

**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: Quarterly Report for Fourth
Quarter of Fiscal Year 2025-2026, and
Request for Confidential Treatment

NEPR

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**MOTION TO SUBMIT ASAP QUARTERLY REPORT FOR FOURTH QUARTER OF
FISCAL YEAR 2025-2026 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:

I. Introduction

The Accelerated Storage Addition Program (“ASAP”) is a program developed by LUMA and approved by the Puerto Rico Energy Bureau (“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 shedding events and lower costs to customers. This program involves providing a standard offer (“SO”) for adding BESS capacity at qualified independent power producers (“IPPs”) facilities using SO Agreements.

In compliance with an Energy Bureau Resolution and Order of March 5, 2025, LUMA is submitting with this motion a quarterly report on the implementation of ASAP for the fourth quarter (“Q4”) of Fiscal Year (“FY”) 2026 (“FY 2026”).

II. Relevant Background and Procedural History

1. On May 8, 2024, the Energy Bureau issued a Resolution and Order approving the ASAP concept proposed by LUMA¹ and authorizing LUMA to proceed with the development of the SO Agreements.

2. After other procedural events, on February 28, 2025, LUMA filed a proposed ASAP Implementation Program Plan, a companion cost recovery procedure, and an ASAP status update.²

3. On March 5, 2025, the Energy Bureau issued a Resolution and Order (“March 5th Order”) in which it approved the ASAP Implementation Program Plan and companion document in the February 28th Motion and directed LUMA to submit quarterly reports discussing in detail the progress of ASAP implementation.

4. On June 23, 2025, LUMA informed, among others, that it would be filing a quarterly report on ASAP within thirty (30) days from the end of the fourth quarter of FY 2025 in compliance with the March 5th Order.³

III. Submittal of FY 2026 Q4 Report

5. In compliance with the March 5th Order, LUMA is submitting herein the FY 2026 Q4 report on ASAP discussing in detail the progress of ASAP implementation. *See Exhibit 1.* 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,

¹ See *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* (“April 26th Motion”), Exhibit 1.

² See *Motion to Submit Program Implementation Plan and Associated Documents, Request for Approval of ASAP Cost Recovery Mechanism, and Request for Confidential Treatment* (“February 28th Motion”).

³ See *Motion in Compliance with Resolution and Order of June 16, 2025, and Request for Confidential Treatment*, p. 8.

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* as 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

6. 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 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).

7. 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.

8. 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).

9. 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.⁴ This document provides that “[a]ny document designated by the [Energy Bureau] as 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).

10. Relatedly, Regulation 8543 includes a provision for filing confidential information in adjudicatory proceedings before this Honorable Energy Bureau.⁵

11. 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:

⁴ 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-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.

⁵ 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.

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).

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

13. 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 that:

- (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 PRA § 4132 (translation provided).

14. Act 80-2011 considers reasonable security measures such as those taken by the owner to limit access to information under particular circumstances. 10 LPRA § 4133.⁶

⁶ 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

15. 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).⁷

B. Request for confidential designation

16. 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 timelines and milestones for SO1 and SO2 participants;
- Expenditure discussion, including legal, engineering, and consulting costs, some of which are preliminary and not yet invoiced;
- Technical and engineering assessments discussions, including site visit findings, system impact studies, and interconnection feasibility;
- Discussion of developer engagement records, including expressions of interest,

(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).

⁷ Puerto Rico Courts in adversarial cases have interpreted a “substantial need” when the following four (4) conditions are present:

- (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).

project-specific progress, and RFI tracking;

- Strategic regulatory coordination efforts with PREPA, P3A, FOMB, and the Energy Bureau, including correspondence timelines and approval pathways;
- Information regarding LUMA's cash constraints and their potential impact on program schedule; and
- Discussions regarding the development and negotiation of Agreed Operating Procedures (AOP) and Large Generator Interconnection Agreements (LGIA) with program participants.

17. 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.

18. Disclosure of *Exhibit I* would risk revealing LUMA's internal strategies, financial assumptions, and technical methodologies, which could undermine its competitive position and disrupt ongoing regulatory and commercial negotiations. Moreover, the document includes proprietary frameworks for cost recovery and project execution that are not publicly available and are the result of significant internal investment and expertise.

19. 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

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 this Energy Bureau **take notice** of those mentioned above; **accept** *Exhibit 1* as the FY26 Q4 ASAP quarterly report in compliance with the quarterly reporting requirement in the March 5th Order; **accept** the memorandum of law in support of confidential treatment of Exhibit 1; and **grant** the request stated herein to keep *Exhibit 1* under seal.

RESPECTFULLY SUBMITTED.

In Guaynabo, Puerto Rico, on the 30th day of July 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@pmaalaw.com; agraitfe@agraitlawpr.com; javier.vazquez@oneillborges.com; amilkar.cruz@oneillborges.com; antonio.collazo@oneillborges.com; mgarcia@pmaalaw.com; apc@mcvpr.com; cfl@mcvpr.com.



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Exhibit 1

ASAP FY2026 Q4 Report

[Submitted under Seal of Confidentiality]