NEPR

Received:

Jul 23, 2026

1:19 PM

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

IN RE: REVIEW OF LUMA'S INITIAL BUDGETS	**CASE NO.** NEPR-MI-2021-0004 **SUBJECT:** LUMA's Motion to Clarify and Request to Strike

MOTION TO CLARIFY AND REQUEST TO STRIKE

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COME NOW LUMA Energy, LLC and LUMA Energy ServCo, LLC (jointly referred to as "LUMA") and respectfully state and request the following:

I. Introduction

1. LUMA respectfully submits this Motion to Clarify and Request to Strike certain statements in the Puerto Rico Energy Bureau's (the "Energy Bureau") June 29, 2026 *Resolution and Order* (the "June 29th Order"). Specifically, while the Energy Bureau granted the requested zero-sum reallocation, the Order characterizes LUMA's approved reallocation request as reflecting a "planning shortfall" and "unplanned spending." These statements are not supported by the record and do not accurately reflect the circumstances under which LUMA acted during Fiscal Year 2026 ("FY2026") and apply an after-the-fact budgeting expectation that had not previously been articulated to LUMA.

2. The submission addressed in the June 29th Order did not seek additional funding, an increase to the approved FY2026 Non-Federally Funded Capital ("NFC") Budget, or any modification to customer rates. Rather, LUMA requested a limited reallocation within the approved FY2026 NFC Budget to align final budget allocations with expenditures and

commitments incurred while LUMA was operating under the FY2026 T&D Provisional Budget approved by the Energy Bureau. The request was necessary given that, by the time the Final Rate Order[1] was issued on April 15, 2026, LUMA had already advanced substantial portions of its operational and capital plan, committed resources, and incurred obligations necessary to preserve system reliability, support emergency response, and continue critical modernization work.

3. As will be explained, there is no support for the Energy Bureau's statement on alleged deficient planning or lack of spending discipline. LUMA incurred relevant expenditures and commitments under the Energy Bureau-approved FY2026 T&D Provisional Budget while the rate review was pending and before the Final Rate Order was issued. Because neither the applicable budget orders nor any statute or regulation prescribed a methodology for planning, sequencing, or expending funds under a temporary or provisional budget, the June 29th Order's after-the-fact criticism of LUMA's conduct is unsupported by the record and inconsistent with basic principles of administrative reasonableness and fair notice. Accordingly, the statements asserting that LUMA's approved reallocation "reflects a planning shortfall," that LUMA "should have planned and sequenced these expenditures with greater discipline," and that LUMA should not "rely on after-the-fact reallocations to conform approved budgets to unplanned spending" must be stricken from the record.

II. Relevant Background

4. On June 11, 2025, the Energy Bureau issued a *Resolution and Order* (the "June 11th Order") establishing that the Fiscal Year 2025 (the "FY2025") budget would roll over and serve as the Temporary Default Budget for FY2026 until new rates were approved.

[1] Any capitalized term used but not defined at initial references in this Motion shall have the meaning assigned to it in the section of this Motion where such term is later defined.

5. Thereafter, on June 20, 2025, the Energy Bureau issued a *Resolution and Order* (the "June 20th Order") in this proceeding, adjusting the Temporary Default Budgets for FY2026 to increase the amounts allocated to each operator's service fee and to proportionally reduce all other expenditure categories. *See* June 20th Order at 2. The Energy Bureau emphasized that these temporary budgets would remain in effect only until superseded by provisional or final rates issued in the corresponding rate review proceeding, Case No. NEPR-AP-2023-0003.

6. On July 3, 2025, LUMA, on behalf of itself, Genera PR LLC and the Puerto Rico Electric Power Authority ("PREPA"), submitted an application for permanent and provisional rates in Case No. NEPR-AP-2023-0003, *In Re: Puerto Rico Electric Power Rate Review*.[2] LUMA included the FY2026 Budget, which was prepared in accordance with various directives issued by the Energy Bureau in Case No. NEPR-AP-2023-0003.

7. On July 31, 2025, the Energy Bureau issued a *Resolution and Order* in Case No. NEPR-AP-2023-0003 (the "Provisional Rate Order"), establishing the FY2026 Provisional Budget for the Electric System.[3] From this system-wide budget, LUMA, as the operator of the transmission and distribution system, administers the portion allocated to GridCo, referred to as the FY2026 T&D Provisional Operating Budget (the "FY2026 T&D Provisional Budget").

8. On October 10, 2025, LUMA filed a *Motion Submitting Amendment to Fiscal Year 2026 T&D Provisional Budget* (the "October 10 Motion"), through which LUMA requested, among other things, that the Energy Bureau amend the FY2026 T&D Provisional Budget to

---

[2] *See Motion Submitting Rate Review Petition. Available* at https://energia.pr.gov/wp-content/uploads/sites/7/2025/07/20250703-AP20230003-Motion-Submitting-Rate-Review-Petition-2-1.pdf.

[3] *Available* at https://energia.pr.gov/wp-content/uploads/sites/7/2025/07/20250731-AP20230003-Resolution-and-Order.pdf.

recognize the FY2025 amended budget as the appropriate baseline for the FY2026 T&D Provisional Budget. That amendment did not seek to modify customer rates.

9. On October 24, 2025, the Energy Bureau entered a *Resolution and Order* (the "October 24th Order") approving LUMA's request to amend the FY2026 T&D Provisional Budget, including the FY2026 T&D Provisional Budget, to reflect the amended FY2025 budget as its basis.

10. On March 25, 2026, LUMA filed a *Motion to Submit Fiscal Year 2026 Second Provisional Budget Amendment* (the "March 25th Motion"), requesting authorization to reallocate certain budgets of the previously approved FY2026 T&D Provisional Budget to reflect updated funding availability, project execution realities, and system reliability priorities. This amendment did not seek to modify customer rates.

11. Less than a month after the March 25th Motion was submitted, on April 15, 2026, the Energy Bureau issued its *Final Resolution and Order on Electricity Rates* in Case No. NEPR-AP-2023-0003 (the "Final Rate Order"),[4] establishing a new annual revenue requirement and adopting a permanent FY2026 budget consistent with that requirement (the "Final FY2026 T&D Budget").

12. Although the Final Rate Order acknowledges the filing of the March 25th Motion, it does not resolve, address, or otherwise rule upon the requests presented therein. *See* Final Rate Order, Chapter Three, at 114. Moreover, the docket in the above-captioned proceeding, in which the March 25th Motion was filed, likewise reflects no action or determination regarding that submission.

---

[4] *Available* at https://energia.pr.gov/wp-content/uploads/sites/7/2026/04/20260415-AP20230003-Final-Resolution-and-Order.pdf.

13. On June 9, 2026, Genera PR LLC ("Genera") filed an *Urgent Motion for Clarification and Protective Treatment Regarding FY2026 Budget-to-Actual Reconciliation and Good-Faith Expenditures Incurred Under PREB-Approved Temporary and Provisional Budget Authority* (the "June 9th Motion"). In that motion, Genera requested clarification from the Energy Bureau regarding the implementation of the FY2026 budget approved in the Final Rate Order and the treatment of expenditures incurred before issuance of that order under PREB-approved Provisional Budget-authority. *See* June 9th Motion, at 1-2. Genera asserted that such expenditures were incurred in good faith and in reliance on existing regulatory authorization, and requested confirmation that they would not be retroactively deemed unauthorized, imprudent, or otherwise subject to disallowance solely as a result of subsequent modifications to the approved budget structure. *Id.* Genera also sought leave to submit supporting narratives and documentation as part of the FY2026 budget-to-actual reconciliation process. *Id.* at 15.

14. On June 15, 2026, the Energy Bureau issued a *Resolution and Order* (the "June 15th Order") by which it, among other matters, partially amended the Fiscal Year 2027 ("FY2027") Budget to establish a contingency reserve account for LUMA, Genera, and PREPA, and addressing Genera's June 9 Motion. Through the June 15th Order, the Energy Bureau approved[5] the establishment and funding of contingency reserve accounts in the amounts of $30 million for LUMA, $30 million for Genera, and $1 million for PREPA, to be used for extraordinary events, operational emergencies, and other unforeseen circumstances affecting the electric system. *See*

[5] It bears noting that the need for dedicated contingency and reserve funding was neither novel nor unexpected. During the Rate Review Proceeding, LUMA and Genera each sought approval of funding for reserve accounts established pursuant to their respective operating agreements, but those requests were denied by the Energy Bureau. As a result, the issue of whether the electric service companies required access to dedicated emergency and reserve funding had been before the Energy Bureau for more than a year prior to the June 15th Order, providing sufficient time to consider and address the matter through a planned ratemaking process.

June 15th Order, at 2-4. With respect to Genera's June 9 Motion, the Energy Bureau authorized Genera to submit additional information and supporting documentation concerning its request for clarification regarding the FY2026 budget-to-actual reconciliation process and the treatment of expenditures incurred under PREB-approved temporary and provisional budget authority, while expressly reserving all rights and making no determination on the merits of the issues raised therein. *Id.* at 4.

15. On June 24, 2026, LUMA filed a *Motion Submitting Third Amendment to Fiscal Year 2026 Budget* (the "June 24th Motion"), requesting authorization from the Energy Bureau to reallocate funds within the approved Final FY2026 T&D Non-Federally Funded Capital Budget. The proposed reallocation is a zero-sum adjustment across six program briefs, intended to align budget allocations with expenditures and commitments incurred under the Energy Bureau-approved FY2026 T&D Provisional Budget prior to the issuance of the Final Rate Order. *See* June 24th Motion, at 4. This amendment did not seek to modify customer rates. *Id.* at 2.

16. On June 25, 2026, Genera filed a document with the title *Submission of Additional Information and Supporting Documentation in Compliance with the June 15, 2026 Resolution and Order* (the "June 25th Motion"). Through that filing, Genera provided additional information, supporting documentation, and explanations addressing the June 15th Order directives concerning Genera's June 9 Motion.

17. On June 29, 2026, the Energy Bureau entered a *Resolution and Order* granting LUMA's request as stated in the June 24th Motion. Although the request for relief was granted, the Energy Bureau added the following statement:

> In granting this flexibility, the Energy Bureau cautions LUMA that this approval is not an endorsement of LUMA's budgeting practices. The Energy Bureau recognizes that many of the expenditures and commitments at issue may already have been incurred under the Provisional Budget. A provisional budget,

> however, is by its nature provisional. The Energy Bureau may adjust provisional allocations upward or downward in the course of setting rates, and LUMA executes against provisional figures on notice that those figures are subject to change. The misalignment that LUMA now asks the Energy Bureau to correct reflects a planning shortfall: LUMA should have planned and sequenced these expenditures with greater discipline, anticipating that provisional allocations could be revised. The Energy Bureau approves the requested reallocation for FY2026 as a one-time accommodation, but expects materially improved budget planning and execution going forward.
>
> Accordingly, LUMA shall adhere to the expenses as approved for FY2027 and FY2028 and shall not rely on after-the-fact reallocations to conform approved budgets to unplanned spending.

See June 29th Order, Section II, at 1.

III. Discussion and Argument

18. LUMA respectfully submits this Motion to Clarify the Record regarding certain statements contained in the June 29th Order. Specifically, LUMA objects to the Order's statements that the approved reallocation "reflects a planning shortfall," that LUMA "should have planned and sequenced these expenditures with greater discipline," and that LUMA should not "rely on after-the-fact reallocations to conform approved budgets to unplanned spending." *See* June 29th Order, at 1. Those findings are not supported by the record before the Energy Bureau and therefore, must be stricken from the record. The activities were performed within the Energy Bureau-approved FY2026 T&D Provisional Budget framework under which LUMA was required, and reasonably expected, to continue executing critical work during the pendency of the rate review proceedings. *Id.*

19. The June 29th Order approved LUMA's request to amend and reallocate approximately $32.0 million within the FY2026 Non-Federally Funded Capital Budget across six Program Briefs (Meter Replacement & Maintenance, Grid Automation, OT Telecom System & Network, Substation Rebuilds, Substation Reliability, and Substation Physical Security) using

available balances within the Facilities Development & Implementation Program. *See* June 29th Order, at 1. The Energy Bureau expressly recognized that the proposed reallocation was "a zero-sum adjustment" that did "not increase the total approved NFC amount for FY2026" and did "not modify customer rates." *Id.* The Energy Bureau also approved the requested reallocation "to afford LUMA a reasonable degree of flexibility to align its FY2026 budget allocations with expenditures and commitments that LUMA represents were already incurred during the FY2026." *Id.* at 2. Those findings support approval of the reallocation, but they do not support the additional conclusion that LUMA's need for the reallocation arose from a planning failure.

20. The operational premise of LUMA's request was straightforward: from July 31, 2025 until April 15, 2026, LUMA executed its FY2026 operating and non-federally funded capital programs under a provisional budget approved by the Energy Bureau. *See* June 24th Motion, Exhibit 1, at 2.[6] LUMA executed work under the operative budgetary authority the Energy Bureau itself had placed in effect during the rate review. That provisional authority required exercising judgment on whether the projects funded with the provisional rate were "high-priority and noncontroversial" and "necessary to assist PREPA and the two system operators in carrying out their ongoing obligation to ensure reliable service and financial continuity, while the Energy Bureau conducts in this proceeding a full review for purposes of setting permanent rates." *See* Provisional Rate Order, at 3 and 6.

---

[6] In the Final Rate Order, the Energy Bureau itself described the Provisional Rate Order as establishing a "Provisional FY 2026 Budget" that "will be in place until the Energy Bureau establishes, for Fiscal Year 2026, a permanent budget and associated permanent rates." *See* Final Rate Order, Chapter One, p.8; *see also id*. Chapter Two, at 4 (both quoting the Provisional Rate Order, at 5). The Final Rate Order likewise stated that "[f]or July and August 2025, there was a temporary rate reflecting the "FY26 Temporary Default Budget." For September 2025 to the present, there ha[d] been the temporary rate based on the "Provisional FY26 Budget" established in the Provisional-Rate Order of July 31, 2025." *See id.*, Chapter Two, at 4.

21. "The Energy Bureau's approval of [the FY26 permanent revenue requirement] includes the approval of all costs approved in the [Provisional Rate Order]." *See* Final Rate Order, Chapter One, at 43. Accordingly, the Energy Bureau reiterated its approval of the expenditures authorized under the Provisional Rate Order. Nevertheless, the Final Rate Order also removed funding for certain projects and activities that had been planned and undertaken in reliance upon the then-approved provisional rates. The removal of funding for those activities materially altered the approved spending framework and ultimately necessitated the reapportionment of available funds among the remaining approved projects and operational needs, as set forth in the June 24th Motion. Importantly, the modifications introduced by the Final Rate Order occurred after LUMA had already been operating for months under the Energy Bureau-approved provisional budget and had made expenditures and commitments in reliance on that authorization.

22. LUMA explained in its June 24th Motion that by the time the Final Rate Order issued on April 15, 2026, LUMA had "already advanced most of its annual operational plan, committed resources across capital portfolios, and incurred binding obligations necessary to maintain service reliability and support ongoing system modernization." *See* June 24th Motion, at 1; *see also id*. Exhibit 1, at 2. LUMA also explained that the retroactive application of the Final Rate Order's budget allocations "produced differences between authorized funding levels and expenditures that had already been incurred under the Provisional Budget." *Id*. The June 24th Motion request therefore sought only to align the approved FY2026 NFC Budget with expenditures and commitments incurred under the Energy Bureau-approved FY2026 T&D Provisional Budget. *See* June 24th Motion, at 4.

23. The Energy Bureau's characterization of that alignment as a planning shortfall overlooks the purpose of the provisional budget.[7] **The purpose of requesting and approving incremental funds through provisional rates is to address system needs while the rate application is pending, not to defer execution until after the final order is entered**. Once the Energy Bureau approved incremental funds for high-priority and noncontroversial items, it was a foreseeable and sound operational practice that LUMA would deploy those funds to advance the approved work. Had LUMA failed to execute approved provisional-budget work during the rate review period, the provisional budget would have been deprived of its practical purpose and restoration, reliability, customer-service, and ordinary operation and maintenance activities would have been further delayed. Indeed, the Provisional Rate Order rejected the premise that approved transmission and distribution funding should be held back merely because the Energy Bureau would later conduct a permanent-rate review, explaining that "most of the approved transmission and distribution costs are related to projects necessary to repair the electric system" and that

[7] The Energy Bureau should also reconsider the "planning shortfall" language because the same timing problem affected other system operators implementing Energy Bureau-approved temporary and provisional budgets during the rate case. Genera filed an urgent motion explaining that it operated the generation assets throughout FY2026 under budget authority established by the Energy Bureau, first through the Temporary Default Budget effective July 1, 2025 and later through provisional authority pending resolution of the rate case. *See* Genera's June 9 Motion. Genera explained that, in reliance on that framework, it "continued operations, awarded and amended contracts, procured materials and spare parts, mobilized vendors, performed maintenance, responded to outages, and incurred the obligations necessary to maintain system reliability." *Id.* at 2. Genera further explained that the Final Rate Order, issued after roughly ten months of FY2026 had elapsed, "retroactively adopted a materially reduced and restructured budget." *Id.*

Genera's June 9th Motion and June 25th Motion demonstrate that the issue presented here is structural and timing-related, not entity-specific or attributable to LUMA's planning. Genera requested confirmation that good-faith expenditures incurred under temporary and provisional budget authority would be evaluated under the authority, information, and operational circumstances existing when they were incurred, and that the Final Rate Order would not be implemented retroactively to reclassify already-incurred FY2026 obligations solely because it later adopted a reduced or different budget structure. Genera's June 9th Motion, pp. 2-3.

"[h]olding back funds for those projects . . . just delays the necessary repairs." *See* Provisional Rate Order, at 27.

24. The Energy Bureau's June 29th Order states that "a provisional budget is... by its nature provisional" and that LUMA "executes against provisional figures on notice that those figures are subject to change." *See* June 29th Order, at 1. However, this statement does not support the conclusion that LUMA's spending reflected a planning shortfall. While provisional budgets are by their nature subject to adjustment, the purpose of provisional rates is to fund ongoing operations during the rate review, not to require the operator to defer all work until final rates are established. As the Provisional Rate Order itself recognized, holding back funds for approved projects "just delays the necessary repairs." *See* Provisional Rate Order, at 27. LUMA's execution of approved provisional-budget work during the rate review was consistent with the regulatory framework's design and purpose, not a failure to anticipate that allocations could be revised.

25. Moreover, LUMA's June 24th Motion confirms that the reallocation addressed work performed under the Energy Bureau-approved FY2026 T&D Provisional Budget and tied to concrete system needs. For example, for Meter Replacement & Maintenance, the FY2026 T&D Provisional Budget established a $12.4 million allocation, and LUMA's actuals and projected FY2026 expenditures were expected to total approximately $10.8 million, remaining within the amount approved in the FY2026 T&D Provisional Budget. *See* June 24th Motion, Exhibit 1, at 3. The same work supported more than 28,000-meter exchanges for net metering (bidirectional), approximately 10,000 new meters for new customer connections, and more than 3,600 standard meter exchanges to support billing accuracy and system performance. *Id.* at 4. These activities were essential to maintain billing accuracy, support new customer growth and interconnections, and facilitate continued participation in the Net Metering program. *Id.* In addition, the work

strengthened metering reliability and supported the deployment of Advanced Metering Infrastructure, thereby improving operational efficiency and enhancing customer service. *Id.* The Final Rate Order, however, did not allocate funding to this program. *See* Final Rate Order, Chapter Three, at 120 (excluding the PBUT17 projects from base rates). LUMA could not have reasonably anticipated, and most certainly could not have planned for, the denial of funding prior to the issuance of the Final Rate Order. As a result, LUMA was unable to adjust its operations or implementation plans in advance of that determination. Failure to utilize the funds approved in the FY2026 T&D Provisional Budget for these critical activities would undermine the very operational, reliability, and customer-service benefits that the program was designed to achieve. These examples show that the "planning shortfall" is unsupported and ultimately incorrect.

26. The orders approving the Temporary Default Budgets for FY2026 and the FY2026 T&D Provisional Budget did not adopt any standards, directives, criteria, guidelines, or requirements governing how those temporary or provisional budgets were to be planned or expended. *See* June 11 Order; *see also* June 20 Order; *see also* Provisional Rate Order. Nor does any statute or regulation prescribe a particular methodology for planning, allocating, or expending funds under a temporary or provisional budget. The June 29th Order's characterization of the approved reallocation as reflecting a "planning shortfall," and its admonition that LUMA "should have planned and sequenced these expenditures with greater discipline" stating that LUMA should have anticipated that provisional allocations could be revised, articulates for the first time a rule on budget-planning for provisional budgets that the Energy Bureau had not previously established or announced.[8] *See* June 29th Order, at 1. Measuring LUMA's FY2026 T&D Provisional Budget

[8] Although the instant matter is docketed as a miscellaneous proceeding and is therefore not a formal adjudicative proceeding governed by Chapter III of the *Government of Puerto Rico Uniform Administrative Procedure Act*, PR Laws Ann. tit. 3, §§ 9601-9661, the principles embodied therein remain instructive.

execution decisions against a rule and expectations that were not issued nor clearly adopted when the temporary and provisional budgets were approved deprives LUMA of the procedural due process protections discussed above and is fundamentally unreasonable.

WHEREFORE, LUMA respectfully requests that the Energy Bureau accept this Motion and strike the referenced statements from the June 29th Order for being unsupported by the record. LUMA further requests that the Energy Bureau clarify that such statements do not constitute a finding of imprudence or planning failure for purposes of future reviews or other regulatory proceedings.

RESPECTFULLY SUBMITTED.

In Guaynabo, Puerto Rico, on the 23rd day of July 2026.

DLA Piper (Puerto Rico) LLC
B-7 Tabonuco Street, Suite 1501
Guaynabo, PR 00968-3028
Tel. 787-945-9139 / 9103
Fax 939-697-6169 / 6063

/s/ Margarita Mercado Echegaray
Margarita Mercado Echegaray
RUA 16,266
margarita.mercado@us.dlapiper.com

/s/ Katiuska Bolaños Lugo
Katiuska Bolaños Lugo
RUA NÚM. 18,888
Katiuska.Bolanos-Lugo@us.dlapiper.com

Where an agency makes findings concerning a party's conduct or performance and expressly admonishes that such conduct will not be tolerated in future proceedings, fundamental fairness requires that those findings be grounded on the record before the agency. Otherwise, the agency would effectively be making determinations that may carry future regulatory consequences without affording the affected party the procedural protections that ordinarily accompany administrative fact-finding and adjudication. *See* Act No. 38-2017, § 3.1(a)(2)(D), PR Laws Ann. tit. 3 § 9641 (agency decisions in adjudicative proceedings must be based on the record).

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that this motion was filed using the electronic filing system of this Energy Bureau and that electronic copies of this motion will be notified to the Puerto Rico Electric Power Authority, through its attorneys of record: Richard Cruz-Franqui, rcruzfranqui@gmlex.net; Mirelis Valle-Cancel, mvalle@gmlex.net; and Natalia Zayas Godoy, nzayas@gmlex.net; and to Genera PR, LLC, through: Jorge Fernández-Reboredo, jfernandez@ecija.com, Gabriela Castrodad, gcastrodad@ecija.com; Ricardo Pallens Cruz, ricardo.pallens@genera-pr.com; Ernesto Ramos Maldonado, eramos@ecija.com; Ramón L. Ramos Aponte; ramon.ramos@jsyalaw.com; legal@genera-pr.com; and regulatory@genera-pr.com.

In Guaynabo, Puerto Rico, on the 23rd day of July, 2026.

/s/ Katiuska Bolaños Lugo
Katiuska Bolaños Lugo