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

IN RE:

LUMA'S ACCELERATED STORAGE ADDITION PROGRAM

CASE NO. NEPR-MI-2024-0002

SUBJECT: Informative Motion on Status of ASAP and Request for Confidential Treatment

INFORMATIVE MOTION ON STATUS OF ASAP AND REQUEST FOR CONFIDENTIAL TREATMENT

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COME NOW LUMA Energy, LLC ("ManagementCo"), and **LUMA Energy Servco, LLC** ("ServCo") (jointly referred to as "LUMA"), through the undersigned counsel, and respectfully states and requests the following:

1. LUMA respectfully submits this Informative Motion to provide the Puerto Rico Energy Bureau of the Public Service Regulatory Board ("Energy Bureau") with an update on the status of the Accelerated Storage Addition Program ("ASAP"), noting that significant progress has been made since LUMA submitted its fiscal year ("FY") 2026 third quarter report on April 30, 2026[1].

2. ASAP is a program developed by LUMA and approved by the Energy Bureau proposing the accelerated integration of Battery Energy Storage Systems ("BESS") to the Puerto Rico electrical system to be dispatched to provide time shift services, voltage and frequency support and other ancillary services resulting in improved system reliability, reduction of load

[1] *See Motion to submit ASAP Quarterly Report for Third Quarter of Fiscal Year 2025-2026, and Request for Confidential Treatment* ("April 30th Motion").

shedding events and lower costs to customers. This program involves providing a standard offer ("SO"), under a standardized pricing model, to qualified independent power producers ("IPPs") to add BESS capacity using two types of SO Agreements: the SO1 Agreement offered to existing IPPs with an executed power purchase and operating agreement ("PPOA") ("Phase 1" participants) and the SO2 offered to other IPPs with executed PPOAs that are not yet operating and are in various stages of development ("Phase 2" participants).

3. In its ASAP FY 2026 third quarter report, LUMA informed that, as of the date of that report, ten SO1 Agreements had been approved by the Energy Bureau totaling 594.4 MW of BESS (consisting of six SO1 Agreements with Phase 1 participants and four SO1 Agreements with Phase 2 participants); four SO1 Agreements had been approved by the Financial Oversight Management Board ("FOMB") and the remaining six SO1 Agreements were awaiting FOMB approval; one participant had executed its SO1 Agreement with the Puerto Rico Electric Power Authority ("PREPA") on April, 7, 2016; and three participants were in the process of completing the signing conditions for execution.[2] LUMA also informed that Facilities Studies had been completed for all points of interconnection for Phase 1 facilities, and all Phase 1 participants had provided the necessary information to perform the System Impact Studies.[3]

4. LUMA is pleased to inform that significant progress continues to be made in ASAP and respectfully submits the attached status update report discussing this progress. *See Exhibit 1*.

5. As detailed in the attached status update report, as of this date, the FOMB has approved or conditionally approved the six remaining SO1 Agreements for a total of 10 ASAP projects that have been both approved by the Energy Bureau and the FOMB.[4] In addition, since

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[2] *See id*., Exhibit 1, pp. 3-4.
[3] *See id*.
[4] *See Exhibit 1*., p. 3.

April 30, 2026, two additional SO1 Agreements have been executed, for a total of three SO1 Agreements executed as of this date with a combined capacity of 211.4 MW.[5] Furthermore, three projects have completed the signing conditions[6] prior to execution with PREPA, and the remaining four projects are in the process of completing their signing conditions.[7]

6. LUMA further informs that the System Impact Studies for all Phase 1 projects have been completed by the engineering firm contracted by LUMA and are undergoing final review.[8] As explained in Exhibit 1, these studies evaluate the interconnection of the new BESS projects to the electric grid, identifying any potential thermal overloads or voltage violations caused by their integration and any network upgrades needed to address, alleviate, or eliminate equipment overloads, voltage limit violations, and short-circuit breaker limits, as well as analyze compliance with LUMA's MTRs for interconnection.[9] These studies are intended to ensure the safe and reliable interconnection and operation of the ASAP projects on the Puerto Rico electric system.[10]

7. As LUMA has informed in the past, any costs associated with necessary interconnection modifications were expected to be minimal and would be confirmed by the final System Impact Studies.[11] The approved SO1 Agreement already anticipates this possibility

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[5] *See id*.

[6] These consist of providing certain documentation and certifications required as a condition to execute the agreement as required by Exhibit 21 of the SO1 Agreement. The SO1 Agreement was submitted as Exhibit 2 to LUMA's *Motion in Compliance with Resolution and Order of October 11, 2024, and Request for Confidential Treatment*, filed on October 18, 2024 ("October 18th Motion"), and it was approved by the Energy Bureau by Resolution and Orser issued on November 1, 2024.

[7] *See Exhibit* 1, p. 3.

[8] *See id*., pp. 3 and p. 5.

[9] *See id*., p. 5.

[10] *See id*.

[11] *See, e.g., Motion to Submit Additional Information on Accelerated Storage Addition Program in Compliance with Resolution and Order of November 30, 2023, and of December 11, 2023, and Request for Energy Bureau to Open a Separate Docket for the Evaluation of this Program* filed on December 21, 2023, in Case No. NEPR-MI-2021-0002, Exhibit 1,*p, 1 ("*...ASAP projects have significantly reduced capital costs compared to other BESS projects"); *Motion to Submit ASAP Structure and Concept in Compliance with Resolution and Order issued on April 19, 2024, and Request for Determination of Consistency with Energy Public Policy and IRP* filed on April 26, 2024, p. 5 ("Customers benefit[…] because traditional costs of BESS integration are avoided or reduced, improvements in service reliability are accelerated, renewable energy integration is facilitated; and energy costs are reduced") and Exhibit 1, p. 2 ("Lower

through the Interconnection Adjustment mechanism outlined in its Exhibit 2, which allows for an adjustment to the Monthly Payment if a Resource Provider must incur commercially reasonable, PREPA-approved interconnection costs after the Closing Date.[12] This mechanism ensures that any such costs are handled in a structured and transparent manner.

8. Based on the preliminary findings of the System Impact Studies, a single network upgrade was identified as a result of the addition of the six Phase 1 projects, which is described in the attached report.[13] The associated costs are deemed reasonable and significantly lower in comparison with other procurements.[14] Minor improvements for the points of interconnection were also identified, also discussed in the attached report, the costs of which are also deemed lower than average similar costs in other procurements.[15] LUMA includes in the report a discussion of the

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costs result primarily from use of existing sites and interconnection points, reducing or minimizing the need for additional infrastructure studies or investments, as well as avoiding the significant time and costs associated with traditional procurements"); *See Motion to Submit ASAP Program Implementation Plan and Associated Documents, Request for Approval of ASAP Cost Recovery Mechanism, and Request for Confidential Treatment*, filed on February 28, 2025, Exhibit 3, p. 3 ("If additional interconnection modifications are required (which is still not expected, but is a possibility), then LUMA will propose these additional modification costs are borne by the ASAP Program Plan and recovered through the PPCA rather than being imposed on the individual generators"); *Motion Submitting Draft of Standard Offer Agreement for Participation in Accelerated Storage Addition Program and Associated Information, Response to Comments Regarding Eligibility to Participate in the Program, and Request for Confidential Treatment* filed on September 16, 2024, p. 2 ("Lower costs result primarily from use of existing sites and interconnection points, reducing or minimizing the need for additional infrastructure studies or investments, as well as avoiding the significant time and costs associated with traditional procurements"); *Motion in Compliance with Order to Show Cause of July 9, 2025*, filed on July 22, 2025, p. 44 ("Based on the preliminary studies, LUMA does not anticipate that interconnection costs in the case of the SO1 projects would reach 10% of all interconnection related costs in Tranche 1. […] However, LUMA stresses that these assessments are based on the preliminary studies at only a fraction of the total sites, and do not take into account unanticipated or unknown conditions that could only be identified after completion of the interconnection studies").

[12] *See* October 18th Motion, Exhibit 2, Section 2(a). This section provides, in pertinent part, that: "If, after the Closing Date, Resource Provider is required to incur costs in connection with the Interconnection Facilities or the interconnection of the Storage Facility, notice of which Resource Provider provides to PREPA, then, the Monthly Payment shall be subject to an adjustment ("**Interconnection Adjustment**") pursuant to this Section 2 (*Interconnection Adjustment*) of this Exhibit 2 (*Components of Monthly Payment and Calculation Formulas*) solely in respect of such commercially reasonable costs as are actually incurred by or on behalf of Resource Provider in connection with the Interconnection Facilities or the interconnection of the Storage Facility and that are subject to PREPA's agreement, in PREPA's sole discretion (the "**Additional Interconnection Costs**")".

[13] *See id*., p. 5.

[14] *See id*.

[15] *See id.*

proposed manner to allocate these implementation costs, and will address this subject in a request to this Energy Bureau once the studies are finalized.

9. As discussed in the attached report, ASAP is still expected to deliver significant cost savings, with a levelized cost of storage (LCOS) that is significantly lower (at least 25%-50%) than other projects under procurement or development, while increasing the resources available to reduce load sheds and strengthen system reliability.[16]

10. Based on the foregoing, LUMA respectfully submits that the information presented in the attached status update report underscores the strategic importance and continued relevance of ASAP for Puerto Rico. LUMA will be providing further updates in its FY 2026 fourth quarterly report due next month.

11. LUMA respectfully requests the honorable Energy Bureau to maintain *Exhibit 1* confidential as containing validated trade secret information under applicable laws and regulations, including the Energy Bureau's Policy on Management of Confidential Information, CEPR-MI-2016-0009, issued on August 31, 2016, as amended on September 21, 2016 ("Policy on Confidential Information"). LUMA submits herein the Memorandum of Law stating the legal basis for the request to treat *Exhibit 1* confidential.

IV. Memorandum of Law in Support of Request for Confidentiality

A. Applicable legal provisions related to the submittal of information confidentially before the Energy Bureau

12. Section 6.15 of the *Puerto Rico Energy Transformation and RELIEF Act*, Act No. 57-2014, as amended ("Act 57-2014") regulates the management of confidential information filed before this Energy Bureau, providing, in pertinent part, that: "[i]f any person who is required to submit information to the Energy [Bureau] believes that the information to be submitted has any

[16] *See id*., p. 7.

confidentiality privilege, such person may request the Commission to treat such information as such [….]" 22 LPRA §1054n. If the Energy Bureau determines, after appropriate evaluation, that the information should be protected, "it shall grant such protection in a manner that least affects the public interest, transparency, and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted." *Id.* Section 6.15 (a).

13. In connection with the duties of electric power service companies, Section 1.10 (i) of *Puerto Rico Energy Public Policy Act, Act No. 17-2019*, as amended ("Act 17-2019") provides that electric power service companies shall submit information requested by customers, except for confidential information in accordance with the Rules of Evidence of Puerto Rico. 22 LPRA §1141i.

14. Access to the confidential information shall be provided "only to the lawyers and external consultants involved in the administrative process after the execution of a confidentiality agreement." *Id.* Section 6.15(b), 22 LPRA §1054n. Finally, Act 57-2014 provides that this Energy Bureau "shall keep the documents submitted for its consideration out of public reach only in exceptional cases. In these cases, the information shall be duly safeguarded and delivered exclusively to the personnel of the [Energy Bureau] who need to know such information under nondisclosure agreements. However, the [Energy Bureau] shall direct that a non-confidential copy be furnished for public review." *Id.* Section 6.15(c).

15. The Energy Bureau's Policy on Confidential Information details the procedures that a party should follow to request that a document or portion thereof be afforded confidential treatment.[17] This document provides that "[a]ny document designated by the [Energy Bureau] as

[17] In essence, the Policy on Confidential Information requires the identification of confidential information and the filing of a memorandum of law explaining the legal basis and supporting evidence for a request to file information confidentially. *See* CEPR-MI-2016-0009, Section A, as amended by the Resolution of September 16, 2016, CEPR-

Validated Confidential Information because it is a trade secret under Act 80-2011 may only be accessed by the Producing Party and the [Energy Bureau], unless otherwise set forth by the [Energy Bureau] or any competent court". *Id.* at § D (on Access to Validated Confidential Information).

16. Relatedly, Regulation 8543 includes a provision for filing confidential information in adjudicatory proceedings before this Honorable Energy Bureau.[18]

17. The Puerto Rico legal system recognizes and protects the confidentiality of certain information considered to be privileged. In part, privileged materials are exclusively referred to as the privileges codified in the Rules of Evidence. *E.L.A v. Casta,* 162 DPR 1, 10 (2004). One of these recognized privileges is the company's Trade Secrets:

> The owner of a trade secret has a privilege, which may be claimed by such person or by his or her agent or employee, to refuse to disclose and to prevent another from disclosing it, if the allowance of the privilege will not tend to conceal fraud or otherwise work injustice. If disclosure is directed, the court shall take such protective measures as the interest of the owner of a trade secret and of the parties and the interests of justice require.

See R. Evid. 513, 32 LPRA Ap. IV, R. 513 (2024).

18. In essence, this privilege "protects confidential commercial information" and is "based on public policy considerations aimed at promoting innovation, commercial production and business operation improvement, which in turn contributes to economic and technological

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MI-2016-0009. The memorandum should also include a table that identifies the confidential information, a summary of the legal basis for the confidential designation and a summary of the reasons why each claim or designation conforms to the applicable legal basis of confidentiality. *Id.* paragraph 3. The party who seeks confidential treatment of information filed with the Energy Bureau must also file both a "redacted" or "public version" and an "unredacted" or "confidential" version of the document that contains confidential information. *Id.* paragraph 6.

[18] To wit, Section 1.15 provides that,

> a person has the duty to disclose information to the [Energy Bureau] considered to be privileged pursuant to the Rules of Evidence, said person shall identify the allegedly privileged information, request the [Energy Bureau] the protection of said information, and provide supportive arguments, in writing, for a claim of information of privileged nature. The [Energy Bureau] shall evaluate the petition and, if it understands [that] the material merits protection, proceed accordingly to [. . .] Article 6.15 of Act No. 57-2014, as amended.

development". (translation provided). *Colón Rivera v. Triple-S Salud, Inc.,* 2020 WL 8458051, p. 7 (Puerto Rico Court of Appeals, December 22, 2020).

19. The Puerto Rico Trade and Industrial Secrets Protection Act - Act. No. 80 of June 3, 2011, as amended, 10 LPRA § 4131 (2024) ("Act 80-2011") considers a trade secret any information:

> (a) From which an independent economic value, whether current value or potential value, or a commercial advantage is derived because such information is not commonly known or accessible by appropriate means to those persons who may derive pecuniary benefit from the use or disclosure of such information, and
> (b) which has been subject to reasonable security measures, under the circumstances, to maintain its confidentiality.

10 LPRA § 4132 (translation provided).

20. Act 80-2011 considers reasonable security measures such as those taken by the owner to limit access to information under particular circumstances. 10 LPRA§ 4133.[19]

21. Article 11(c) of Act 80-2011 establishes that, before ordering any production of a commercial trade secret, it should be determined whether there is a substantial need for the information. (Our translation). 10 LPRA § 4139(c).[20]

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[19] The following are considered reasonable measures, among others:

> (a) Not disclose the information to individuals or entities not authorized to have access to it;
> (b) limit the number of people authorized to access the information;
> (c) require employees of the company authorized to access the information to sign confidentiality agreements;
> (d) store the information in a separate place from any other information;
> (e) label the information as confidential;
> (f) take measures to prevent indiscriminate reproduction of the information;
> (g) establish control measures for the use or access of the information by employees, or
> (h) implement available technological measures when publishing or transmitting information through the Internet, including the use of email, webpages, discussion forums and any other equivalent means.

Id. (translation provided).

[20] Puerto Rico Courts in adversarial cases have interpreted a "substantial need" when the following four (4) conditions are present:

B. Request for confidential designation

22. LUMA respectfully requests that the Energy Bureau designate *Exhibit 1* as confidential, pursuant to the protections afforded under Puerto Rico law for trade secrets and proprietary business information. This document contains detailed, non-public information regarding the implementation of ASAP, including commercially sensitive project information, costs and timelines. This information meets the definition of a trade secret under the Puerto Rico Trade and Industrial Secrets Protection Act, Act No. 80 of June 3, 2011, as amended, 10 LPRA § 4132, because:

- It derives independent economic value from not being generally known or readily accessible to competitors or other market participants; and
- It has been subject to reasonable security measures to maintain its confidentiality, including restricted access, internal labeling, and limited distribution.

23. Disclosure of *Exhibit 1* would risk revealing LUMA's internal strategies and financial assumptions, which could undermine its competitive position and disrupt ongoing regulatory and commercial negotiations.

24. Following Rule 513 of the Puerto Rico Rules of Evidence and the public policy rationale articulated in *Ponce Adv. Med. v. Santiago González, supra*, LUMA asserts its privilege to protect this trade secret information from public disclosure. The requested confidentiality

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(1) The allegations raised for the purpose of establishing the existence or absence of liability have been specifically raised;
(2) the information sought to be discovered is directly relevant to the allegations specifically raised;
(3) the information sought to be discovered is such that the party seeking discovery would be substantially prejudiced if not permitted access to it; and
(4) there is a good faith belief that testimony or evidence derived from the information that is part of the trade secret will be admissible at trial.

Ponce Adv. Med. v. Santiago González, 197 DPR 891, 905 (2017) (translation provided).

designation is narrowly tailored and does not impede the Energy Bureau's regulatory oversight. Furthermore, maintaining the confidentiality of *Exhibit 1* does not adversely affect the public interest. On the contrary, it protects the public interest in reducing energy costs and furthers a more successful ASAP program, which will lead to system reliability benefits.

WHEREFORE, LUMA respectfully requests that the Energy Bureau **take notice** of the above and **grant** the request for confidential treatment of *Exhibit 1*.

RESPECTFULLY SUBMITTED.

In Guaynabo, Puerto Rico, on the 24th day of June 2026.

We hereby certify that this motion was filed using the electronic filing system of this Energy Bureau and we will send a courtesy copy of this motion to hrivera@jrsp.pr.gov; alexis.rivera@prepa.pr.gov;oramos@pmalaw.com;agraitfe@agraitlawpr.com;javier.vazquez@oneillborges.com;amilkar.cruz@oneillborges.com;antonio.collazo@oneillborges.com;mgarcia@pmalaw.com; apc@mcvpr.com; cfl@mcvpr.com.

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Exhibit 1

[Submitted under seal of confidentiality]