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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 ("ASAP")	**Case No**.: NEPR-MI-2024-0002 **Subject**: Motion in Further Compliance with Resolution and Order of October 23, 2026 and Request for an Extension of Time to File Memorandum of Law in Support of Request for Confidential Treatment

MOTION IN FURTHER COMPLIANCE WITH RESOLUTION AND ORDER OF OCTOBER 23, 2026 AND REQUEST FOR AN EXTENSION OF TIME TO FILE MEMORANDUM OF LAW IN SUPPORT OF REQUEST FOR CONFIDENTIAL TREATMENT

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW the Puerto Rico Electric Power Authority ("PREPA") through its undersigned legal counsel and respectfully informs and requests as follows:

1. On October 16, 2026, the Puerto Rico Electric Power Authority ("PREPA") filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") *Motion for Approval of the Proposed First Amended and Restated EcoEléctrica BESS Standard Offer Agreement, Request for Confidential Treatment and Memorandum of Law in Support of Confidential Treatment* ("October 16 Motion"), whereby it requested approval of the proposed First Amended and Restated BESS Standard Offer Agreement ("Proposed Amended Agreement") between PREPA and EcoEléctrica BESS LLC ("EcoEléctrica").

2. On October 23, 2026, the Energy Bureau issued a *Resolution and Order* ("October 23 Order") directing PREPA to submit the following information and documentations concerning the Proposed Amended Agreement within five (5) days of notification of the October 23 Order, that is, on or before October 28, 2026:

> **Request No. 1**: Executed ESSA. A complete copy of the BESS Standard Offer Agreement executed between PREPA and EcoEléctrica on April 7, 2026, in PDF format, duly executed by the parties, including all exhibits, schedules, and attachments, as well as a complete editable version of the same agreement in native Microsoft Word format.
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> **Request No. 2**: Supporting Documentation. All studies, analyses, evaluations, and other substantive documents prepared, exchanged, reviewed, or relied upon by PREPA, LUMA, or EcoEléctrica in connection with the evaluation, negotiation, or justification of the modifications included in the Proposed Amended Agreement. This requirement includes substantive documents exchanged among the parties that support the proposed amendments but does not require the production of routine administrative correspondence unrelated to the substantive evaluation of the proposed changes.
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> **Request No. 3**: Price Parity Provision. With respect to the proposed provision allowing an increase in the Storage Capability Payment Price based on an Energy Bureau approved price increase under another amended and restated ASAP agreement, PREPA shall explain the legal, commercial, and financial justification for incorporating such a mechanism into the existing arement including why PREPA considers this provision reasonable and advantageous to PREPA and its customers.
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> **Request No. 4**: Minor Technical Adjustments. With respect to the proposed provision allowing the Parties to amend the Agreement to reflect minor technical adjustments to the Storage Facility, including changes to the Design Storage Capability, PREPA shall explain the scope of such provision, including whether such adjustments could have any direct or indirect financial impact on PREPA, even if they do not expressly modify the Storage Capability Payment Price or other pricing provisions of the Agreement. PREPA shall also clarify whether the intent of this provision is to allow such modifications without prior review and approval by the Energy Bureau and, if so, provide the legal basis and justification for such an arrangement.
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> **Request No. 5**: Tested Storage Capability. With respect to the proposed modifications concerning the calculation of Tested Storage Capability, including the use of expanded capacity and discharge periods exceeding four

(4) hours, PREPA shall explain the technical justification for such modifications, whether the resulting Tested Storage Capability may exceed the capacity that the Storage Facility can actually deliver during a four (4) -hour discharge period, and whether these modifications could have any direct or indirect financial impact on PREPA or affect the Resource Provider's contractual performance obligations.

Request No. 6: Insurance and Tariff Pass-Through Cost Adjustments. With respect to the proposed provisions and procedures governing insurance-related and tariff related pass-through cost adjustments, including Exhibits 25 and 26 of the Proposed Amended Agreement, PREPA shall provide the following information:

a. Explain the justification for incorporating these procedures into the existing Agreement, particularly considering PREPA's existing discretionary authority to approve or reject additional costs. PREPA shall identify whether the proposed procedures modify or limit such authority and explain why their incorporation is considered reasonable and advantageous to PREPA and its customers.

b. With respect to Exhibit 25 (Pass-Through Cost Adjustment- Insurance), explain the scope of the insurance costs eligible for recovery, including whether the proposed mechanism permits recovery of premiums or other costs already contemplated in the existing contractual price, and identify the safeguards against duplicative recovery or unwarranted increases in costs.

c. With respect to Exhibit 26 (Pass-Through Cost Adjustment - Tariffs), explain the legal, commercial, and financial justification for the proposed adjustment methodology, including the application of the 114% factor to increased tariff costs, the selection of November 1, 2024, as the reference date, and the treatment of any applicable tax benefits, credits, or offsets. PREPA shall explain why this methodology is reasonable and advantageous to PREPA and its customers.

d. Explain the differences between the procedures established in Exhibits 25 and 26 concerning the Energy Bureau's review and approval of cost adjustments, particularly the treatment of adjustments above and below $1 million. PREPA shall clarify whether either procedure is intended to permit adjustments to the Monthly Payment without prior Energy Bureau approval and, if so, provide the legal basis and justification for such an arrangement.

Request No. 7: BESS Operating Procedures - Exhibit 6. PREPA shall submit a complete version of Exhibit 6 (BESS Operating Procedures), with all missing. information, incomplete provisions, and blank sections duly completed.

> **Request No. 8**: Other Material Modifications. PREPA shall identify any other proposed modifications that materially affect its existing contractual rights, financial obligations, or allocation of risks, including, as applicable, those concerning interconnection-related conditions precedent, order of precedence, and Tested Storage Capability. For each such material modification, PREPA shall provide a brief explanation of the reasons for the proposed change, its anticipated consequences, and the benefits expected to result from its adoption.

3. On October 28, 2026, PREPA filed its *Motion in Partial Compliance with Resolution and Order of October 23, 2026 and Request for Brief Extension of Time* ("October 28 Motion"), whereby it submitted the BESS Standard Offer Agreement executed between PREPA and EcoEléctrica on April 7, 2026, in compliance with Request No. 1 of the October 23 Order.

4. In the October 28 Motion, PREPA explained that the information and documentation responsive to Requests Nos. 2 through 8 of the October 23 Order had to be provided by LUMA Energy, LLC and LUMA Energy ServCo, LLC (collectively, "LUMA") to enable PREPA to comply with the Energy Bureau's directives. Accordingly, PREPA requested a six (6)-day extension of time, until November 3, 2026, to submit the outstanding information and documentation.

5. On November 2, 2026, LUMA provided PREPA with its responses to the information and documentation requested by the Energy Bureau in the October 23 Order.

6. Accordingly, PREPA hereby submits, as **Confidential Exhibit A** to this Motion, the responses provided by LUMA to Requests Nos. 2 through 8 of the October 23 Order, for the Energy Bureau's review and consideration. This submission is made

within the additional time requested in its October 28 Motion, in further compliance with the October 23 Order.

7. PREPA respectfully informs the Energy Bureau that the responses provided by LUMA and submitted herein as **Confidential Exhibit A** have been expressly designated as **"CONFIDENTIAL"** by LUMA. In light of this designation, PREPA submits Exhibit A under seal and requests that the Energy Bureau afford them confidential treatment pending further evaluation of the applicable grounds for confidentiality.

8. Section 6.15 of Act No. 57-2014, known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended, 22 L.P.R.A. § 1054n, authorizes parties to request confidential treatment of information submitted to the Energy Bureau that is protected by an applicable confidentiality privilege. Similarly, Section 1.15 of Regulation No. 8543, known as *Regulation on Adjudicative, Notice of Noncompliance, Rate Review, and Investigation Proceedings*, includes a provision for filing confidential information in adjudicatory proceedings before this honorable Bureau. Specifically, Section 1.15 provides that "a person has the duty to disclose information to the [Energy Bureau] considered to be 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." Additionally, the Energy Bureau's *Policy on Management of Confidential Information* establishes the procedures governing requests for confidential treatment of information submitted in proceedings before the Energy Bureau. *See* CEPR-MI-2016-0009, Section A, as amended by the Resolution of September 16, 2016 issued therein.

9. PREPA respectfully submits that the Proposed Amended Agreement, which remains subject to the Energy Bureau's review and approval, is protected from disclosure under the deliberative process privilege, as it constitutes a proposed contractual arrangement that has not yet received the requisite regulatory approval. Accordingly, PREPA maintains that the information and explanations supplied by LUMA in response to the Energy Bureau's October 23 Order, which concern the evaluation, negotiation, and justification of the provisions of the Proposed Amended Agreement, are likewise protected by the deliberative process privilege. Moreover, LUMA has expressly designated the information contained in **Confidential Exhibit A** as confidential. However, given that the information was prepared and supplied by LUMA, PREPA requires additional time to coordinate with LUMA and determine whether there are additional factual or legal grounds supporting its confidentiality designation.

10. In accordance with the Energy Bureau's procedures governing requests for confidential treatment, PREPA respectfully requests a period of ten (10) days, until **November 13, 2026**, to submit a memorandum of law identifying the specific information for which confidential treatment is requested and setting forth the applicable factual and legal grounds supporting the asserted privileges. The requested extension will afford PREPA a reasonable opportunity to properly substantiate its claim of deliberative process privilege and identify and support any additional grounds for confidential treatment asserted by LUMA, thereby enabling PREPA to submit a comprehensive memorandum of law in accordance with the Energy Bureau's applicable confidentiality procedures.

11. PREPA further requests that **Confidential Exhibit A** be maintained under seal pending the submission of the memorandum of law and the Energy Bureau's determination regarding its confidential treatment. PREPA respectfully submits that this request is reasonable and will not delay the Energy Bureau's evaluation of the Proposed Amended Agreement, as PREPA is submitting the requested information concurrently with this Motion.

WHEREFORE, PREPA respectfully requests that the Energy Bureau **TAKE NOTICE** of the foregoing; **ACCEPT** the responses provided by LUMA submitted herein as **Confidential Exhibit A**, in further compliance with the October 23 Order, Requests Nos. 2 through 8; **DEEM PREPA IN FULL COMPLIANCE** with the October 23 Order; **GRANT** PREPA an extension of ten (10) days, until **November 13, 2026**, to submit a memorandum of law in support of its request for confidential treatment of Confidential Exhibit A; and **ORDER** that Confidential Exhibit A be maintained under seal pending the submission of said memorandum and the Energy Bureau's determination regarding its confidential treatment.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on the 3rd day of November 2026.

CERTIFICATE OF FILING AND SERVICE: It is hereby certified that this document was filed with the Office of the Clerk of the Energy Bureau through its electronic filing system, available at https://radicacion.energia.pr.gov/login. It is further certified that a file-stamped copy of the foregoing document was served upon the parties in the above-captioned proceeding, through their counsels of record, at the following email addresses: LUMA Energy, LLC and LUMA Energy ServCo, LLC:

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Confidential Exhibit A – Accelerated Storage Addition Program (ASAP)
NEPR-MI-2024-0002

LUMA Response: October 23, 2026 Resolution and Order concerning the proposed First Amended and Restated EcoEléctrica BESS Standard Offer Agreement

(Filed under seal)