motion for Reconsideration, is an obligation-and-executability standard that can be based on actual evidence. Projects should be excluded from base rates only when the record establishes that federal funding is obligated or otherwise legally committed for the specific project scope, in an amount sufficient to cover the cost, and on a schedule that permits execution during the rate period. *See* Motion for Reconsideration of the April 15 Final Resolution and Order on Electricity Rates, *In re: Puerto Rico Electric Power Authority Rate Review*, Case No. NEPR-AP-2023-0003 (P.R. Energy Bureau Apr. 29, 2026) ("Genera Motion for Reconsideration"). This approach is consistent with Section 6.25(b)(9)(i) of Act No. 57-2014, which requires rates that allow electric power companies to recover prudent costs, and avoids attempting to divine the likelihood of eligibility outcomes for hundreds of individual projects. PR Laws Ann. Tit. 22 § 1054(x), 22 LPRA § 1054(x) (2026).

2. The Energy Bureau's application of the three-category framework to LUMA's Class 0 projects illustrates that the framework is arbitrary and inconsistent.

The Puerto Rico Supreme Court has long held that judicial review of an administrative decision seeks to determine whether the agency acted arbitrarily or illegally, or in such an unreasonable manner that it abused its discretion. *See e.g., Katiria's Café* , 2025 TSPR 33at *10-11; *Mun. de San Juan v. J.C.A.*, 149 DPR 263, 280 (1999). The agency's exercise of discretion must be rooted in reasonableness and in accordance with the objectives of applicable law. *Ramírez v. Policía de PR*, 158 DPR 320, 339 (2002).

The arbitrary nature of the Final Rate Order's three-category framework is concretely illustrated by the Energy Bureau's treatment of LUMA's "Class 0" projects. Looking at LUMA's "Hopefulness Matrix," the Energy Bureau excluded 17 critical projects from rate-payer funding because it was "unable to rule out" a federal funding pathway. *See* Final Rate Order, Chapter Three at 299-300; Appendix F at 8-11. Yet the only evidence the Energy Bureau had before it was that each of those 17 projects were *not* eligible for federal funds. They were each classified as Class 0, meaning they were deemed **ineligible** for federal funding.

Had the Energy Bureau applied its own "demonstrated federal pathway" standard to the only available evidence, then these 17 projects should have been funded by rate-payer capital. Instead, it applied almost the inverse of its own standard. Rather than looking to see if there was a demonstrated federal pipeline, it asked whether the Energy Bureau was "unable to rule out" a federal funding pathway. *See* Final Rate Order, Chapter Three at 299-300; Appendix F at 8-11. Applying that standard, the Energy Bureau reclassified those projects as Category Two, excluding needed capital expenditures from base rates. *See id.*, Chapter Three at 302.

Having a "demonstrated" pathway at least requires evidence establishing that the pathway exists. That standard is problematic for the reasons already discussed. But the as-applied "unable

to rule out" standard is far worse. It appears to require only some undefined level of speculation that no pathway *could possibly exist* to reclassify the project to the federal-funding pipeline. It thus takes what is an inherently speculative standard and removes the last remaining evidentiary guardrails. How exactly are LUMA and the other parties to prove that no pathway could *possibly* exist? And what is the standard of proof? What is the level of certainty the Energy Bureau must have? How do the Commissioners know when and how they can and cannot "rule out" whether a project is subject to federal funding? Why is the proper default assumption to assume everything can be federally funded? How does one overcome that presumption? At what point should LUMA have met its burden to prove the negative? What evidence would have been sufficient to do so or will be sufficient in the future? All of these questions need answers because no matter how broad a regulator's authority is, its decisions cannot be arbitrary. *Meléndez de León v. Keleher*, 200 DPR 740, 759 (2018) (*citing Aut. Puertos v. H.E.O.*, 186 DPR 417, 428 (2012) ("Due process of law represents a barrier to state actions that are arbitrary or capricious and affect the fundamental rights of citizens.") (translation provided). None of the answers are found in the Final Rate Order or governing law.

This as-applied inconsistency is compounded by the inconsistent evidentiary treatment of the hopefulness matrices across project classifications. For Class 1, Class 2, and Class 3 projects for which LUMA acknowledged federal eligibility, the Energy Bureau treated the classifications as dispositive evidence of a demonstrated federal pathway to support a Category Two exclusion from rate-based funding. For Class 0 projects, however, the Energy Bureau overrode LUMA's assessment that the projects are not eligible for federal funding. This disparate treatment of similar evidence is arbitrary.

The Energy Bureau sought to justify its rejection of LUMA's Class 0 designations by observing that LUMA's witness Mr. Meléndez, acknowledged that FEMA has "final authority on eligibility" and that the hopefulness matrix was limited to FEMA funding eligibility and does not account for Department of Energy ("DOE"), the U.S. Department of Housing and Urban Development ("HUD"), or other federal funding sources. *See* Final Rate Order, Chapter Three at 299, 301-302; Appendix F at 8-9. But that is true with respect to all of LUMA's classifications. Why credit LUMA's evidence to establish eligibility, but discredit the same evidence for lack of eligibility? The same evidence surely cannot have less probative value just because crediting it might result in a need to allocate ratepayer funds to those projects.

More to point, none of these observations actually establish a demonstrated federal pathway for any specific project as required under the Energy Bureau's own framework for Category Two projects. The fact that FEMA has final authority on eligibility is a proven and undisputed fact supported by the record, which applies to every project in every classification. It is not evidence that a particular Class 0 project is likely to receive federal funding. Moreover, the fact that LUMA's hopefulness matrix did not account for non-FEMA sources only means that the universe of potentially eligible projects may be larger. It does not demonstrate that any given project actually qualifies under a DOE, HUD, or other federal program or that there is a "demonstrated federal pathway."

The practical effect of the as-applied "unable to rule out" standard is to create a burden of proof that is functionally impossible to satisfy: even when LUMA affirmatively classifies a project as ineligible, the Energy Bureau treats that classification as insufficient because LUMA did not conduct a "documented evaluation of all potentially applicable federal pathways." Final Rate Order, Chapter Three at 298. (As noted above, of course, none of the parties had notice that they

had to do so.) Meanwhile, the *same* documented evaluation was not required for the Energy Bureau to reclassify a Class 0 project to the category of demonstrated pathway to eligibility (Category 2). Indeed, the same evidence supported that determination. This is an arbitrary application of a standard that invites arbitrariness.

What it looks like is that the parties are required to prove a negative across every conceivable federal program to classify a project as Category Three, a burden that cannot ever be met, particularly because eligibility decisions are made by third parties. The resulting framework is one in which the gateway to Category Three is effectively closed for any project that bears even the faintest resemblance to work that might, in theory, fall under some federal program's eligibility criteria. Moreover, it is a gate that the gatekeepers can close today based on the same evidence that opened it yesterday. This is not a "single, administrable standard" that the Energy Bureau professed to establish. *Id.,* Chapter One at 12. It is actually no standard at all.

Moreover, the "unable to rule out" reclassifications of LUMA's Class 0 projects are inconsistent with the framework's own disclaimer that the Energy Bureau's role is not "to predict the outcome of federal applications or to determine federal eligibility . . .." *Id.* Yet the reclassification of 17 of LUMA's Class 0 projects necessarily involved the Energy Bureau making its own independent assessments of federal program scope. These determinations are precisely the kind of eligibility predictions the framework disclaimed.

By substituting its own projections of federal funding availability for the operators' informed judgments on how to leverage rate-based funding and federal funding, the Energy Bureau embedded inherent contingencies into the approved revenue requirement. Where reality diverges from the Energy Bureau's subjective estimations on eligibility and tradeoffs, such as when federal funding is delayed, denied, reduced in scope, or conditioned on requirements that extend execution

timelines, the operators will be left without the capital dollars that the electric power system requires.

3. There are material risks of future arbitrary decision-making if the Final Rate Order is applied to future decisions.

Throughout Chapter Three of the Final Rate Order, the Energy Bureau directs LUMA to seek temporary rate relief under Section 6.25(d) of Act 57-2014, for excluded Category Two projects if a "documented, project-specific liquidity gap" arises, and also outlined a five-factor showing that the operator must satisfy before temporary funding may be authorized. *See* Final Rate Order, Chapter One at 12 (Category Two framework directing operators to Section 6.25(d) of Act 57-214); *id.* at 15-16 (identifying Section 6.25(d)'s temporary rate review mechanism as a "statutory safety valve"); *id.* at 16 (explaining availability of Section 6.25(d) of Act 57-2014 to address delays in receipt of federal funding and stating that "urgency must be demonstrated through Category Three criteria . . . ."); *id*., at 23 (liquidity for projects excluded from base rates); *id.,* Chapter Three at 21 (PBUT7/PBUT8 substation projects: directing LUMA to Section 6.25(d)); 62 (PBUT6 distribution line rebuilds: directing Section 6.25(d) relief); *id.* at 301-304 (discussing reclassification of LUMA's Class 0 projects, possible rate adjustments for excluded projects, and non-ratepayer funding beyond FEMA). Those rulings effectively converted this rate case into a preliminary determination, deferring the actual funding of needed capital work to a series of future, expensive, burdensome, and speculative temporary rate proceedings, each of which will be governed or informed by the three-category framework whose legal validity and administrability LUMA challenges here.

The three-category framework will be at the forefront of every spending and budgetary decision, every temporary rate filing, and every rate review determination within the three-year rate period. Each time LUMA considers advancing a capital project or the need to immediately

fund capital projects when federal funds are not available, it must evaluate not only the engineering and operational need but also whether the project's treatment under the Final Rate Order's framework will permit rate recovery; a calculus that depends on the Energy Bureau's ad hoc, project-by-project assessment of whether a "federal pathway" exists. (Or, if we take the as-applied standard, whether a future Energy Bureau is "able to rule out" the distant possibility of some other source of funding.) A framework that is not grounded in Act 57-2014, that was adopted without prior notice, and that the Energy Bureau itself applied inconsistently in the Final Rate Order, should not serve as the governing standard for those important and likely prospective decisions.

If federal funding for even a fraction of the approximately $1.6 billion in excluded capital does not materialize on the Energy Bureau's assumed timeline, LUMA will be compelled to file temporary rate petitions or a new rate review petition to recover costs that the system demonstrably needs. That prospect is the predictable consequence of a revenue requirement that was set below the level necessary to fund needed capital work, on the basis of external financing expectations that are, by definition, outside the operators' control. Reconsidering the framework now would serve the interests of all parties. For the Energy Bureau, it would ensure that the governing standard for prospective rate decisions is lawful, principled, and administrable. For the grid and its operators, it would provide the regulatory certainty necessary to make informed capital spending and budgetary decisions. For ratepayers, it would reduce the likelihood of a fragmented, piecemeal approach to capital funding that may ultimately prove more costly than a coherent, obligation-based standard applied at the outset. And for the electric power system as a whole, it would avoid the perverse outcome in which needed capital investment is deferred, not because it is imprudent, but because the regulator treated the mere possibility of future federal or outside funding as a present substitute for the rate-base dollars the T&D system requires today.

In conclusion, the Energy Bureau's three-category standard and framework was adopted in contravention to due process notice requirements and must be vacated. It is also, both as designed and as applied, an arbitrary framework that invites speculative, ad hoc eligibility predictions it seeks to avoid, creates an undefined evidentiary standard that is, at best, capricious or, at worst, impossible to meet. And for these reasons, it is likely to result in continued due-process challenges that could be avoided by a properly adopted evidence-based standard like the one proposed by Genera. LUMA thus respectfully requests that the Energy Bureau reconsider the three-category framework.

B. The directive to return unspent NFC funds is internally inconsistent with the Budget Oversight Framework retained by the Final Rate Order and with LUMA's contractual flexibility to reallocate funds within a 5% threshold.

The contractual framework governing LUMA's operations provides express budgetary flexibility. Section 7.3 of the T&D OMA sets forth the budget process, including provisions designed to ensure that LUMA can manage a complex and interconnected T&D system responsively and effectively.

Of particular relevance here, Section 7.3(c) of the T&D OMA affords LUMA:

> complete flexibility, subject to compliance with the Contract Standards and prior consultation with, but not subject to approval by, Administrator or PREB, to (i) reallocate, accelerate, or postpone expenditures within the approved Operating Budget; (ii) reallocate, accelerate, or postpone expenditures within the approved Capital Budget–Federally Funded, subject to Federal Funding Requirements; and (iii) reallocate, accelerate, or postpone expenditures within the approved Capital Budget–Non-Federally Funded; in each case, in order to address changed operational or commercial circumstances or new legal or regulatory requirements, and in such a manner that the reallocations do not exceed five percent (5%) of the Budget in which such reallocations are made or the expenditures are not postponed for a period longer than one (1) year. Any such reallocated amounts are to be treated as if initially budgeted in the Budget in which such reallocations

> are made in all respects, including with respect to the associated Performance Metrics set forth in Annex IX (*Performance Metrics)*.[1]

Ex. 489 at 89.

The T&D OMA thus reflects a deliberate contractual allocation of operational authority: LUMA possesses the flexibility to make real-time adjustments within the confines of an approved budget and subject to quantitative guardrails, ensuring that the system's operational needs, which are dynamic and often unpredictable, can be addressed without the delays inherent in securing prior regulatory approvals for each intra-budget reallocation.

This Honorable Energy Bureau has interpreted and applied the T&D OMA's five-percent reallocation threshold through a series of resolutions issued in Case No. NEPR-MI-2021-0004, *In Re: LUMA Initial Budgets and Related Terms of Service*, in a manner that significantly narrows the contractual flexibility described above. The resulting framework requires the five-percent reallocation threshold to be calculated at the individual department level and at the individual portfolio level, rather than at the aggregate budget-category level as contemplated by the plain text of the T&D OMA. Any reallocation between the three major budget categories (the Operating Budget, the Non-Federally Funded Capital Budget, and the Federally Funded Capital Budget) requires prior Energy Bureau approval regardless of amount.

In its affirmative post-hearing brief on revenue requirement, LUMA addressed the topic of budget amendments and reporting and specifically requested that the Energy Bureau align its budget oversight with the T&D OMA by retaining annual budget adjudication but replacing line-item preapprovals with five-percent budget-level flexibility.

[1] Capitalized terms used in reference to the T&D OMA in this Motion, have the meaning set forth in the T&D OMA.

Specifically, LUMA demonstrated that the existing framework, requiring LUMA to seek prior Energy Bureau authorization for in-year reallocations when a budget line item is expected to exceed its allocation by more than five percent, even when total spending remains within the approved budgets, is an artifact of years in which spending was capped at outdated rates, and that it departs from standard U.S. regulatory practice in which the regulator sets a revenue requirement and relies on informational reporting and after-the-fact tools rather than pre-approving intra-year reallocations. *See* LUMA's Revenue Requirement Brief at 106-108. LUMA explained that the five-percent threshold originates in the T&D OMA and applies at the level of the three T&D OMA-defined budgets (Operating, NFC, and Federally Funded Capital), while the Energy Bureau has chosen to interpret the five-percent threshold at the individual department or portfolio level, as described above.

The evidentiary record established that the current preapproval and amendment process "materially hinders" managerial decisions and, on average, took thirty-six days for Energy Bureau responses in FY2024, delaying needed work on a fragile system. Ex. 2.0, 88:1830-1840, 89:1841-1849. For LUMA, Mr. Smith explained that delaying work pending amendment approval commonly means thirty to forty-five days of lost time, and that in circumstances of immediate customer need, LUMA has had to proceed with work and then seek after-the-fact alignment, which represents an administratively inefficient posture created by the existing framework. Tr. 11/24, 258:11-25, 259:1-12. The record further demonstrated that the requested flexibility is responsive to sequencing realities in an interrelated T&D system, where changes in one project can require adjustments in others without altering the Energy Bureau's priorities. *Id*., 81:20-25, 82:1-9. As LUMA's Chief Regulatory Officer, Mr. Alejandro Figueroa ("Mr. Figueroa"), clarified, LUMA

was not seeking to disregard established budget priorities but rather to obtain flexibility from an administrative and process standpoint. *Id*., 83:20-25, 84:1-2, 84:20-25, 85:1-5.

On April 15, 2026, the Energy Bureau issued its Final Resolution and Order, which contains two directives that, when read together, create an internal inconsistency that requires clarification. First, the Energy Bureau determined that the just-and-reasonable standard under Act No. 57-2014 requires retention of the existing budget oversight framework. *See* Final Rate Order, Chapter Eight, Part XLVIII. In reaching this conclusion, the Energy Bureau found that the annual budget examination and preapproval process is its primary instrument for ensuring that operating and capital expenditures are prudent and aligned with regulatory objectives. *See id*., Chapter Eight, at 4. The Energy Bureau further found that LUMA failed to demonstrate that the current process impairs its operations, noting that LUMA's own witness testified that LUMA has "always" hit its annual budgets within roughly a one-percent variance. *Id.*

Accordingly, the Energy Bureau ordered that the current budget oversight framework be retained in all respects, including: (a) annual budget examination; (b) prior approval of reallocations exceeding the five-percent threshold, calculated at the individual department or portfolio level within each approved budget, and not at the aggregate category level; (c) prior Energy Bureau approval of any reallocation between the three major budget categories (the Operating Budget, the Non-Federally Funded Capital Budget, and the Federally Funded Capital Budget) regardless of amount; (d) quarterly financial reporting, including a fourth-quarter report; and (e) annual efficiency reporting with quantified savings. *Id*. at 4-5.

Separately, in Chapter Three, Part IX.E(4) of the Final Resolution and Order, the Energy Bureau imposed the following directive:

> [A]t the end of each fiscal year, LUMA shall return to ratepayers—through the reconciliation mechanism established elsewhere in this Order—any NFC funds that

> were approved but not deployed within the fiscal year for which they were approved and not committed to a specific, identified project with a contractual obligation. LUMA may not unilaterally redirect unspent NFC to projects not approved in this Order. The same treatment applies if LUMA receives federal funding for a project that was funded through NFC during the rate period."

See Final Rate Order, Chapter Three at 145.

LUMA respectfully posits that the directive to return unspent NFC funds is in direct tension with the budget oversight process that the Energy Bureau included in Chapter Eight of the Final Rate Order, whereby LUMA is permitted to reallocate expenditures, including within the Non-Federally Funded Capital Budget, so long as the reallocation does not exceed the five percent threshold and is otherwise compliant with the applicable Rate Order.

The Energy Bureau must resolve the internal inconsistency described above. Specifically, LUMA requests that the Energy Bureau align the Chapter Three, Part IX.E(4) directive, requiring the return of all undeployed NFC funds, with (a) the Energy Bureau's budget oversight framework, which permits reallocations within the five-percent threshold at the department or portfolio level, and (b) the T&D OMA's express grant of "complete flexibility" to reallocate, accelerate, or postpone expenditures within the approved Non-Federally Funded Capital Budget, subject to the five-percent limitation.

A strict or default rule mandating return of unspent NFC funds is not inherently beneficial to customers. LUMA proposes that customers would be better served if LUMA is afforded (i) flexibility to reallocate and invest unspent NFC funds within the 5% threshold, and (ii) a process and avenue to propose prudent and reasonable spending for other T&D System needs and projects.[2]

[2] LUMA understands that the Final Rate Order's directive that "LUMA may not unilaterally redirect unspent NFC to projects not approved in this Order," does not override or narrow the five-percent reallocation flexibility within the Non-Federally Funded Capital Budget as provided by Section 7.3(c) of the T&D OMA and retained by the Energy Bureau's own budget oversight framework in Chapter Eight, Part XLVIII of the Final Rate Order, and that it does not preclude LUMA from proposing, through the existing budget amendment process or other appropriate procedural vehicle, the reallocation of unspent

A rigid return-of-funds directive, without accommodation for the contractual flexibility recognized in the T&D OMA, could result in the forfeiture of approved capital that would otherwise be deployed to improve the reliability and resilience of Puerto Rico's fragile electric system.

LUMA respectfully reiterates, based on the evidentiary record, the importance of budgetary flexibility for a utility managing Puerto Rico's T&D system. Standard regulatory practice provides relevant context. As the evidentiary record established, in typical U.S. regulation, after rates are set, utilities do not seek prior approvals for reallocations; reporting is informational, and after-the-fact oversight remains available. Ex. 3.0, 10:236-237, 11:238-247; Tr. 11/24, 159:12-19. This practice reflects a well-established principle in public utility law: while a state, through a public utility commission, "may regulate with a view to enforcing reasonable rates and charges[,] it is not the owner of the property of public utility companies and is not clothed with the general power of management incident to ownership." *Mo. ex rel. Sw. Bell Tel. Co. v. Pub. Serv. Comm'n*, 262 U.S. 276, 289 (1923). These principles remain instructive in the present context, where the Chapter Three, Part IX.E(4) directive effectively precludes LUMA from exercising contractually conferred operational judgment regarding the allocation and timing of approved capital expenditures, even within the quantitative guardrails established by the T&D OMA.

LUMA further notes that the Energy Bureau's directive requiring the return to ratepayers of any NFC funds that were approved but not deployed, and prohibiting LUMA from unilaterally redirecting unspent NFC to projects not approved in the Final Rate Order was not a matter covered or subject to examination during any of the fourteen witness panels presented over the twenty-four days of evidentiary hearings spanning six weeks. No party proposed this specific directive. No witness was questioned regarding its operational implications, its interaction with the T&D OMA's

NFC funds to System needs that may arise during the rate period. LUMA reserves all rights, arguments, and defenses with respect to these issues.

budgetary provisions, or its potential consequences for capital project execution and system reliability. The parties were not afforded the opportunity to present evidence, examine witnesses, or develop a record on this issue.

The absence of record evidence on this directive is significant. The Energy Bureau's authority to issue findings and orders is grounded in the administrative record developed through the adjudicative process. *See* Sections 3.1, 3.18 and 4.5 of Act No. 38-2017, PR Laws Ann. Tit. 3 §§ 9641, 9658, 9675, 3 LPRA §§ 9641, 9658, 9675 (2026); *Magriz Rodríguez v. Empresas Nativas, Inc*., 143 DPR 63, 70-71 (1997). A directive of this magnitude, one that materially alters the framework for the deployment of approved ratepayer-funded capital and that may conflict with existing contractual provisions, warrants the development of an evidentiary record sufficient to support its implementation and to allow the affected parties to address its practical ramifications.

Finally, the Final Rate Order does not establish any process, procedure, or mechanism by which the two above-referenced directives will be implemented. The budget oversight framework, as retained by the Final Rate Order, includes an annual budget examination, reallocation requests, and quarterly reporting. The Chapter Three, Part IX.E(4) directive, by contrast, simply requires the return of undeployed NFC funds at fiscal year-end and prohibits the redirection of unspent NFC to non-approved projects, without providing any procedure for determining what constitutes a "specific, identified project with a contractual obligation," without establishing how the reconciliation mechanism will interact with the existing budget amendment process, and without ensuring that the T&D OMA's five-percent reallocation flexibility survives this directive.

These gaps are not covered by existing law, regulation, or a separate Energy Bureau order. The result is lack of guidance on how to comply simultaneously with both directives, a circumstance that invites uncertainty, operational disruption, and the potential for disputes and

noncompliance. LUMA respectfully submits that the Energy Bureau should, at a minimum, clarify the interaction between these directives and establish a workable framework for their concurrent implementation.

C. Reconsideration on fee cap and reporting requirements applicable to legal costs and denial of Title III costs.

The Energy Bureau's Final Rate Order contains two core determinations regarding LUMA's external counsel and Title III costs that, upon closer examination of the applicable contractual framework and evidentiary record, cannot stand. LUMA respectfully requests partial reconsideration of these determinations.

First, as to Legal Department costs, the Final Rate Order approved LUMA's Constrained Budget but imposed a further 25% reduction to LUMA's external counsel line costs, yielding approved external counsel amounts for the Legal Division of $3,839,345 for FY26, $4,031,312 for FY27, and $4,232,879 for FY28, and for the Land and Permits Division of $150,000 for FY26, $157,500 for FY27, and $168,750 for FY28. *See* Final Rate Order, Chapter Three, at 257. The Final Rate Order further imposed the following four compliance directives: (a) implementation of competitive procurement processes, including formal RFPs, for all external legal engagements with an estimated annual value exceeding $250,000, beginning no later than FY27; (b) a cap of $750 per hour on all timekeeper rates, with any expenditure above that ceiling subject to prior Energy Bureau approval and automatic disallowance absent such approval; (c) quarterly reporting on external counsel expenditures by matter type, including the identity of each firm, hourly rates charged, and total fees incurred; and (d) modification of LUMA's escalation rate for FY27 and FY28. *Id*. LUMA seeks reconsideration of the imposition of a rate cap and the matter-level quarterly reporting requirement, which go beyond reasonable budgetary oversight and impose prescriptive controls unsupported by the record and not imposed on either PREPA or Genera.

Second, as to Title III costs, the Final Rate Order denied in their entirety LUMA's requests of $8,750,000 for FY2026, $5,866,071 for FY2027, and $4,375,000 for FY2028 for PREPA Restructuring & Title III expenses and directed that "LUMA shall not recover PREPA Restructuring & Title III expenses from ratepayers through base rates during the rate period." *See* Final Resolution and Order, Chapter Three at 341. The Energy Bureau grounded its blanket denial on three findings: (1) that LUMA's Title III activities duplicate the FOMB's statutory representation of PREPA, *id*. at 340; (2) that LUMA's Title III participation was undertaken on its own initiative for its own commercial interests, *id.* at 340-341; and (3) that LUMA's cost estimate lacked adequate support, consisting of nothing more than annualizing a single quarter's interim costs and applying a 15% escalation without a zero-base analysis tied to identifiable tasks, staffing needs, or deliverables, *id*. at 341. LUMA seeks reconsideration of this blanket denial on the grounds that it is contrary to the contractual framework of the T&D OMA Supplemental Terms Agreement, inconsistent with the Final Rate Order's own stated principles regarding OMA-mandated costs, unsupported by the evidentiary record in material respects, and premised in part on erroneous factual findings.

1. Fee cap and quarterly reporting requirements on legal costs are unsupported and unreasonable.

LUMA does not challenge the Energy Bureau's authority to set an approved revenue requirement for external legal costs. The Energy Bureau exercised that authority by adopting the Constrained Budget with a further 25% reduction to the external counsel line and by requiring LUMA to implement competitive procurement processes, including formal RFPs, for all external legal engagements exceeding $250,000 annually beginning no later than FY27.

What the Final Rate Order then imposes, however, goes materially further. The Energy Bureau ordered that "no timekeeper rate [shall] exceed[] $750 per hour without prior Energy

Bureau approval," *id.* at 257, and that "any external counsel expenditure at hourly rates exceeding the $750 ceiling without prior Energy Bureau approval shall be disallowed." *See id*. at 257-58. The Energy Bureau further directed LUMA to "file quarterly reports on external counsel expenditures by matter type, including the identity of each firm, the hourly rates charged, and the total fees incurred." *Id*. at 257. These requirements were not imposed on either PREPA or Genera.

The proper regulatory mechanism to discipline utility legal spending is setting a reasonable total budget, which the Energy Bureau did. A per-hour rate cap is a qualitatively different instrument. It does not control total expenditure but rather dictates the composition of the legal teams a utility may retain, effectively precluding engagement of experienced counsel whose expertise may be indispensable in highly specialized matters. *See In the Matter of the Application of the Potomac Edison Company for Adjustments to its Retail Rates for the Distribution of Electric Energy*, 2019 Md. PSC LEXIS 18, 38-40 (Md. Pub. Serv. Comm'n, Mar. 22, 2019) (declining to apply Staff's proposed per-hour cap on outside counsel fees recoverable from ratepayers, holding that Staff was "required to fully support why a cap is appropriate in this particular case" and that "[i]t is not enough to point to other cases in which such a cap was applied without articulating whether and how the instant case is analogous"; noting that Staff had not asserted that the case was "not worthy of the degree . . . of assistance provided externally," or that "the amount being charged was excessive"; and instead allowing recovery of "actual, known and measurable rate case expenses, including outside legal fees actually incurred"). Considering that the Energy Bureau has established a total external counsel budget reflecting a 25% reduction and has required competitive procurement, imposing an additional hourly rate ceiling is duplicative and risks depriving the utility of access to necessary specialized counsel.

The Energy Bureau "adopted Genera's cost structure and procurement practices as benchmark for evaluating other entities", *see* Final Rate Order, Chapter Three at 254, and thus apparently derived the $750 ceiling from the reasoning adopted in the Genera's legal services determination. This approach is fundamentally flawed. LUMA and Genera are distinct entities with distinct operational mandates, distinct legal obligations, and distinct litigation profiles. The Energy Bureau cannot properly calibrate the reasonableness of LUMA's external counsel costs by reference to how Genera, a separate company operating under a separate OMA, chooses to staff and procure its own legal services. The record of this proceeding illustrates the different roles that LUMA exercises in regulatory proceedings such as the rate case, whereby LUMA bore the burden of filing a consolidated rate review petition.

Importing Genera's cost structure in order to impose a binding ceiling for LUMA's fundamentally different legal obligations lacks any reasoned basis in the record. No party introduced evidence, and the Energy Bureau made no independent finding that the specialized counsel required by LUMA's operational mandate can be retained at or below $750 per hour. At the December 3rd hearing, LUMA's witnesses testified that the highest rates cited during cross-examination are outliers, and that for new matters not requiring unique historical knowledge, LUMA seeks comparable quality at lower rates and has switched service providers where appropriate. Tr. 12/3, 380:21-25, 381:1-25, 382:1-25, 383:1-6. No witness acknowledged, nor does the record support, that *all* necessary legal services could be obtained at or below $750 per hour. To the extent the Energy Bureau relied on Genera's operational choices and evidence of record to justify a cap on LUMA's legal costs, it erred by treating two fundamentally dissimilar utilities as interchangeable for purposes of cost benchmarking and by not putting LUMA on notice that

LUMA's costs would be evaluated with regards to Genera's practices or the evidence that Genera filed on record to support its costs.

While the Final Rate Order found that LUMA's external counsel cost structure "does not reflect prudent cost management," it made no finding that any specific legal expenditure actually incurred by LUMA was imprudent, unreasonable, or harmful to ratepayers. The Energy Bureau identified prospective procurement process deficiencies but pointed to no instance in which LUMA's legal spending produced a wasteful outcome, an unnecessary engagement, or a bill that should have been lower. Moreover, the requirements were not imposed on PREPA or on Genera. This disparate treatment is arbitrary.

Any concern that LUMA might overspend its approved legal budget is addressed by the existing guardrails as well as those imposed by the Final Rate Order. The Final Rate Order retains the annual budget examination and preapproval process, requires prior approval of reallocations exceeding a five-percent threshold at the individual department level, and mandates regular financial quarterly reporting. *See* Final Rate Order, Chapter Eight, Part XLVIII. Importantly, LUMA already reports quarterly on its legal services spending as part of its comprehensive quarterly reports filed in Case No. NEPR-MI-2021-0004, *In Re: LUMA Initial Budgets and Related Terms of Service*.[3] Thus, the Energy Bureau has a functioning quarterly reporting mechanism that discloses legal services spending at the departmental level. The additional requirement to report by individual matter type, firm identity, and hourly rate is duplicative of this existing transparency and imposes a compliance burden that has no parallel for PREPA or Genera.

[3] LUMA's Quarterly Reports include a detailed breakdown of T&D operating expenditures by cost category, including a "Legal Services" line item, showing the full-year budget, quarterly budget, quarterly actuals, year-to-date budget, year-to-date actuals, and year-to-date variance in both dollar and percentage terms.

LUMA respectfully requests that the Energy Bureau reconsider the per-hour ceiling and the matter-level quarterly reporting requirement for external legal expenditures. The approved budget reduction and RFP requirements, neither of which LUMA has elected to contest, adequately address the Energy Bureau's legitimate concerns and further the Energy Bureau's lawful objective of ensuring rates a just and reasonable without micromanaging the composition of legal representation retained by LUMA to fulfil its obligations under the T&D OMA.

2. The Energy Bureau's blanket denial of recovery of LUMA's Title III costs is contrary to law and unsupported by the record.

The Energy Bureau denied LUMA's entire request for Title III cost recovery on the grounds that these activities duplicate functions already performed through the FOMB's own representation of PREPA in the Title III proceeding, that LUMA demonstrated no ratepayer benefit, and that the cost estimate "lacks adequate support." *See* Final Rate Order, Chapter Three at 340-341. This determination is contrary to the contractual framework that governs LUMA's operations and that the Energy Bureau itself approved.

Section 3.4 of the Puerto Rico Transmission and Distribution System Supplemental Terms Agreement ("Supplemental Terms Agreement") provides unambiguously that LUMA's costs in connection with PREPA's Title III Case are T&D Pass-Through Expenditures:

> during the Interim Period, all of the following (without duplication) shall be considered T&D Pass-Through Expenditures and shall be deemed administrative expenses of Owner: all costs and expenses, including Fees-and-Costs, arising from, related to or in connection with any participation by Operator in, or any other action taken by Operator in connection with, PROMESA, the Title III Case or any other Legal Proceeding related thereto ('Interim Costs and Expenses').

See Ex. 489, Supplemental Terms Agreement at 5.

Furthermore, Annex XI T&D OMA states in its final clause that: "in no event shall Operator be responsible for any cost or expense related to the Title III Case," thereby confirming

that all Title III costs fall on the Owner side as T&D Pass-Through Expenditures. *Id*., Annex XI at XI-3.

LUMA's participation in Title III proceedings flows directly from the T&D OMA as amended and supplemented by the Supplemental Terms Agreement. These costs are not incurred at LUMA's will; they are the result of PREPA being in Title III, of the T&D OMA's 15-year Initial Term of operations being conditioned on a reasonable Title III exit, and of the obligation to fulfill information requests made by PREPA, the Financial Oversight and Management Board, bondholders, Title III mediation teams, amongst others. Also, as Mr. Figueroa explained during the evidentiary hearing, "one of the conditions precedent to service commencement on the Operation and Maintenance Agreement is that the plan of adjustment . . . is deemed by LUMA as reasonably acceptable." Tr. 12/3, 392:10-14. LUMA must therefore "understand what are the requirements that would be bestowed on PREPA and/or LUMA resulting from that plan of adjustment" and ensure that "operational and implementation requirements . . . are accounted for." *Id*., 392:14-24. The Hearing Examiner himself recognized the legitimacy of this rationale and the impact of the Title III proceeding on LUMA's ability to operate the T&D system, stating on the record: "Now I think I understand why you're there." *Id*., 394:15-16.

The Final Rate Order devotes an entire section (Chapter Six, Part XXXIV) to the principle that T&D OMA account amounts are legitimate contract obligations that the annual revenue requirement must reflect. The Order states, in relevant part that:

> The OMAs establish LUMA's and Genera's obligations to provide defined services. By approving the OMAs, the Energy Bureau implicitly found LUMA and Genera to have entered into these contracts prudently. To carry out their OMA obligations, the two utilities must incur costs. **Because the two utilities entered into these contracts prudently, the just-and-reasonable standard requires the Energy Bureau to include in rates the reasonable costs associated with the utilities' OMA obligations.**

Final Rate Order, Chapter Six at 1. (emphasis added).

This principle applies squarely to Title III costs. The Supplemental Terms Agreement is a contract that the Energy Bureau approved, which creates Title III participation as a T&D OMA obligation, the costs of which are classified as T&D Pass-Through Expenditures. The blanket denial of these costs is irreconcilable with the Final Rate Order's own stated principle that Act 57-2014's just-and-reasonable standard requires inclusion in rates of the reasonable costs of T&D OMA obligations.

Section 6.25(b) of Act 57 provides that the Energy Bureau "shall approve a rate that . . . allows electric power service companies to recover all operating and maintenance costs, capital investments, financing costs, statutory costs, as well as any other cost lawfully incurred in the provision of electric power services." Title III costs, as contractually mandated operational expenses under the T&D OMA, are, by definition, costs lawfully incurred in the provision of electric power services. The Energy Bureau is therefore obligated to ensure that rates are sufficient to fund them, provided that they are prudent and reasonable.

Even if the Energy Bureau were correct in determining that LUMA's evidence regarding the quantum of its Title III costs was insufficient, a blanket denial of all Title III cost recovery does not follow. The Final Rate Order itself addresses this precise issue. In Chapter One, the Energy Bureau rejected the Bondholders' contention that "if a utility fails to carry its burden of proof, its requested funding automatically defaults to zero," stating:

> This view is incorrect. The utility's failure to carry its burden of proof means only that its evidence does not support what it seeks; it does not compel the Energy Bureau to insert a zero. . . . The Bureau's obligation under section 6.25(a)—to set rates that are just and reasonable—is indefeasible; it does not disappear merely because LUMA failed to persuade.

Final Rate Order, Chapter One at 34.

Having established that LUMA's Title III costs arise from binding contractual duties under the T&D OMA, the Energy Bureau cannot apply a zero as the default for these costs. The Energy Bureau's "indefeasible" obligation under Section 6.25(a) requires it to approve some level of funding for a lawfully incurred, contractually mandated operational expense, even if the Energy Bureau concludes that LUMA's evidence did not fully support the specific dollar amount requested.[4]

Finally, the Final Rate Order's factual findings regarding the status of the Title III proceedings contain material errors that undermine its reasoning. Footnotes 1239 and 1244 of the Final Resolution and Order cites "Figueroa, Tr. Dec. 3, 2025, 538:17-24 (confirming that the Title III proceedings have been 'effectively stayed')"and "id. at 491:5-10 (acknowledging suspension of Title III deadlines and litigation stay imposed since July 2024)." However, the testimony at pages 491:5-10 of the December 3 transcript was not the testimony of Alejandro Figueroa, but rather the testimony of PREPA's Comptroller, Mr. Juan Carlos Adrover-Ramírez, who was being cross-examined by Bondholder counsel regarding the suspension of Title III deadlines. The Final Rate Order's attribution of Mr. Adrover's testimony to Mr. Figueroa is erroneous.

For all of the foregoing reasons, LUMA respectfully requests that the Energy Bureau reconsider its blanket denial of Title III cost recovery. The contractual framework of the

[4] LUMA respectfully posits that LUMA provided greater support for the cost estimate than the Energy Bureau's Final Rate Order acknowledged. The Final Rate Order's characterization of LUMA's methodology as merely "annualizing a single quarter's interim costs and adding a 15-percent escalation" without any "zero-base analysis tied to identifiable tasks, staffing needs, or deliverables" does not fully account for LUMA's responses to multiple discovery requests, including a five-category functional breakdown of the $8.75 million request, an enumeration of specific anticipated Title III workstreams, and actual historical spending data showing broken out by project code, demonstrating that these are real, recurring operational expenditures, not hypothetical projections. *See e.g.* Ex. 386.

The record amply supports that Title III costs will persist throughout the rate period, given LUMA's ongoing contractual obligations. As per the Final Rate Order, the appropriate remedy for any evidentiary shortfall in the requested quantum is to determine a reasonable level of funding, not to deny all recovery.

Supplemental Terms Agreement, the Final Rate Order's own principle that T&D OMA-mandated costs must be reflected in rates, and the Energy Bureau's own burden-of-proof analysis all compel the conclusion that some level of Title III cost recovery must be approved. LUMA requests that the Energy Bureau determine a reasonable level of funding for Title III costs based on the record evidence consistent with its indefeasible obligation under Section 6.25(a) of Act 57 to set rates that are just and reasonable.

D. The OERA is a mandatory contractual mechanism under the T&D OMA. The Energy Bureau must reconsider the refusal to fund the OERA.

Throughout this rate case, LUMA has consistently and thoroughly explained the Outage Event Reserve Account's ("OERA's") underfunding, the contractual replenishment requirements governing the account, and the practical consequences of maintaining the account below its required level. Notwithstanding this undisputed showing, the Energy Bureau denied LUMA's request to recover the Outage Event Costs that LUMA was forced to advance from the Operating Account, the $30 million necessary to restore the OERA to T&D OMA-compliant standards, and a rider mechanism to maintain the account to the levels required by the T&D OMA. That denial is especially difficult to reconcile with the record because both utility operators and PREPA affirmed that a rider is necessary to implement the OERA framework and recover these costs, and the proposed rider to address the consistent underfunding remained uncontested. Yet, the Energy Bureau denied the rider without findings of fact and without articulating any legal basis for rejecting an uncontested mechanism designed to ensure compliance with the governing T&D OMA framework. And, as will be discussed the Energy Bureau's decision to deny funding for the OERA is inconsistent with its ruling that rates shall include the reasonable costs associated with the utilities' OMA obligations. Final Rate Order, Chapter Six at 1.

LUMA therefore respectfully requests reconsideration and reversal of that determination. The Energy Bureau should approve the major storm rider to restore the OERA to the $30 million level required by the T&D OMA and to maintain it as the mechanism to reconcile Outage Event Costs prudently incurred under the OERA's contractual provisions. Failure to do so impairs LUMA's ability to comply with its contractual obligations and, in turn, undermines the reliable provision of electric service to customers.

In accordance with the T&D OMA, LUMA's scope of services and responsibilities is broad. These range from the most generally stated, like "day-to-day operations like, all electric transmission, distribution, load serving and related activities for the safe and reliable operation and maintenance of the T&D System[,]" to more specific responsibilities like the implementation of the Emergency Response Plan, which in turn includes, "repair and replacement of damaged components of the T&D System, including due to Outage Events or Declared Emergencies or Major Disasters[.] Ex. 489, Appendix I. Scope of Services, I(A)(B), I-1 and VII(B)(6), I-11. Another responsibility of LUMA is the administration of multiple accounts, which are denominated Service Accounts. *Id.*, Art. 1, "Service Accounts," at 28; LUMA Revenue Requirement Brief at 97. To wit, the Operating Account, the Capital Account–Federally Funded, the Capital Account–Non-Federally Funded, the OERA, the Generation Expenditures Account, and the Contingency Reserve Account. LUMA Revenue Requirement Brief, at 97.

The OERA funds are essential to ensure that LUMA is able to carry out its responsibilities, including restoring service after Outage Events, Declared Emergencies or Major Disasters. The OERA was established by Service Commencement Date, in which PREPA deposited $30 million. Ex. 489*,* Sec. 7.5(d)(ii); *see also* Ex. 77.0, 6:118-120; LUMA Revenue Requirement Brief, Sec. III at 97-98. The T&D OMA provides a very specific process to access OERA funds and also, on

how these are replenished. LUMA "shall draw" funds from the OERA to pay costs associated with an Outage Event,[5] which expenses are defined as Outage Event Costs.[6] Ex. 489, Sec. 7.5(d)(i); LUMA Revenue Requirement Brief at 97-98. Thereafter, and promptly after LUMA withdraws funds from the OERA to cover Outage Event Costs, PREPA is obligated under the T&D OMA to replenish the account so as to maintain $30 million. Ex. 489, Sec. 7.5(d)(ii); LUMA Revenue Requirement Brief at 98.

As required by the T&D OMA, LUMA used OERA funds to cover Outage Event Costs. Ex. 2, 19:358-360; LUMA Revenue Requirement Brief at 98. The OERA had been funded in the past, but PREPA has not replenished it since November 2023. Ex. 2, 18:353-355, 19:356-358; *see also* Tr. 12/05, 381:24-25, 382:1-7, 20-25; LUMA Revenue Requirement Brief at 98.

It is of paramount importance that the OERA not be reduced to a contractual technicality. Rather, the OERA is the only dedicated source of immediately accessible funds available to LUMA for responding to emergency situations, which are inherently unpredictable. Ex. 1.0, 79:1450-1456; LUMA Revenue Requirement Brief at 98. The T&D OMA makes clear that costs associated with Outage Events, which are T&D Pass-Through Expenditures, are intentionally and unambiguously excluded from the Operating Budget. The T&D OMA does not merely omit such costs; it expressly carves them out. Ex. 489, Section 1.1 at 21 ("Operating Budget" means, for any given Contract Year, the budget of the T&D Pass-Through Expenditures required to perform the O&M Services (exclusive of the cost of Capital Improvements and Outage Events) for such Contract Year[.]"); *see also* Annex XI, T&D Pass-Through Expenditures, XI-2. Accordingly, in the absence of funds in the Operating Budget to cover Outage Events, maintaining the required

[5]Ex. 489, Art. 1, "Outage Event."

[6] *Id.*, "Outage Event Costs."

level of OERA funding is essential to ensure that LUMA can mobilize resources without delay when emergencies occur, like major system interruptions caused by storms. Ex. 1, 79:1459-1461, 83:1524-1526; LUMA Revenue Requirement Brief, at 98. This lack of funds places the customer and the T&D System at risk. Ex. 1, 83:1545, 84:1546-1547; LUMA Revenue Requirement Brief at 98.

There is no rate mechanism in place to replenish the OERA. Ex. 77.0, 9:186-189. LUMA Revenue Requirement Brief at 98. As PREPA, the party responsible for replenishment[7], confirmed, the lack of such mechanism is the reason that PREPA has not been able to comply with its obligation to fund the OERA. Tr. 12/5, 382: 20-25, 384:11-25 (PREPA affirming that there is no funding to replenish the accounts and PREPA has not been able to replenish this account because "there is no funding mechanism.").

It is not LUMA's responsibility to identify the source that PREPA should use to meet its contractual obligations to LUMA. LUMA nonetheless proposed a rider, called major storm cost rider, to recover outage restoration costs and maintain the $30 million minimum balance for the OERA and also, Genera's LGA OMA Reserve Account. *Id.,* 456:17-25; 457:1-2; *see also* Ex. 77.0, 5:106-108; LUMA Revenue Requirement Brief, at 99; LUMA Rate Design Brief at 19. In practical terms, the rider is the vehicle by which money would flow from customers into PREPA's bank accounts and which PREPA would then use to fulfil its obligation to fund the OERA. Tr. 12/05, 512: 25, 513:1-25; LUMA Revenue Requirement Brief at 99. By establishing a dedicated rider, LUMA aims to create a clear and consistent mechanism for recovering both past and future outage event costs. Ex. 1.0, 93:1726-1729. This will ensure that storm or emergency-related outage

[7] It is important to note that PREPA's obligation to fund the OERA is not contingent on an assigned rate mechanism or funding source. The Energy Bureau's denial of the rider perpetuates PREPA's noncompliance and endangers immediate storm recovery efforts.

restoration efforts benefit from a distinct and separate funding source, without jeopardizing funding destined exclusively for operation and maintenance activities. Ex. 1.0, 93:1727-1729; LUMA Rate Design Brief at 19. The importance of the OERA is even greater in the context of the limited liquidity available to the three operators. By recovering storm and emergency-related outage costs separately, such as through the Outage Recovery Rider (also referred to as the Major Storm Cost Rider), the Energy Bureau is ensuring that every single dollar recovered through base rates is being destined to support approved operation and maintenance activities.

No intervenor submitted pre-filed testimony opposing the rider, no intervenor filed a post-hearing brief opposing the rider mechanism, and no PREB-witness or expert filed brief or testified opposing the rider mechanism. Commissioner Ramos openly supported the rider. Tr. 12/5, 440:9-11. Nonetheless, the Energy Bureau denied the rider. When denying the rider and the initial funding, the Energy Bureau did so without any finding of fact or application of the just and reasonable standard. In turn, the Energy Bureau chose to force the parties to utilize the temporary rate adjustment mechanism provided by Section 6.25(d) of Act 57-2014, a mechanism that provides for after-the-fact funding while failing to account for the funding needs associated with immediate storm and emergency recovery work and PREPA's own contractual obligations to ensure operator emergency funding reserves are appropriately maintained.

LUMA explained that the persistent shortfall of the OERA has placed undue strain on liquidity and operational stability. Ex. 1.0, 86:1597-1598. Diverting funds from the Operating Account, which hosts funds specifically budgeted and approved by this Energy Bureau for the operation of the T&D System, including improving reliability and resilience, to cover Outage Event Costs, compromises immediate response capabilities and long-term system improvements. *Id.,* 83:1527-1537; 87:1614; *see also* Ex. 2.0, 19:339-342. LUMA affirmed that the option of

seeking emergency rates when an emergency occurs is neither practical nor feasible. Ex. 1.0, 84:1561-1563. It creates an unnecessary burden during critical moments and does not address the immediate cash needs associated with responding to emergencies, including a major storm. *Id.*, 84:1550-1552. These statements, which were made by the officers in charge of the day-to-day administration of the utility, including emergencies, were not disputed.

Furthermore, the prudent and just and reasonable standard must be considered satisfied for all costs arising under the T&D OMA. As the Energy Bureau itself has determined:

> By approving the OMAs, the Energy Bureau implicitly found LUMA and Genera to have entered into these contracts prudently. To carry out their OMA obligations, the two utilities must incur costs. Because the two utilities entered into these contracts prudently, the just-and-reasonable standard requires the Energy Bureau to include in rates the reasonable costs associated with the utilities' OMA obligations.

Final Rate Order, Chapter Six at 1.

Nonetheless, the Energy Bureau denied LUMA's request for $30 million to fund the OERA. *Id*. This determination is not only contrary to the Energy Bureau's own statement but also contrary to Section 8 of Act 120-2018 which provides that "[the Energy Bureau shall have no authority to alter or amend the Partnership or Sales Contract, and shall not interfere in operational or contractual matters, except as provided in subsection (f) of this Section.]." PR Laws Ann Tit. 22 § 1118, 22 LPRA § 1118 (2026). Denying the funds and a funding mechanism for the OERA directly interferes with the T&D OMA and LUMA's obligations arising thereof, which makes mandatory that LUMA uses the OERA to cover Outage Event Costs. Ex. 489, Sec. 7.5(d)(i) (Operator shall draw funds from time to time to pay for costs in connection with an Outage Event ("Outage Event Costs") incurred by Operator)(emphasis added).

LUMA has been consistent and unequivocal in explaining that the OERA is not a discretionary construct or a LUMA-devised mechanism, but a mandatory contractual requirement

established in the T&D OMA and agreed to by the parties thereto. The same reasoning the Energy Bureau applied to LUMA and Genera's fixed fees applies with equal force to OERA funding. As the Energy Bureau correctly recognized, LUMA's fixed fees "are not within the Energy Bureau's discretion." Final Rate Order, Chapter Six at 21. That conclusion rests on a straightforward principle: where PREPA has bound itself by contract, which the Energy Bureau approved, the Energy Bureau may not revisit or reassess those obligations through the ratemaking process. OERA funding arises from the same contractual framework and serves an equally mandatory function. Like the fixed fee, the OERA is not a policy preference or a discretionary expense, but a contractual mechanism expressly established in the T&D OMA, which was approved by the Energy Bureau, to ensure the availability of immediate funding for outage response. A just and reasonable rate must provide OERA funding and for recovery of costs incurred pursuant to that contractual structure.

The proposed mechanism to replenish the OERA is the same mechanism that would enable the replenishment of Genera's Reserve Account established under Section 7.6(d) of the LGA OMA. Ex. 77.0, 9:184–187; *see also* Tr. 12/05, 510:15–25, 511:1; LUMA's Revenue Requirement Brief at 99. Indeed, replenishment of Genera's Reserve Account is expressly required by the LGA OMA, underscoring that the need for a rider is grounded in contractual mandates applicable to both utility operators, not in unilateral preference or discretionary policy. LUMA joins Genera in asserting that denying funding for the reserve accounts jeopardizes energy security for Puerto Rico. Genera's Motion at 25.

The record before the Energy Bureau establishes, without contradiction, that the OERA is a mandatory contractual mechanism under the T&D OMA, that Outage Event Costs must be funded through that account, that the OERA has remained underfunded, and that a rider is

necessary to effectuate replenishment in compliance with the governing OMAs. The Energy Bureau's denial rests on conclusory assertions and an alternative mechanism that neither substitutes for nor satisfies the applicable contractual framework. The Energy Bureau departed from its own prior determinations regarding OMA costs, failed to explain why contractually required reserve funding should be treated differently from other non-discretionary OMA obligations, and did not identify any legal basis for rejecting an uncontested and contractually grounded recovery mechanism. A determination that neither relies on record evidence nor applies the governing legal standard cannot be sustained.

Accordingly, LUMA respectfully requests that the Energy Bureau reconsider and reverse its prior determination, approve the $30 million necessary to restore the OERA to the level required by the T&D OMA, and approve the Major Storm Cost Rider as the lawful mechanism to reconcile Outage Event Costs and Genera's Reserve Account costs, and maintain contractually-mandated reserve accounts. Doing so is necessary to give effect to approved contracts, ensure reasoned decision-making, and safeguard the reliable provision of electric service to Puerto Rico's customers.

E. Reconsideration of denial of capital costs to acquire meters for Net Energy Metering Customers.

The Final Rate Order excluded all LUMA's Meter Replacement and Maintenance program, including Net Energy Metering ("NEM") meter installation, from base rates. *See* Final Rate Order, Chapter Three at 120. The Energy Bureau's determination was premised on its finding that "the PBUT17 projects are functionally aligned with the deployment and modernization objectives of the federally funded AMI [Advanced Metering Infrastructure ("AMI")] rollout" and cited the AMI deployment plan as the basis for its determination. *Id*. The Energy Bureau further stated that "LUMA SHOULD AVOID purchasing and installing new legacy meters that will be replaced with

AMI meters in less than 12 months" and questioned LUMA's policy of not installing AMI meters outside of areas actively transitioning to AMI. *Id*.

While LUMA acknowledges that the AMI program will ultimately replace legacy metering across the system, the blanket exclusion of funding for the Meter Replacement and Maintenance program creates an immediate and untenable gap in LUMA's ability to meet its regulatory, contractual, and operational obligations to NEM customers. As demonstrated herein, the NEM meter installation component of the Meter Replacement and Maintenance program is not a discretionary activity that may be deferred. It is a mandatory function under applicable laws and regulations, and its defunding will result in regulatory non-compliance, operational degradation, and increased risks to system safety, reliability, and customer service.

LUMA's Meter Replacement and Maintenance program "focuses on the correction, replacement, and maintenance of meters, new connections, and net metering meter change." *See* Ex. 6.02; Final Rate Order, Chapter Three at 115. The NEM meter installation component (PBUT17.04) carried an estimated project scope of $33.51 million. *See* Ex. 695.3. In Fiscal Year ("FY") 2024 alone, key activities included the installation of 31,642 net metering devices. *See* Ex. 589, Ex. 1 at 37-38. The requested unconstrained budgets for the NEM meter change initiative for FY2026 through FY2028 were $6,600,000, $5,130,000, and $3,375,000, respectively. *See* Ex. 158. These figures reflected planned reductions tied to AMI deployment progress.

LUMA has no discretion as it relates to NEM meter installation. It is a core obligation arising from LUMA's responsibilities under Puerto Rico law and regulation. Act No. 114-2007, as amended by Act No. 17-2019 and Act No. 10-2024, establishes the framework for NEM in Puerto Rico and entitles participating customers to interconnect with the grid, offset their consumption, and receive credits for excess generation. *See* PR Laws Ann. Tit. 22 §§ 1011-1020,

22 LPRA §§ 1011-1020 (2026). The proposed and approved NEM credit rider expressly provides that "[t]he monthly credit for customers with a Net Metering Agreement will be effective at the beginning of the billing period after the installation or configuration of the appropriate meter." *See* Ex. 362.1 at 45. Accurate metering is therefore a statutory prerequisite for any NEM customer to participate in the program.

Act No. 114-2007 provides that, as a matter of public policy, interconnection procedures must be cost-effective and efficient in processing time. *See* PR Laws Ann. Tit. 22 § 1019, 22 LPRA § 1019 (2026). Section 9 of the Act mandates that photovoltaic or renewable energy generation systems with a generating capacity not exceeding 25 kilowatts "shall be interconnected automatically to the transmission and distribution network" and "shall begin operating automatically" once a licensed professional engineer or expert electrician certifies compliance with the regulatory technical requirements for interconnection, without the need to submit a separate interconnection application. *Id*. Furthermore, Section 5 of the Act establishes that net metering for these systems must be reflected in the customer's monthly bill not later than thirty (30) days after receipt of the professional certification. *Id*. § 1015(f). For larger systems, the utility must evaluate the interconnection application within ninety (90) days, and failure to do so results in automatic approval of the application. *Id*. § 1019.

Relatedly, the Regulation for Interconnecting Generators with the Electric Distribution System of the Electric Power Authority and Participating in Net Metering Programs, Regulation No. 8915 of February 6, 2017, governs the interconnection process for distributed generation systems and requires accurate measurement, registration, and billing of distributed generation. *See* Articles A and C of Regulation No. 8915. These provisions, taken together, establish that the installation of NEM meters and the timely activation of billing credits are not discretionary acts,

but mandatory statutory obligations designed to ensure the prompt and effective integration of distributed generation into the electric grid.

Failure to install NEM meters within mandated timeframes directly exposes LUMA to fines under Section 1.14 of Act No. 17-2019, which provides that noncompliance with the public policy on the interconnection of distributed generators "shall entail a fine of one thousand dollars ($1,000) per day to be imposed by the Bureau." *See* PR Laws Ann. Tit. 22 § 1141m, 22 LPRA § 1141m (2026). Additional penalties under Section 6.36 of Act 57-2014 can range from $10,000 to $125,000 per day for noncompliance, and for recurrence, fines may increase to between $15,000 and $250,000 per day. *See* PR Laws Ann. Tit. 22 § 1054jj, 22 LPRA § 1054jj. Moreover, those fines can go up to 5% of gross sales, 15% of net income, or 10% of net worth. *Id.,* § 1054jj(a). Absent funding for the Meter Replacement and Maintenance program, LUMA will be unable to process NEM customer requests in a timely manner, placing it in direct noncompliance with these regulatory mandates. This is not a matter of program expansion but of maintaining the minimum infrastructure and processes required to comply with existing regulations.

Second, the need for continued funding for NEM meter installations is further underscored by the dramatic and accelerating growth in NEM adoption across Puerto Rico. During the period from July 2023 through March 2024, more than 3,600 new NEM participants were added on average each month, and the total number of NEM customers exceeded 117,000. *See* Ex. 1.01 at 54. LUMA witness Mr. Smith testified that the system faces "significant grid upgrade costs that are expected to be made in order to accommodate the increasing level of NEM customers (+3,000 enrollments monthly)." *See* Ex. 2.0,14:274-275.

The absence of resources to support meter exchanges, system registration, and integration will produce a growing backlog of interconnected but unmanaged distributed energy resources

("DERs"). This creates a condition where systems are physically connected but not properly measured, registered, or incorporated into operational planning, a result that is fundamentally inconsistent with the regulatory framework and undermines LUMA's visibility and control over the distribution system.

Third, AMI cannot currently substitute for the functions of the Meter Replacement and Maintenance program. While the Energy Bureau correctly identified AMI as the long-term solution for metering modernization, the record clearly establishes that AMI is not yet available systemwide and cannot currently substitute for the functions supported by the Meter Replacement and Maintenance program.

LUMA witness Ms. Sarah Hanley testified that "with AMI, you have to roll out in sectors, in areas because that's how your network communication is set up" and confirmed that full implementation would not occur until 2028. *See* Tr. 12/01, 376:5-7, 23. The FEMA Detailed Scope of Work for the AMI project established a construction timeline for January 2024 through June 2029, with the head-end system expected to be initiated in June 2025 and system integration in June 2026. *See* Ex. 627.2 at 15. The AMI deployment schedule extending through 2027 for network completion and 2028 for full meter installation confirms that NEM support activities must continue during this transition period to ensure continuity of service and compliance.

LUMA's witness, Mr. Kevin Burgemeister, noted that the Meter Replacement and Maintenance Program "is part of LUMA's core utility operations and is necessary to meet contractual and Puerto Rico law requirements," and that "there is no guarantee that malfunctioning meters will occur in the geographic areas of the island where AMI is being installed over the next three fiscal years." *See* Ex. 631. By FY2027, LUMA had projected only a 25% reduction in meter

changes relative to 2025 as AMI advanced, and by FY2028, approximately 50%, not elimination. *Id*.[8]

Fourth, shifting NEM meter installation to the AMI program creates cost inefficiencies and scope conflicts. The AMI program rollout uses a regional mass-deployment strategy to maximize operational efficiency and reduce unit costs. Shifting to approximately 3,000 one-off NEM installations per month outside the AMI deployment zones would create significant cost inefficiencies by forcing work outside of the regional deployment model and the original FEMA Scope of Work.

The AMI program is funded with over $800 million in federal funds, with construction spanning from January 2024 through June 2029. *See* Ex. 627.02 at 15. Inserting *ad hoc* NEM meter installations into this federally scoped program risks incurring expenses that fall outside the restoration project's approved scope. Eliminating the Meter Replacement and Maintenance program budget removes the only mechanism to fund both the net meters themselves and the labor required to install them outside AMI deployment zones.[9]

[8] The Energy Bureau incorrectly cited in the Final Rate Order that "[w]itness Meléndez said that LUMA's legacy meter budget is based on a forecasted 20% reduction (relative to FY25) of legacy meter installation and replacement. For FY28, the reduction is 46%, relative to FY25," and cited Ex. 161. *See* Final Rate Order, Chapter Three at 116, fn. 490. However, the correct exhibit is Ex. 631, which is a discovery response from Mr. Burgemeister and states that "By FY 2027, LUMA projects approximately a 25% reduction in meter changes relative to 2025 as the AMI program advances, and by FY 2028, LUMA expects the number of meter changes to decline by about 50% compared to 2025."

[9] As LUMA stated in its response to this Energy Bureau in the proceeding *In Re: LUMA Initial Budgets and Related Terms of Service*, Case No. NEPR-MI-2021-0004 on December 23, 2024: "As the AMI program progress, any fully functional legacy meters that are replaced will go to inventory. Inventory meters will be redeployed to replace broken or dysfunctional meters in areas of Puerto Rico where AMI has yet to be rolled out. Recycling meters will enable LUMA to reduce costs associated with legacy-type meter purchases. LUMA has been working on a revise phase-out strategy for this program that will be gradually implemented as the AMI deployment is in advanced phase." This phased approach is rational and cost-effective and requires continued funding for the Meter Replacement and Maintenance program during the transition period.

Fifth, defunding the Meter Replacement and Maintenance program creates compliance, safety, and operational risks. Without proper metering, LUMA cannot meet the regulatory requirements for accurate billing and system registration of NEM customers. The proposed and approved NEM credit rider requires that energy inflow and outflow be metered for each billing period. *See* Ex. 362.1 at 45. Failure to install the appropriate meter prevents the credit from taking effect and places LUMA in noncompliance with Act No. 114-2007, as amended, and Regulation No. 8915. The exposure to daily fines under Act No. 17-2019 and Act No. 57-2014, as discussed above, represents a material financial risk.

Lastly, the Meter Replacement and Maintenance program functions as a necessary bridge between current operational requirements and the future state enabled by AMI. Until AMI systems are fully deployed and operational across all regions, a process that will not be complete until June 2029 at the earliest for meter installations, with system integration extending beyond that date, LUMA must continue to perform NEM meter installations, ensure accurate measurement and billing, and maintain proper oversight of NEM customers.

The Energy Bureau itself acknowledged that "LUMA intends to retire its legacy meter system within about four years" and that "[m]inimizing the costs of maintaining the legacy meter system therefore poses little risk to long-term performance." *See* Final Rate Order, Chapter Three at 120. However, minimization is not elimination. The record supports a phased reduction in spending on the Meter Replacement and Maintenance program, aligned with AMI progress. LUMA's own budget projected a 25% reduction in legacy meter installations in FY27 relative to FY25 and a 50% reduction by FY28. *See* Ex. 631. These reductions are reasonable and account for the practical realities of AMI deployment timing. Suspending NEM meter installation activities

would not only disrupt operations but would place LUMA in violation of the regulatory requirements and contractual obligations it is bound to uphold.

For the foregoing reasons, LUMA respectfully requests that the Energy Bureau reconsider the portion of the Final Order that excluded the NEM meter installation component of the Meter Replacement and Maintenance program from base rates and approve funding for NEM meter installation activities at levels consistent with LUMA's proposed constrained budget, subject to a phased reduction schedule aligned with AMI deployment milestones.

F. The Energy Bureau should reconsider the monthly reporting cadence on vegetation management.

The Final Rate Order directed LUMA to file in the proceeding *In Re: Revisión del Programa Comprensivo de Manejo de Vegetación de la Autoridad de Energía Eléctrica*, Case No. NEPR-MI-2019-0005 ("VM docket"), a new report in the form of a monthly Progress Report beginning June 1, 2026, "in tabular and narrative form," covering detailed vegetation management activity and metrics. *See* Final Rate Order, Chapter Three at 177-179. It is LUMA's position that the requirement of a monthly Progress Report creates an inconsistency with the governing Resolution and Order dated August 8, 2024 ("2024 Order")[10] issued in the VM docket and imposes duplicative reporting on the same activities using substantively overlapping fields. *See In re: Review of LUMA's Initial Budgets*, Resolution and Order, Case No. NEPR-MI-2021-0004 (P.R. Energy Bureau Aug. 8, 2024). In the 2024 Order, the Energy Bureau required LUMA to "utilize the template contained in Attachment A … for the quarterly Vegetation Management reporting," within forty-five days after quarter end, to be filed in the VM docket, and expressly relieved LUMA of the prior Vegetation Clearing Report format. *See id*. at 3. In that decision, the Energy

[10] *Available at* https://energia.pr.gov/wp-content/uploads/sites/7/2024/08/20240808-MI20210004-Resolution-and-Order.pdf.

Bureau concluded that a quarterly cadence was the appropriate oversight mechanism given the state of the program. *Id*. Thus, the Energy Bureau should reconsider the new monthly requirement and reinstate a single, uniform quarterly filing in the VM docket, consistent with the 2024 Order framework.

First, the 2024 Order already determined that quarterly vegetation reporting is adequate and preferable. The 2024 Order found that a detailed quarterly cadence was "crucial" and "adequate" for oversight at the juncture when vegetation management was ramping up, while expressly replacing the prior Vegetation Clearing Report format with a single, template-driven quarterly submission in the VM docket. *See id*. at 3. In the 2024 Order, the Energy Bureau stressed that effective vegetation management is among the most impactful activities for near-term safety and reliability, that significant Federal and non-Federal funds require prudent and expeditious use, and that detailed template reporting was necessary to assess progress; nevertheless, cadence would be quarterly, not monthly. *Id*. at 2-3. The Energy Bureau expressly weighed LUMA's request and comments and then chose quarterly reporting to match the level of oversight required, stating that this cadence remains "adequate" given both LUMA's expected ramp up of vegetation management activities, and the Energy Bureau's concerns that related programs were not progressing as expected. *Id*. at 3.

Although the Energy Bureau rejected some of LUMA's resource-burden arguments, it still selected a quarterly cadence coupled with a robust template, signaling a policy judgment that quarterly reports deliver sufficient visibility without the diminishing returns that monthly filings could impose. *See id*. at 3. The same factual predicates that supported the 2024 Order cadence choice continue today: the need for detailed, standardized content; the imperative to monitor

Federal funding obligation, disbursement, and execution; and the necessity of sustained field progress rather than administrative cycling. *Id*. at 2-3.

The Final Rate Order's requirement of monthly progress reports contradicts the cadence the Energy Bureau adopted less than two years ago for the same program and docket, creating tension among controlling orders without identifying changed facts that justify a departure. *Id*. at 3; Final Rate Order, Chapter Three at 177-179.

To the extent the Energy Bureau concludes that additional fields would sharpen quarterly visibility in the VM docket, the Energy Bureau can amend the quarterly template it adopted in the 2024 Order to incorporate any new data elements identified in the Final Order, while maintaining the reporting interval that the Energy Bureau determined is "adequate" for oversight. This approach would honor the Energy Bureau's reliability findings while preserving inter-docket consistency and avoiding a report-for-report's-sake burden that risks diverting resources from field work to compliance.

Second, the record shows existing monthly visibility into vegetation progress through the Stabilization Plan docket. The Energy Bureau's March 28, 2025, Resolution and Order in the proceeding *In re: Plan Prioritario de la Estabilización Eléctrica*, Case No. NEPR-MI-2024-0005 approved the Priority Stabilization Plan ("PSP") and requires monthly collaborative reports filed by LUMA, PREPA, and Genera that include narrative and metrics across stabilization activities. Those monthly reports already capture targeted vegetation management accomplishments by miles completed and circuits addressed. *See* Ex. 860. As just one illustration, LUMA's October 27, 2025, monthly collaborative report noted that vegetation management completed 118 miles of planned distribution hotspot trimming and 16 miles of planned transmission maintenance during the month, highlighting completed distribution circuits and transmission segments as part of the PSP's

reliability actions. *Id*., Section 2.0 at 4. Maintaining the 2024 Order quarterly template filing in the VM docket while continuing the PSP monthly collaborative with targeted vegetation metrics would preserve continuous visibility and periodic depth, consistent with the Energy Bureau's prior approach to eliminating duplicative formats in the VM docket.

The present request does not ask the Energy Bureau to reduce reporting content; it asks the Energy Bureau to reaffirm its 2024 cadence determination and avoid imposing a separate monthly mechanism on top of the quarterly vegetation template. The Energy Bureau can maintain rigorous content and strong oversight by sustaining quarterly filings in the VM docket and leveraging the PSP monthly collaborative for intra-month visibility, consistent with the Energy Bureau's prior consolidation approach.

In light of the above, the Energy Bureau should reconsider the portion of the Final Rate Order that requires a separate monthly Vegetation Management Progress Report in the VM docket beginning June 1, 2026, and instead confirm that vegetation reporting in that docket will follow the 2024 Order's quarterly cadence, timing, and template, with any additional fields the Energy Bureau specifies to reflect the Final Rate Order's enumerated data elements. If additional fields from the Final Rate Order are added to the existing Vegetation Management Progress Report template, LUMA respectfully requests that the Energy Bureau begin the quarterly cadence in the first quarter of Fiscal Year 2027. This timeline provides sufficient time to adjust internal processes and align with vendors.

To the extent the Energy Bureau desires continued monthly visibility into targeted accomplishments, the Energy Bureau should consolidate such month-by-month vegetation progress into the PSP's existing monthly collaborative reports and, if useful for cross-reference, allow LUMA to file a short notice in the VM docket each month linking to the PSP filing. This

path preserves the Energy Bureau's oversight and enhances coherence across dockets while avoiding overlapping filings that risk distracting personnel from execution and can degrade data quality when forced on a monthly close cycle. *See* 2024 Order, at 2. By restoring the quarterly vegetation reporting cadence in the VM docket and leveraging the PSP monthly collaborative for intra-month visibility, the Energy Bureau will receive continuous information of progress and quarterly detail, while reducing duplicative administrative load.

G. Factual determinations that are not supported by the record or contrary to substantial evidence on the record and that the Energy Bureau must reconsider.

Art. II, Sec. 7 of the Constitution of the Commonwealth of Puerto Rico establishes the right of every person to be guaranteed due process of law as a requirement for being deprived of his property or liberty. The procedural aspect of due process requires that the deprivation of property and liberty rights be carried out through a fair and equitable process. *Picorelli López v. Depto de Hacienda*, 179 DPR 720, 735-36 (2010). Among the guarantees that make up due process of law, jurisprudence has recognized that the "administrative decision must be informed, with knowledge and understanding of the evidence pertaining to the case." A.*D.C.V.P. v. Tribunal Superior*, 101 DPR 875, 883 (1974). The agency's decision in an adjudicative proceeding shall include findings of fact and state the grounds for the administrative decision. *See e.g., Katiria's Café*, 2025 TSPR 33 at *11-12. Deference that courts afford to the decisions of administrative agencies yields when a decision is not based on substantial evidence. *Otero Mercado*, 163 DPR at 728.

It is a fundamental principle in administrative law that the resolution or order issued by the agency must be based exclusively on the record of the case in question. *See* Section 3.1 of the LPAU, PR Laws Ann. Tit. 3 § 9641, 3 LPRA § 9641 (2026); Section 3.18 of the LPAU, PR Laws Ann. Tit. 3 § 9658, 3 LPRA § 9658 (2026). Only when the administrative determination is based

on the record of the case are the parties guaranteed the opportunity to challenge the correctness of the agency's opinion and subsequent judicial review. *Magriz Rodríguez*, 143 DPR at 71.

As will be explained, several key factual findings of the Final Rate Order lack support or are contrary to substantial evidence found in the administrative record. In issuing the findings that LUMA challenges herewith, the Energy Bureau did not meet its obligation to articulate reviewable findings grounded on substantial evidence. *See Rivera Santiago v. Srio. de Hacienda*, 119 DPR 265, 275-77 (1987) (discussing the requirement that an agency decision include supported factual findings and outlining that defective factual determinations by administrative agencies affect a court's ability to review the decision and that the requirement of factual determinations dissuades arbitrary, capricious, and unauthorized decisions and allows a party to understand the decision and make informed decisions whether to seek judicial review); *see also Katiria's Café,* 2025 TSPR 33 at *11-12 (same).

1. Statements in the Final Rate Order that lack evidentiary support and must be reconsidered.

LUMA outlines below several unsupported factual determinations that support material rulings to deny rate-based funding for capital projects, applying the three-category standard that LUMA challenges in this motion and request that the Energy Bureau vacate these determinations on reconsideration.

a. Chapter One, Part III: The Role of Federal Funds

The assertion on page 16 of Chapter 1 that "the risk of customer overpayment from including Category Two projects in base rates exceeds the risk of delay" lacks a citation to any quantitative analysis or expert testimony comparing these two risks. This is a key finding underlying the exclusion of approximately $1.577 billion in projects from base rates, yet it is

presented as a bare conclusion without any evidentiary anchor. The lack of record support demands that the Energy Bureau reconsider and vacate this determination.

b. Chapter Three, Distribution Automation (PBUT4)

i. Federal funding denials for automation scope are "rare." On page 44 of Chapter Three, the Final Rate Order states that "federal funding denials for automation scope are rare," but no citation to any FEMA data, denial records, or testimony is provided. This statement, which is material to the Energy Bureau's determination that there is a pathway to federal funding for PBUT4 projects, is unsupported. Thus, the ruling that there is an expectation that federal funds may be available, is unsupported.

ii. Nonratepayer liquidity tools. The assertion on page 44 of Chapter Three that "multiple nonratepayer liquidity tools exist to bridge any timing gap" lacks any citation identifying what those tools are or what record evidence supports their availability in the context of PBUT4. This unsupported statement is insufficient to deny rate-based funding for PBUT4 projects.

c. Chapter Three, Section XI — Federal Funding of T&D Capital Programs

"NFC as last resort." The statement on page 304 of Chapter Three that "ratepayer-funded NFC is a funding source of last resort, not a default" is an Energy Bureau policy conclusion rather than a finding drawn from the evidentiary record or from a specific statutory provision. As discussed above and in LUMA's RR Reply directly challenges this formulation, arguing that Act 57-2014 does not provide that cost-recovery through rates is conditioned on a determination that federal funds are not available.

d. Chapter Three, Genera's average reimbursement time applied to LUMA

On page 34 of Chapter Three, the Energy Bureau referenced Genera's average reimbursement time of "45 to 60 days," when outlining grounds to deny rate-based funding for

all but three projects within the Distribution Pole and Conductor Repair Program (PBUT30). There is no record evidence to support applying Genera's reimbursement timeframes to LUMA. The determination, moreover, is contrary to substantial evidence on record regarding LUMA's reimbursement timelines.

The average reimbursement for Genera's projects is not representative of LUMA's experience or systemwide averages. Substantial evidence on the record shows that LUMA's own reimbursement times are 100–117 days. Ex. 74, 19:385-386; Tr. 12/18, 263:22-24. Additionally, Mr. Smith testified that documentation associated with LUMA is significantly greater than what Genera submits.[11] Tr. 12/18, 329:18-25, 330:1-7. Even Genera's representative testified on the differences between Genera and LUMA. Ms. María Sánchez-Brás, Genera's Chief Financial Officer, testified as follows regarding the differences between the two companies: "totally agree with Mr. Smith, particularly when we are purchasing big, bulky equipment, and we are including within the contracts the payment schedules aligned with what COR3 is asking for us. So it's totally different from what LUMA is purchasing." *Id*., 330:8-15. LUMA's projects are inherently complex because of their relationship with environmental impact aspects, which require an additional review by FEMA that is not needed for Genera projects. Tr. 11/21, 177:6-25. Substantial evidence on the record of inherent characteristics in LUMA's projects renders unreasonable and

[11] Mr. Smith testified:

> Our projects are very different than GENERA's projects. So when you think about the amount of time sheets, the different sets of skilled craft labor, the parts that go into that, you can draw the example, and I'm not diminishing what GENERA does, but if I'm going to put a big part in a generator, it's like going to the car dealership and buying the truck. LUMA buys all the parts and assembles the truck. So you can imagine that the documentation associated with the LUMA project may be in some instances significantly greater than what Genera submits.

Tr. 12/18, 329:18-25, 330:1-7.

erroneous application of Genera's reimbursement timelines to LUMA. The Energy Bureau erred in using Genera's reimbursement timelines as evidence to deny rate-based funding for LUMA's capital projects.

e. Chapter Three, Transmission Line Rebuild (PBUT33)

On page 73 of Chapter Three, the Final Rate Order states that PBUT33 has the potential for federal reimbursement through FEMA Public Assistance Programs. For support, the Final Rate Order cites page 49 of Ex. 5.0, the pre-filed testimony of Mr. Meléndez. Although that page references several topics of federal funding, it does not address the specific issue of whether PBUT33 activities are eligible for reimbursements. The Energy Bureau failed to properly support this finding of fact that is material and foundational to its substantive ruling to exclude from base rates, all but one of the PBUT33 projects. Thus, the ruling that there is an expectation that federal funds may be available lacks proper evidentiary support.

f. Chapter Three, System Compliance & Studies (PBUT1), Wildfire Mitigation

Regarding the System Compliance & Studies Program (PBUT1), the Energy Bureau found that the "necessity for the PBUT1 program is established by regulatory mandate, safety imperatives, and the physical reality of the grid's degradation." Final Rate Order, Chapter Three at 89. The Energy Bureau further reasoned that "wildfire mitigation is essential to prevent catastrophic damage to the T&D infrastructure," that "LUMA's data indicates that 'outage events' and wildfire effects already consume millions in O&M," and that "[p]roactive mitigation, based on solid data, is required to reduce these recurring costs." *Id.* at 90. The Energy Bureau acknowledged that FEMA had already declined to approve a comprehensive inventory effort that LUMA proposed under a federal grant, thus necessitating ratepayer funding for that data-collection scope. *Id.* at 86; *see also* Ex. 689.

Notwithstanding these findings, which establish both the necessity and urgency of the wildfire mitigation study and FEMA's track record of declining to fund related data-collection efforts, the Energy Bureau denied rate-based funding for the wildfire mitigation study component of PBUT1 and directed that it "be reallocated to the federal funding pipeline and pursued as a hazard mitigation measure." Final Rate Order, Chapter Three at 92. The Energy Bureau did not include any citation to the record evidence in support for this directive in Chapter Three. The Energy Bureau's stated rationale appears on Appendix F of the Final Rate Order, that it was "unable to rule out the existence of a federal funding pathway."

The unrebutted testimony from LUMA's witness Mr. Meléndez established that the wildfire mitigation study is not eligible for FEMA funding. When asked directly why the study was identified as ineligible, Mr. Meléndez testified: "It's a compliance study, and not all studies and compliance studies are eligible for funding in, in the FEMA. So we need specific funds to meet the order that was identified, and that's what funds are being requested for." Tr. 12/19, 115:9-13. While Mr. Meléndez acknowledged that "components of it could be" characterized as a hazard mitigation measure, *id*. at 115:3–4, he consistently maintained that the study scope required non-federal capital. No party presented contrary evidence establishing that FEMA would fund this work.

This reallocation directive is not supported by substantial evidence and is internally inconsistent with the Energy Bureau's own findings. The Energy Bureau's own findings referenced above show that the record includes substantial evidence on the justified rate-based funding need for these studies.

g. Chapter Three, Facilities Development & Implementation (PBFM1)

On pages 226-227 of Chapter Three, the Final Rate Order denied the requested amounts of $1,500,000 in FY26 and $200,000 in FY28 for temporarily relocating Distribution Operations Center functions because of the construction of the new Primary Control Center. In turn, it directs LUMA to align this expense with the Primary and Backup Control Centers project (PA-02-PR-4339-PRJ-746545). For support of the amounts requested by LUMA, the Final Rate Order cites pages 58 to 62 of LUMA Ex. 17.0, the pre-filed testimony of Mr. Miguel Sosa Alvarado. However, Mr. Sosa's pre-filed testimony (including exhibits) totals 48 pages. Notwithstanding, nothing in Mr. Sosa's pre-filed testimony or testimony at the evidentiary hearing supports the Energy Bureau's rationale that the expense for temporarily relocating Distribution Operations Center functions can be aligned with the expense of the Primary and Backup Control Centers project (PA-02-PR-4339-PRJ-746545), a federally funded project. In fact, LUMA witness Mr. Burgemeister testified at the evidentiary hearing that the NFC being spent was associated with other items, not the control center itself. Tr. 11/13, 416: 21-25, 417:1-7. The Energy Bureau failed to properly support the finding of fact that the expense for temporarily relocating Distribution Operations Center functions can be aligned with the expense of the Primary and Backup Control Centers project (PA-02-PR-4339-PRJ-746545), which is material and foundational to its substantive ruling to exclude this particular PBFM1 project from base rates. Thus, the ruling that there is an expectation that federal funds may be available lacks proper evidentiary support.

h. Chapter Three, Section F, Operations and maintenance expenses of the Capital Programs Department.

Several footnotes in the Final Rate Order's Chapter Three, Part IX.F (Capital Programs Department O&M Expenses) contain incorrect citations that must be corrected: Footnotes 620, 621, 627, 629, 639, and 649 each cite "LUMA, Ex. 7.0 at Table 1" as the source for Capital

Programs Department budget data, but LUMA Ex. 7.0 is the Direct Testimony of Sarah Hanley for the Customer Experience Department and does not contain Capital Programs Department figures.

Importantly, footnotes 616 and 618 cite "Tr. Dec. 2 at 58:16-19" for the proposition that LUMA's Chief Regulatory Officer conceded that the Capital Programs Department's responsibilities "have been handled appropriately with current staffing," but the December 2 transcript at page 58 contains the testimony of Genera witness Héctor Vázquez-Figueroa on IT/OT matters, and the referenced concession was in fact made by Mr. Alejandro Figueroa on December 3, 2025, regarding the Regulatory Department, not the Capital Programs Department. These citation errors are not merely clerical but rather undermine the sufficiency of the evidentiary support for the denial of the Optimal Budget for Capital Programs labor. LUMA respectfully requests that the Energy Bureau correct these erroneous references.

2. Erroneous factual finding on the Distribution Grid Reliability Program (PBUT39)

LUMA requests that the Energy Bureau amend an incorrect factual finding regarding the **Distribution Grid Reliability (PBUT39) Program.** On page 74 of Chapter Three, the Final Rate Order incorrectly states that the Worst Performing Feeders initiative targets remediation of approximately 18 feeders per year. The Final Rate Order relies on Ex. 633; *see also* Ex. 5.0 at 47; Ex. 74.16(a) ("the study, analysis, and partial remediation of 38 feeders (or circuits) each year"; Ex. 5.13 ("upgrading at least 38 problematic feeders annually"); Ex. 146 ("the Worst Performing Feeders, upgrading at least 38 feeders annually."). A review of PC Ex. 633 and of other substantial evidence on the record shows that the correct number of feeders to be remediated is 38. The statement on remediation of 18 feeders per year is contrary to the evidence.

3. Erroneous references to exhibits that were stricken from the record

Several portions of the Final Rate Order erroneously reference exhibits that were stricken from the record as stated in the Hearing Examiner's Order of January 8, 2026. LUMA requests that the Energy Bureau strike the following references to documents that were not admitted into evidence and cannot be considered in the Final Rate Order[12]:

i. Chapter Three, page 9, note 14, VG Ex. 156 and Chapter Three, page 10, note 16, VG Ex. 1056.

ii. Chapter Three, page 85, note 349, reference to AG Ex. 981.

iii. Chapter Three, page 43, note 161, SESA Ex. 1006.

iv. Chapter Three, page 87, notes 358, 359 and 360, and page 89, note 371, citing to SESA-of-LUMA-DST-100. This discovery response was marked as SESA Exhibit 1002 and was excluded from the record through the Hearing Examiner's order of January 8, 2026.

WHEREFORE, LUMA respectfully requests that this Energy Bureau:

1. Reconsider and vacate the three-category framework adopted in Chapter One, Part III of the Final Rate Order for determining the source of capital funding, as the framework is not grounded in Section 6.25(b) of Act 57-2014, is not supported by any Energy Bureau regulation, was not announced in the filing requirements for this rate case, and constitutes an unreasonable and arbitrary exercise of regulatory authority;

2. Clarify and harmonize the directive to return unspent NFC funds in Chapter Three, Part IX.E(4) with the budget oversight framework retained in Chapter Eight, Part

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The documents mentioned below were not used in cross-examination and thus, were excluded from the record as per the Hearing Examiner's Order of January 8, 2026. *Available at* https://energia.pr.gov/wp-content/uploads/sites/7/2026/01/20260108-AP20230003-HE-Order-on-Exhibits-and-misc.pdf. (ruling on treatment of exhibits above Exhibit 926 that were not used in cross-examination).

XLVIII, and with LUMA's contractual flexibility under Section 7.3(c) of the T&D OMA to reallocate expenditures within the five-percent threshold;

3. Reconsider the per-hour ceiling and matter-level quarterly reporting requirement for external legal expenditures, and reconsider the blanket denial of Title III cost recovery by approving a reasonable level of funding consistent with the Supplemental Terms Agreement and the T&D OMA;

4. Reconsider the denial of $30 million to restore the Outage Event Reserve Account to T&D OMA-compliant levels and approve the Major Storm Cost Rider as the lawful mechanism to replenish Outage Event Costs and maintain contractually mandated reserve accounts;

5. Reconsider the denial of capital costs to acquire meters for Net Energy Metering customers;

6. Reconsider the monthly vegetation management reporting requirement and confirm that vegetation reporting in the VM docket will follow the 2024 Order's quarterly cadence, with any additional data elements specified by the Final Rate Order incorporated into the existing quarterly template;

7. Strike and vacate the unsupported factual determinations and citation deficiencies identified herein, and amend the incorrect finding identified in this Motion; and

8. Grant any other relief that this Energy Bureau deems just and proper.

RESPECTFULLY SUBMITTED.

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

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CERTIFICATION

WE HEREBY CERTIFY that an exact copy of this Motion was notified by electronic mail and by regular mail to the following parties:

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