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

IN RE: LUMA INITIAL BUDGETS AND RELATED TERMS OF SERVICE	**CASE NO.:** NEPR-MI-2021-0004 **SUBJECT:** LUMA's Motion to Clarify and Request to Strike – June 29, 2026 Resolution and Order (FY26 Budget Amendment)

RESOLUTION AND ORDER

I. Background

On June 20, 2025, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("June 20 Resolution"), through which the Energy Bureau established a Temporary Default Budget for Fiscal Year 2026 ("FY 2026 Temporary Default Budget"). The June 20 Resolution established that the FY 2026 Temporary Default Budget would remain in force only until superseded by provisional or final rates established in the rate review proceeding.[1]

On July 3, 2025, LUMA Energy, LLC and LUMA Energy ServCo, LLC ("LUMA") filed a document titled, *Motion Submitting Rate Review Petition* ("July 3 Motion") on behalf of itself, Genera PR LLC ("Genera") and the Puerto Rico Electric Power Authority ("PREPA"), through which LUMA submitted a proposed revenue increase request for permanent and provisional rates in Case No. NEPR-AP-2023-0003 ("Rate Review Proceeding").[2]

On July 31, 2025, the Energy Bureau issued a Resolution and Order in the Rate Review Proceeding ("July 31 Resolution"), through which the Energy Bureau established provisional rates and the Fiscal Year 2026 Provisional Budget ("FY 2026 Provisional Budget"), superseding the FY 2026 Temporary Default Budget.[3] The July 31 Resolution: (i) limited the incremental costs recoverable through the provisional rate to "high-priority and noncontroversial" items 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 conducted its full review for purposes of setting permanent rates; (ii) stated that, in establishing provisional rates, the Energy Bureau made no final determinations regarding the adequacy, efficiency or prudence of the entities' operational or financial practices, which would be addressed fully in the adjudicative phase of the Rate Review Proceeding; and (iii) expressly provided that the FY 2026 Provisional Budget would be in place until the Energy Bureau established, for Fiscal Year 2026, a permanent budget and associated permanent rates.[4]

On April 15, 2026, the Energy Bureau issued a Final Resolution and Order on Electricity Rates in the Rate Review Proceeding ("Final Rate Order"), through which the Energy Bureau established permanent rates for the Puerto Rico electric system and adopted the permanent Fiscal Year 2026 budget consistent with the approved annual revenue requirement.[5]

On June 24, 2026, LUMA filed a document titled, *Motion Submitting Third Amendment to Fiscal Year 2026 Budget* ("June 24 Motion"), through which LUMA requested Energy Bureau approval to amend and reallocate approximately $32.0 million within the FY 2026 Non-

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[1] Resolution and Order, NEPR-MI-2021-0004, June 20, 2025.

[2] Motion Submitting Rate Review Petition, NEPR-AP-2023-0003, July 3, 2025.

[3] Resolution and Order, NEPR-AP-2023-0003, July 31, 2025.

[4] July 31 Resolution, at 3, 5-6.

[5] Final Resolution and Order on Electricity Rates, NEPR-AP-2023-0003, April 15, 2026.

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Federally Funded Capital ("NFC") Budget for Necessary Maintenance Expenses, drawing on available balances within the Facilities Development & Implementation Program and distributing them across six Program Briefs. According to LUMA, the requested amendment was a zero-sum reallocation that did not increase the total NFC amount approved for FY 2026 or modify customer rates, and was intended to align budget allocations with expenditures and commitments that LUMA represented were incurred under the FY 2026 Provisional Budget.[6]

On June 29, 2026, the Energy Bureau issued a Resolution and Order ("June 29 Resolution"), through which the Energy Bureau approved LUMA's reallocation request as a one-time accommodation, noting that the requested reallocation was a zero-sum adjustment that did not increase the total approved NFC amount for FY 2026 and did not modify customer rates. In granting the request, the Energy Bureau cautioned LUMA that the approval was not an endorsement of LUMA's budgeting practices. The Energy Bureau observed that a provisional budget is by its nature provisional, that the Energy Bureau may adjust provisional allocations upward or downward while setting rates, and that LUMA executes against provisional figures on notice that those figures are subject to change. The Energy Bureau stated that the misalignment LUMA asked to correct reflected "a planning shortfall," that LUMA "should have planned and sequenced these expenditures with greater discipline, anticipating that provisional allocations could be revised," and that the Energy Bureau expected "materially improved budget planning and execution going forward." The Energy Bureau further directed that 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."[7]

On July 23, 2026, LUMA filed a document titled, *Motion to Clarify and Request to Strike* ("July 23 Motion"), through which LUMA requested that the Energy Bureau strike from the June 29 Resolution the 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," as unsupported by the record, and that the Energy Bureau clarify that those statements do not constitute a finding of imprudence or planning failure for purposes of future reviews or other regulatory proceedings.[8]

In the July 23 Motion, LUMA argues that, although the Energy Bureau granted the zero-sum reallocation that LUMA requested, the characterization of LUMA's reallocation as reflecting a "planning shortfall" and "unplanned spending" is not supported by the record, does not accurately reflect the circumstances under which LUMA operated during FY 2026, and applies an after-the-fact budgeting expectation that had not previously been articulated to LUMA.[9]

LUMA states that it requested the limited reallocation to align the budget approved in the Final Rate Order with expenditures and commitments LUMA incurred while it was operating under the FY 2026 Provisional Budget. LUMA explains that those expenditures were necessary to preserve system reliability, support emergency response and continue critical modernization work, and that they were made while the rate review was pending and before the Final Rate Order was issued.[10]

LUMA further asserts that, while the Final Rate Order approved all costs approved in the July 31 Resolution, it removed funding from certain projects and activities that had been planned and undertaken in reliance upon the then-approved provisional rates. LUMA contends that the removal of that funding, which occurred after LUMA had been operating for months

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[6] Motion Submitting Third Amendment to Fiscal Year 2026 Budget, NEPR-MI-2021-0004, June 24, 2026.
[7] Resolution and Order, NEPR-MI-2021-0004, June 29, 2026, at 1-2.
[8] Motion to Clarify and Request to Strike, NEPR-MI-2021-0004, July 23, 2026, at 1-3, 13.
[9] July 23 Motion, ¶¶ 1, 3, 18.
[10] July 23 Motion, ¶¶ 2-3, 20-22.

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under the FY 2026 Provisional Budget, required the reapportionment of available funds among the remaining approved projects and operational needs.[11]

LUMA argues that the purpose of provisional rates is to address system needs while the rate application is pending, not to defer execution until after the final order is entered, and that holding back funds would have delayed necessary repairs. LUMA maintains that the reallocation addressed work performed under the FY 2026 Provisional Budget and tied to concrete system needs, and that it could not reasonably have anticipated or planned for the denial of funding for specific projects prior to the Final Rate Order. LUMA therefore contends that the characterization of the reallocation as reflecting a "planning shortfall" is unsupported and incorrect.[12]

LUMA also claims that the orders approving the FY 2026 Temporary Default Budget and the FY 2026 Provisional Budget did not adopt standards, directives, criteria or guidelines governing how those budgets were to be planned or expended, and that no statute or regulation prescribes a methodology for planning, allocating or expending funds under a temporary or provisional budget. LUMA therefore concludes that measuring the decisions LUMA made under the FY 2026 Provisional Budget against expectations that were not articulated when that budget was approved is unreasonable, announces a new rule for the first time, and deprives LUMA of procedural due process protections.[13]

II. Discussion

The July 23 Motion presents two requests. First, LUMA asks the Energy Bureau to clarify that the statements in the June 29 Resolution regarding a "planning shortfall" and "unplanned spending" do not constitute a finding of imprudence or planning failure for purposes of future reviews or other regulatory proceedings. Second, LUMA asks the Energy Bureau to strike those statements from the record, on the ground that its expenditures during the pendency of the FY 2026 Temporary Default Budget and the FY 2026 Provisional Budget were made in reliance on budgets the Energy Bureau itself approved, and that LUMA should not be expected to have anticipated the outcome of the Final Rate Order.[14] The Energy Bureau addresses each request in turn.

With respect to the request for clarification, the Energy Bureau agrees that clarification is warranted. The June 29 Resolution resolved a single, limited request: LUMA's request, set forth in the June 24 Motion, for a zero-sum reallocation of approximately $32.0 million within the approved FY 2026 NFC Budget. The Energy Bureau granted that request. In doing so, the Energy Bureau did not adjudicate, and was not asked to adjudicate, the necessity, reasonableness or prudence of any specific expenditure or commitment that LUMA incurred under the FY 2026 Temporary Default Budget or the FY 2026 Provisional Budget. The June 29 Resolution disallowed no cost, found no expenditure to be imprudent, and made no determination regarding the recoverability of any cost. The statements with which LUMA takes issue expressed the Energy Bureau's expectations regarding LUMA's budget planning and execution going forward. They were not, and were not intended as, findings of imprudence.

Whether any particular cost incurred by LUMA during Fiscal Year 2026 was necessary, reasonable and prudently incurred is a question that the Energy Bureau will decide, if and when it is presented, in the appropriate proceeding, on the basis of the record developed therein, and with the procedural protections that accompany such determinations. Nothing in the June 29 Resolution prejudges that question, and the June 29 Resolution shall not be construed or cited, in this or any other proceeding, as a determination that any expenditure or commitment made by LUMA under the FY 2026 Temporary Default Budget or the FY 2026 Provisional Budget was imprudent or the product of a planning failure. Because the June 29 Resolution made no adverse determination regarding LUMA's conduct, LUMA's concern that

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[11] July 23 Motion, ¶ 21.
[12] July 23 Motion, ¶¶ 23-25.
[13] July 23 Motion, ¶ 26 and n.8.
[14] July 23 Motion, at 13.

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the Energy Bureau made determinations "without affording the affected party the procedural protections that ordinarily accompany administrative fact-finding and adjudication" is unfounded.[15]

The request to strike stands on a different footing, and the Energy Bureau denies it. The statements that LUMA asks the Energy Bureau to strike were not findings of fact regarding specific expenditures. They were an admonition grounded in a principle that is neither new nor, as LUMA suggests, announced for the first time in the June 29 Resolution: a provisional rate, and the provisional budget that supports it, are by definition provisional. The June 20 Resolution stated that the FY 2026 Temporary Default Budget would remain in force only until superseded by provisional or final rates.[16] The July 31 Resolution, likewise, stated in express terms that the FY 2026 Provisional Budget would be in place until the Energy Bureau established, for Fiscal Year 2026, a permanent budget and associated permanent rates, and described the provisional rate as "a rate that is subject to reconciliation once the Energy Bureau sets a permanent rate."[17] Act 57-2014 itself contemplates that, upon issuing the final order in a rate review, the Energy Bureau will direct the utility to adjust customers' bills so as to credit or charge any discrepancy between the temporary rate and the permanent rate.[18] The reconciliation of provisional figures to permanent figures is thus a feature of the statutory design, not an after-the-fact expectation.

LUMA was not left to infer that expectation. The July 31 Resolution stated that, in establishing provisional rates, the Energy Bureau "makes no final determinations regarding the adequacy, efficiency, or prudence of the three entities' operational or financial practices," that those matters would be addressed "fully during the adjudicative phase of this proceeding," and that, in setting permanent rates, the Energy Bureau "will determine whether the provisional rate collections were appropriate and, if the Energy Bureau deem[s] necessary, order retroactive adjustments."[19] It explained that the "high-priority and noncontroversial" limitation on incremental provisional funding was a safeguard created "to reduce the risk that the entities will, during the provisional-rate period, fund activities or items that the Energy Bureau, in its decision on permanent rates, finds imprudent, excessive, or otherwise unnecessary."[20] It described the outcome of the provisional-rate review as "an interim rate increase, subject to further analysis and reconciliation," and, item by item, made incremental approvals "subject to the usual prudence review in the permanent-rate phase."[21] An operator that executed against the FY 2026 Provisional Budget therefore did so under an order that told it, in terms, that provisional allocations could be revised when permanent rates were set, and that the risk of funding, during the provisional-rate period, items later found unnecessary was one the operator was expected to manage.

It follows that a regulated utility that executes against a provisional budget does so on notice that the permanent figures may be higher or lower than the provisional ones, and that the permanent budget, not the provisional budget, is the figure that ultimately governs. Provisional allocations are interim authorizations subject to final adjudication on the record; they are neither vested entitlements nor guaranteed floors. The Energy Bureau therefore expects an operator that spends under provisional authority to manage that authority with caution and to prioritize expenditures that are directly related to maintaining the reliability and stability of the electric system, which are precisely the expenditures least likely to be disturbed when permanent rates are set. When the permanent budget adjusts a provisional allocation downward, that adjustment is not a retroactive reduction, a penalty or a sanction; it is the ordinary, statutorily contemplated operation of the reconciliation between

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[15] July 23 Motion, n.8.

[16] *See* June 20 Resolution; *see also* July 31 Resolution, at 5 (quoting the June 20 Resolution). LUMA itself acknowledges that the temporary budgets were to remain in effect only until superseded by provisional or final rates issued in the Rate Review Proceeding. *See* July 23 Motion, ¶ 5.

[17] July 31 Resolution, at 4-5. LUMA itself quotes this language. *See* July 23 Motion, n.6.

[18] Act 57-2014, art. 6.25(f); *see also* July 31 Resolution, at 4-5, 27.

[19] July 31 Resolution, at 3.

[20] July 31 Resolution, at 5-6.

[21] July 31 Resolution, at 6; *see also, e.g.*, July 31 Resolution, at 17-18, 20.

provisional and permanent rates. This expectation does not depend on the orders approving the temporary and provisional budgets having prescribed a particular planning methodology. It is inherent in the provisional nature of the authority itself, of which LUMA was on notice from the outset.

LUMA's reliance on the July 31 Resolution's observation that holding back funds for necessary repairs "just delays the necessary repairs" is misplaced.[22] That observation responded to PREPA's argument that provisional funding should be withheld on account of LUMA's alleged prior performance problems. In the same passage, the Energy Bureau stated that "[t]he better course is to defer judgment on the reasonableness of LUMA's costs and revenues until the permanent phase."[23] The July 31 Resolution thus authorized LUMA to execute the FY 2026 Provisional Budget; it did not convert provisional allocations into guaranteed floors, and it did not relieve LUMA of the need to plan and sequence its commitments with the permanent-rate outcome in view.

The Energy Bureau does not, in this Resolution and Order, pass upon the necessity or reasonableness of the specific work LUMA describes, nor does it suggest that the FY 2026 Provisional Budget was to be held in abeyance rather than executed. The point of the June 29 Resolution is narrower. Because provisional figures are subject to change, an operator that executes against them must plan and sequence its commitments in a manner that anticipates that possibility, so that conforming approved budgets to spending already incurred is the exception rather than the practice. That is the expectation the June 29 Resolution articulated when it approved LUMA's reallocation as a one-time accommodation,[24] and it remains the Energy Bureau's expectation for Fiscal Years 2027 and 2028. The directive that LUMA adhere to the expenses approved for those fiscal years and refrain from relying on after-the-fact reallocations remains in full force and effect.

Accordingly, the Energy Bureau grants the July 23 Motion in part, as to the request for clarification, and denies it in part, as to the request to strike.

III. Conclusion

The Energy Bureau **GRANTS IN PART** the July 23 Motion and **CLARIFIES** that the June 29 Resolution did not make, and shall not be construed as making, any determination regarding the necessity, reasonableness or prudence of any expenditure or commitment incurred by LUMA under the FY 2026 Temporary Default Budget or the FY 2026 Provisional Budget, and that the statements referenced in the July 23 Motion do not constitute a finding of imprudence or planning failure for purposes of future reviews or other regulatory proceedings. Any such determination will be made, if at all, in the appropriate proceeding, on the basis of the record developed therein.

The Energy Bureau **DENIES** the July 23 Motion insofar as it requests that the Energy Bureau strike the referenced statements from the June 29 Resolution. Those statements reflect the provisional nature of the FY 2026 Temporary Default Budget and the FY 2026 Provisional Budget, and the Energy Bureau's expectations regarding LUMA's budget planning and execution going forward, as discussed above, and they remain part of the June 29 Resolution.

The Energy Bureau **REITERATES** that provisional rates, and the provisional budgets that support them, are interim by nature and may be adjusted upward or downward when permanent rates are established; that an operator executing against provisional figures does so on notice that those figures are subject to change; and that LUMA is expected to manage any provisional budget authority with caution, prioritizing expenditures directly related to maintaining the reliability and stability of the electric system. The directive in the June 29 Resolution that LUMA adhere to the expenses approved for Fiscal Years 2027 and 2028 and

[22] July 23 Motion, ¶¶ 23-24 (quoting July 31 Resolution, at 27).
[23] July 31 Resolution, at 27.
[24] June 29 Resolution, at 1.

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not rely on after-the-fact reallocations to conform approved budgets to unplanned spending remains in full force and effect.

The Energy Bureau **CLARIFIES** that the determinations and clarifications made in this Resolution and Order are limited to the specific facts and circumstances explicitly set forth herein.

The Energy Bureau **WARNS** that, in accordance with Article 6.36 of Act 57-2014, noncompliance with this Resolution and Order, regulations, and/or applicable laws may carry the imposition of fines and administrative sanctions.[25]

Be it notified and published.

Edison Avilés Deliz
Chairman

Ferdinand A. Ramos Soegaard
Associate Commissioner

Sylvia B. Ugarte Araujo
Associate Commissioner

Antonio Torres Miranda
Associate Commissioner

Omar M. Rodríguez González
Associate Commissioner

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau agreed on September 23, 2026. I also certify that on September 23, 2026, I have proceeded with the filing of this Resolution and Order and was notified by email to katiuska.bolanos-lugo@us.dlapiper.com; RegulatoryPREBOrders@lumapr.com; margarita.mercado@us.dlapiper.com, Yahaira.delarosa@us.dlapiper.com; jan.albinolopez@us.dlapiper.com; katiuska.bolanos-lugo@us.dlapiper.com; alexis.rivera@prepa.pr.gov; nzayas@gmlex.net; mvalle@gmlex.net; rcruzfranqui@gmlex.net; hrivera@jrsp.pr.gov, Ricardo.pallens@genera-pr.com; jfernandez@ecija.com; eramos@ecija.com; jdiaz@ecija.com; legal@genera-pr.com; regulatory@genera-pr.com.

I sign this in San Juan, Puerto Rico, today September 23, 2026.

Sonia Seda Gaztambide
Clerk

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[25] Act 57-2014, art. 6.36.