

July 21, 2023

To: Puerto Rico Electric Power Authority ("PREPA")

Attention: Josué A. Colón Ortiz

Executive Director

PO BOX 364267

San Juan, Puerto Rico 00936-4267

Re: Escalation of Urgent PREPA Open Issues

Dear Josué, I hope this letter finds you well. LUMA would like to formally escalate several urgent unresolved issues, which are impacting LUMA's ability to perform its obligations as Operator under the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement ("T&D OMA")¹. I would like your collaboration in resolving these matters so we can improve our performance for the people of Puerto Rico. LUMA is concerned with PREPA's lack of cooperation and contract compliance related to:

1. Service Account Funding
2. OSI PI data
3. Facility Usage in Santurce and Palo Seco
4. Completion of PREPA Reorganization and Termination of Shared Services
5. Federal Government System for Award Management ("SAM") Portal
6. Santurce Complex Parking
7. ASG Donated Generators Assignment

My team tells me that all of these issues have been previously escalated to PREPA and discussed at length in recent weeks and months, however they remain mission critical issues that need cooperation and resolution by PREPA. References to formal communications previously sent on each of these topics is included in Annex I attached to this letter. In my judgement after reading the material, these issues are resulting in inefficiencies and increased costs to customers, while delaying important progress on the transformation of the Puerto Rico electric system.

Josué, as a Puerto Rico senior leader at PREPA and a key collaborator, I am asking you as I did when I first met you, to help us at LUMA with your direct support and prompt resolution of these issues as further outlined below.

(1) Service Account Funding

Since December 2022, PREPA has failed to fund the Service Accounts to the required levels outlined in the T&D OMA. PREPA has not fully funded one or more of the Service Accounts for eight (8) consecutive months, failing to comply with its contractual obligations, in breach of the T&D OMA. In each month after PREPA did not fully fund the Service Accounts, LUMA formally notified PREPA of

¹ The Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement ("T&D OMA") executed on June 22, 2020, amongst the Puerto Rico Electric Power Authority ("PREPA"), the Puerto Rico Public-Private Partnerships Authority ("P3A") and LUMA Energy, LLC and LUMA Energy ServCo, LLC (collectively, "LUMA")



its non-compliance. Despite these notifications, PREPA remains non-compliant with its T&D OMA requirements under Section 7.5 of the T&D OMA.

LUMA acknowledges that on July 14, 2023, PREPA fully funded the Operating Account and the Contingency Account in accordance with Sections 7.5(a)(ii) and Sections 7.5(f)(ii) of the T&D OMA, respectively, after seven (7) consecutive months of funding non-compliance. However, PREPA only partially funded the Purchased Power Account (Section 7.5 (e)(ii) of the T&D OMA), in the amount of \$62,846,000 out of \$127,861,000, which is only 49% of the required amount.

Specifically, as it relates to the funding of the Outage Event Reserve Account, the account has not been replenished since March 2023. According to section 7.5(d)(ii)² of the T&D OMA, replenishment must be completed promptly. No clause within the T&D OMA permits PREPA to withhold this funding for any reason. This provision was specifically agreed to among the T&D OMA Parties to mitigate potential cash flow issues during Outage Events and support LUMA's requirement to promptly respond to Outage Events to mitigate impacts to T&D customers.

In addition, LUMA has sent PREPA numerous requests regarding the Capital Account – Federally Funded since August 2022, due to PREPA's non-compliance with its contractual obligations related to withdrawals and funding of the account. Pursuant to Section 7.5(b)(iv) of the T&D OMA, LUMA is entitled to withdraw funds from the Capital Account – Federally Funded to reimburse costs that have actually been incurred under the approved Capital Budget – Federally Funded. From December 9, 2022 to May 31, 2023, PREPA refused to permit or approve funds to be removed from this account by LUMA despite multiple written requests, verbal follow ups, and a meeting on December 14, 2022, attended by P3A, PREPA, and LUMA regarding Federally Funded Capital and the related cash movements.

LUMA requests PREPA immediately resolves these serious Service Account funding issues and maintains compliance with PREPA's obligations under the T&D OMA going forward.

(2) OSI PI Data

Since July 20, 2022, LUMA has sent multiple requests³ to PREPA to provide hourly historical fuel data for the past five years from the OSI PI system or remove the "read protected" designation on this historical data in the system. In addition, on October 12, 2022, P3A stated PREPA should assign its rights to LUMA under the LT Automation contracts in order to give LUMA the ability to maintain OSI PI services.

On March 24, 2023, the Puerto Rico Energy Bureau ("PREB") issued a Resolution and Order ("March 24th R&O"), in Docket NEPR-MI-2023-00001 (Wheeling Implementation), in which PREB ordered PREPA to "provide access to the OSI PI Data to LUMA in 5 business days."⁴ On March 31,

² "Promptly following a withdrawal, Owner shall replenish the Outage Event Reserve Account so as to maintain an amount equal to US\$30,000,000"

³ See Annex I, attached for a complete list of formal communications from LUMA, PREPA, and P3A related to OSI PI

⁴ See page 8 of Resolution and Order of March 24, 2023, Docket No. NEPR-MI-2023-0001



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2023, PREPA filed a motion ("PREPA's Request for Reconsideration") listing its justifications for why it is unable to provide OSI PI Data access to LUMA and requested PREB reconsider its March 24th R&O regarding OSI PI Data.⁵ On June 6, 2023, PREB issued a Resolution and Order in which it denied PREPA's Request for Reconsideration and ordered PREPA "to produce immediately the OSI-PI Fuel Data to LUMA".⁶

Despite LUMA's multiple requests, P3A's formal communication, and PREB's R&Os, PREPA has yet to provide the data or requested access to OSI PI, contrary to the requirements of the T&D OMA. Given LUMA's need for this detailed historical data to validate models and perform the analysis mandated by PREB under several dockets, including Demand Response and EE (NEPR-MI-2021-0006), Puerto Rico Cost Test (NEPR-MI-2021-0009), Electric Vehicles (NEPR-MI-2021-0013), Unbundling Wheeling (NEPR-AP-2018-0004), Integrated Resource Plan and Modified Action Plan (IRP) and Renewable procurement (NEPR-MI-2020-0012), LUMA continues to request PREPA's provision of the requested OSI PI data and will also be requesting this data from Genera PR LLC ("Genera"), as Operator of PREPA GenCo.

LUMA requests PREPA's immediate cooperation on this matter and that PREPA provide LUMA with access to the required OSI PI data to ensure LUMA can perform its obligations under the T&D OMA.

(3) Facility Usage in Santurce and Palo Seco

On January 24, 2023, the Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement ("LGA OMA") was executed by and among PREPA, P3A, and Genera. Following the Genera Service Commencement Date on July 1, 2023, Genera now has the responsibility for operation and maintenance of GenCo. During its Mobilization Period, Genera provided confirmation to LUMA that it would not require use of any GenCo-occupied spaces in the Santurce office complex nor any facilities at Palo Seco, including the CASE training and administrative office and mechanical shop buildings. LUMA has a clear and urgent need for space at both facilities to continue effectively delivering its responsibilities under the T&D OMA.

In the Santurce office complex, LUMA has reached 100% occupancy of its current occupiable space, even after renovating space to add 600 workstations. LUMA has no additional space in Santurce for the growth needed to execute the transformational reconstruction and modernization of the T&D System. The rightsizing and restructuring of PREPA provides an opportunity to relocate all HoldCo and HydroCo to a suitable space outside the Santurce complex. The relocation of PREPA from the Santurce complex will also support the termination of facilities shared services.

Additionally, LUMA still requires use of the entire Palo Seco training Complex for training and to establish the Test & Technology Laboratory, which will support implementation of new protection, control, and automation ("PAC") schemes as well as other necessary advanced technologies, by testing performance, system integration and impact on the grid before field deployment. LUMA

⁵ See PREPA's Motion of March 31, 2023, Docket No. NEPR-MI-2023-0001

⁶ See page 6 of Resolution and Order of June 6, 2023, Docket No. NEPR-MI-2023-0001.



communicated in detail its requirement and plan for the space in a letter to PREPA on June 27, 2023 (LUMA-PREP-T-00581).

In summary, LUMA requires full use of the Santurce office complex and Palo Seco training Complex including the CASE and Machine Shop buildings.

LUMA strongly believes this is an important and necessary step to support the reorganization of PREPA and the unbundling of the vertically integrated utility, and also to enable LUMA to provide more cost-effective service to the people of Puerto Rico and establish a worldclass Test and Technology lab at Palo Seco using Federal Funds. LUMA is prepared to support PREPA's smooth transition out of these facilities in the coming weeks.

(4) Completion of PREPA Reorganization and Termination of Shared Services

LUMA is concerned with the ongoing lack of engagement from PREPA related to the PREPA Reorganization and the required termination of Shared Services, which will occur on January 1, 2024. PREPA has failed to adequately address requests for information ("RFIs") from LUMA regarding the PREPA Reorganization and Shared Services transition and has not actively participated in the recurring working sessions with LUMA, Genera, AAFAF, and P3A focused on progressing these matters. PREPA's inaction is non-compliant with Section 2.2(a) of the Shared Services Agreement ("SSA")⁷ which states, "the Parties shall cooperate in good faith on all matters relating to the provision and receipt of the Shared Services."

There are several incomplete activities that are essential to an effective separation of PREPA's vertically integrated monopoly. These include standing up HydroCo, PropertyCo, and HoldCo as distinct and independent entities, finalizing organizational structures and resources for each entity, and initiating initial independent operations of each (e.g., basic management, reporting, etc.). Additionally, the process of unbundling PREPA's vertical monopoly also requires a separation of financial records, including splitting the balance sheet and associated PREPA Accounting Issues Remediation Project, which is expected to take many months.

Since April 4, 2023, LUMA has sent three (3) requests for information ("RFIs") to PREPA regarding the PREPA Reorganization process. All three RFIs remain incomplete with 10 out of 15 questions outstanding. LUMA has responded to all five (5) of AAFAF/Ankura's RFIs sent to LUMA requesting information. LUMA has still not received PREPA's organizational hierarchy by entity, which was expected to be provided to LUMA by June 20, 2023. Without the information requested in the outstanding RFIs, LUMA is experiencing challenges effectively planning for the transition and exit of Shared Services.

LUMA would like to recognize that Genera has communicated they are fully committed to separation of GenCo prior to the January 1, 2024 deadline. Unfortunately, this same commitment has not been demonstrated by PREPA for HydroCo and HoldCo, and LUMA is deeply concerned PREPA will not

⁷ The Shared Services Agreement (the "SSA"), executed on June 1, 2021 in between Puerto Rico Electric Power Authority ("PREPA"), the Puerto Rico Public-Private Partnerships Authority ("P3A"), LUMA Energy, LLC and LUMA Energy ServCo, LLC (collectively, "LUMA")



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complete physical separation by January 1, 2024. Furthermore, the lack of clear and defined PREPA organization makes it challenging to assure that the objectives will be implemented in a timely and effective way.

LUMA requests a firm commitment from PREPA to complete the separation of HoldCo and HydroCo into separate and independent entities prior to the termination of the Shared Services Agreement on January 1, 2024.

(5) Government Debt/SAM Portal

On July 10, 2023, LUMA sent PREPA a letter titled "Government Debt and Federal Government System for Award Management Portal" (LUMA-PREP-T-00592), in which LUMA requested PREPA to expedite the registration process for the SAM portal in order to enable LUMA to make payments for bills, including LUMA's utility bills.

Per Section 5.3 (a) of T&D OMA, LUMA is responsible to perform all billing and collection services for the T&D System. For various federal agencies to issue payment to LUMA for services rendered, PREPA is required to complete the SAM registration renewal each year in March. However, LUMA customers have been unable to make payments for their utility bills since April 2023 through this channel due to PREPA's delay in completing the SAM registration process.

LUMA requires PREPA to expediently resolve this matter and promptly alert LUMA of any updates regarding the status of the registration process.

(6) Santurce Complex Parking

Pursuant to Annex I, Section (II)(A) of the T&D OMA, LUMA is responsible for managing and maintaining all assets of the T&D System, which includes real estate management for the Santurce Complex. In accordance with this responsibility, LUMA has sent numerous communications to PREPA requesting cooperation with necessary changes to Santurce parking access to address the significant parking constraints at that location as evidenced by the communications referenced in Annex I. Specifically, LUMA has identified vacant properties owned by PREPA around the Santurce complex that would ease the parking constraints and provide valuable overflow parking for LUMA employees. To date, PREPA has been uncooperative and unwilling to allow LUMA to utilize these vacant properties for parking and is forcing LUMA to consider more expensive alternatives which would result in less efficient use of a limited budget.

LUMA requests that PREPA immediately provide unencumbered access to LUMA to vacant parking lots near the Santurce office complex.

(7) ASG Donated Generators Assignment

LUMA sent PREPA a letter on November 21, 2022, requesting that PREPA update the file to retain control and use of three (3) generators donated through the Federal Surplus Property Program, including assignment of LUMA as an authorized representative of PREPA, to the Puerto Rico General Services Administration ("ASG").



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Most recently, on April 17, 2023 and July 17, 2023, ASG sent follow-up emails to LUMA and PREPA setting a deadline of August 1, 2023 for PREPA or LUMA as authorized agent of PREPA to confirm location and status details of the three (3) units. Failure to comply with the August 1, 2023 deadline would allow ASG to confiscate the units. As of today, all units have been located: two (2) units are located in Monacillos and one (1) is in Fajardo, and all are necessary for reliable operations of the T&D system.

LUMA requests PREPA sign over the use agreements to LUMA, in its capacity as agent of PREPA, for the three (3) generator units to ensure these required units are available during the storm season.

Conclusion

As the new CEO of Luma, my assessment is that PREPA's inaction on these issues represents an ongoing and unacceptable pattern of disregard for PREPA's responsibilities under the T&D OMA. In addition to the specific issues outlined above, there continues to be day-to-day instances of PREPA's lack of cooperation and non-compliance with its T&D OMA responsibilities, and an increasing disengagement in important meetings with LUMA, Genera, and P3A, resulting in unnecessary effort and costs to all parties. Under Section 6.1(a)(xi) of the T&D OMA, PREPA is responsible for taking all actions reasonably required, or requested by LUMA, to permit LUMA to perform the O&M Services in compliance with the Contract Standards of the T&D OMA. LUMA is having to spend a significant amount of time and cost following up with PREPA on these issues that could easily be resolved with simple cooperation from PREPA. Collectively, this is materially slowing down LUMA's progress and ability to focus on its O&M Services and having a negative effect overall on the transformation and efficiency of the Puerto Rico Electric System.

According to T&D OMA, PREPA is required to respond promptly to all requests from LUMA within 30 days and provide LUMA with information and assistance reasonably necessary for LUMA to perform its T&D OMA obligations. Despite this contractual obligation and PREPA's specific T&D OMA responsibilities related to each of the issues outlined above, PREPA has continued to ignore or delay resolution on many of these issues for more than 30 days, despite repeated reminders from LUMA.

As demonstrated by LUMA's regular emails and meetings with PREPA and P3A, LUMA remains committed to working with PREPA and P3A to ensure compliance with obligations under the T&D OMA and to minimize the impact PREPA's unresponsiveness and delays have on the transformation of the electric system for the people of Puerto Rico.

I look forward to discussing these matters with you and get an understanding from your perspective at our meeting on Wednesday, July 26, 2023 and to aligning on a path forward to resolve each issue. This is important enough that I will be following up on this every time I get a chance.



Sincerely,



Juan Saca

President & Chief Executive Officer

C: Richard Cruz Franqui, Legal Counsel, PREPA; Richard.Cruz@prepa.com
Fernando Gil Enseñat, Chairman, PREPA Governing Board; Fernando.Gil@prepa.com
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Annex I – List of Associated LUMA Communications

1(a). PREPA Service Account Issues: Funding Non-Compliance

- December 16, 2022: Letter from LUMA to PREPA: "Notice of PREPA Non-Compliance with Service Account Funding" (LUMA-PREP-T-00435)
- January 18, 2023: Letter from LUMA to PREPA: "Notice of PREPA Non-Compliance with Service Account Funding" (LUMA-PREP-T-00440)
- February 15, 2023: Letter from LUMA to PREPA: "Notice of PREPA Non-Compliance with Service Account Funding" (LUMA-PREP-T-00472)
- March 16, 2023: Letter from LUMA to PREPA: "Notice to PREPA Non-Compliance with Service Account Funding" (LUMA-PREP-T-00488)
- March 16, 2023: Letter from LUMA to PREPA: "Response to PREPA on Letter Regarding Service Account Funding" (LUMA-PREP-T-00487)
- March 31, 2023: Letter from LUMA to P3A: "Response to P3A Outage Account Withdrawal Documentation Request" (LUMA-P3A-T-00637)
- June 16, 2023: Letter from LUMA to PREPA: "PREPA Non-Compliance with Service Account Funding" (LUMA-PREP-T-00575)

1(b). PREPA Service Account Issues: Capital Account – Federally Funded

- August 19, 2022: Letter from LUMA to PREPA: "Equipment Working Capital Advance Response" (LUMA-PREP-T-00345)
- December 16, 2022: Letter from LUMA to PREPA: "Application of FEMA Funds, Working Capital Advances & Other FEMA Cashflows to PREPA" (LUMA-PREP-T-00434)
- January 18, 2023: Letter from LUMA to PREPA: "PREPA Non-Compliance with Capital Account – Federally Funded Withdrawal Notices" (LUMA-PREP-T-00449)
- January 27, 2023: Letter from LUMA to PREPA: "Response to PREPA's Dec. 22nd Letter – Application of FEMA Funds, Working Capital Advances & Other FEMA Cashflows to PREPA Bank Accounts" (LUMA-PREP-T-00455)

2. OSI PI Data

- July 20, 2022: Letter from LUMA to PREPA: "OSI Pi Fuel Data Request" (LUMA-PREP-T-00318)
- August 31, 2022: Letter from LUMA to PREPA: "Request for OSI Pi Detailed Fuel Data – Follow Up" (LUMA-PREP-T-00348)
- November 11, 2022: Letter from LUMA to PREPA: "Response to PREPA's October 27th Letter Regarding OSI Pi Detailed Fuel Data" (LUMA-PREP-T-00395)



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- March 28, 2023: Letter from LUMA to PREPA: "Request for OSI PI Detailed Fuel Data – Follow Up" (LUMA-PREP-T-00493)
- May 11, 2023: Letter from LUMA to PREPA: "Request for OSI PI Detailed Fuel Data – Follow Up" (LUMA-PREP-T-00534)

3. Facility Usage in Santurce and Palo Seco

- May 11, 2022: Letter from LUMA to PREPA: "Palo Seco Training Facility" (LUMA-PREP-T-00244)
- June 27, 2023: Letter from LUMA to PREPA: "LUMA Response to PREPA Letter Regarding CASE Training Center" (LUMA-PREP-T-00581)

4. Completion of PREPA Reorganization

- April 6, 2022: Letter from LUMA to PREPA: "PREPA Reorganization & Transformation" (LUMA-PREP-T-00199)
- May 17, 2022: Letter from LUMA to PREPA: "GGHOA and PREPA Reorganization" (LUMA-PREP-T-00249)
- April 4, 2023: RFI Request to AAFAF/ Ankura through P3A: "Ankura Request For Information RFI #1" (LUMA-P3A-T-00639)
- April 14, 2023: RFI Request to AAFAF / Ankura through P3A: "LUMA Request for Information from Ankura #2" (LUMA-P3A-T-00647)
- April 21, 2023: LUMA RFI Response to AAFAF through P3A: "AAFAF RFI #2: Addition of Contract ID to Shared Services Contracts Managed by LUMA" (LUMA-P3A-T-00660)
- April 25, 2023: PREPA Reorganization Road Map from LUMA to P3A: "PREPA Reorganization Road Map" (LUMA-P3A-T-00680)
- April 26, 2023: LUMA RFI Response to AAFAF / Ankura through P3A: "RFI Response to AAFAF RFI #1: Operations Services provided to HydroCo Facilities YTD FY23" (LUMA-P3A-T-00654)
- May 17, 2023: RFI Request to AAFAF / Ankura through P3A: "LUMA Request for Information from Ankura #3 Employee Access" (LUMA-P3A-T-00653)
- May 30, 2023: LUMA RFI Response to AAFAF / Ankura through P3A: "LUMA Response to AAFAF / Ankura RFI #3" (LUMA-P3A-T-00744)
- June 9, 2023: LUMA RFI Response to AAFAF / Ankura through P3A: "LUMA Response to AAFAF / Ankura RFI #4" (LUMA-P3A-T-00747)
- June 29, 2023: LUMA RFI Response to AAFAF / Ankura through P3A: "LUMA Response to AAFAF RFI #5 – Insurance Policy Schedules and Suggested Split Detail Between Reorganized Subsidiaries" (LUMA-P3A-T-00790)

5. Government Debt/SAM Portal

- July 10, 2023: Letter from LUMA to PREPA: "Government Debt and Federal Government System for Award Management Portal" (LUMA-PREP-T-00592)

6. Santurce Complex Parking

- December 13, 2021: Letter from LUMA to PREPA: "NEOS Employee Relocation, Parking and PREPA Access" (VIA ELECTRONIC MAIL)
- April 11, 2022: Letter from LUMA to PREPA: "PREPA Office Space Requests" (LUMA-PREP-T-00216)
- October 4, 2022: Letter from LUMA to PREPA: "Request to Transfer Properties for T&D Related Operations" (LUMA-PREP-T-00361)
- May 12, 2023: Letter from LUMA to PREPA: "Notification of Parking Changes at Santurce Complex" (LUMA-PREP-T-00540)

7. ASG Donated Generators Assignment

- November 21, 2022: Letter from LUMA to PREPA: "ASG Federal Surplus Property – Donated Generators" (LUMA-PREP-T-00406)





Transmittal #: **LUMA-PREP-T-00591**

TRANSMITTAL

Title: **Escalation of Urgent PREPA Open Issues**

Date: 2023-07-20	
LUMA Department: Office of the President & Chief Executive	
Sending Organization: LUMA	Receiving Organizations: PREPA
Sent from: Juan Saca	Addressed to: Josué Colón Ortiz
LUMA CC: prepa@lumamc.com p3a@lumamc.com Mike Shaw Mario Hurtado Corey Schneider Morgan Dawer Courtney Berry Haley Leyendecker	PREPA CC: Richard Cruz Franqui administrator@p3.pr.gov Fermín Fontanés Gómez Sheila Torres-Sterling P3A CC: Gerardo Lorán Rubén Lugo Shylene de Jesús PREPA Governing Board: Fernando Gil Enseñat

TRANSMITTER COMMENTS:

Related RFI(s) or Transmittal(s):

Total Number of Documents:

1

Document No.		Rev.	File Type
1	23.07.20_Escalation of Urgent PREPA Open Issues		PDF