

August 30, 2022

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

Attention: Josué Colón Ortiz

Executive Director

PO BOX 364267

San Juan, Puerto Rico 00936-4267

**Re: LUMA Response to Josué Colón's Email dated August 17, 2023**

LUMA is in receipt of PREPA's email dated August 17, 2023 ("PREPA's email"), which makes several misleading statements related to LUMA's compliance with the T&D OMA<sup>1</sup>. To effectively transform the Puerto Rico electrical system, it is essential that PREPA and LUMA cooperate and operate in compliance with the T&D OMA. This includes PREPA's responsibility to timely fund the Service Accounts in full each month, in accordance with Section 7.5 of the T&D OMA and the PGHOA<sup>2</sup>.

Despite PREPA's clear contractual obligation to fully fund the Service Accounts pursuant to Section 7.5 of the T&D OMA, since December 2022, PREPA has been repeatedly under-funding LUMA's Service Accounts. As of this date, LUMA has formally issued nine (9) Notice of PREPA Non-Compliance with Service Account Funding to PREPA<sup>3</sup>. It should be noted that PREPA's obligation to timely and fully fund the Service Accounts is a material obligation under the T&D OMA. PREPA's email attempts to deflect this responsibility and states:

"LUMA in turn must comply with its contractual obligation to invoice and collect the energy that is produced and delivered to customers, eliminate energy theft, ensure that the meters work as they should and that those customers who do not pay their bills have their energy service suspended. In other words, to comply with this obligation, PREPA depends 100% on LUMA collecting and depositing 100% of the funds resulting from the billing of the energy produced and delivered in each billing cycle in our accounts. That has not happened and as a consequence, continuously and consistently, we have fiscal deficiencies to be able to "replenish" LUMA's service accounts."

**LUMA rejects all explicit or implicit claims of non-compliance with its responsibilities as Operator of the T&D System.**



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

<sup>2</sup> The Puerto Rico PREPA-GenCo-HydroCo Operating Agreement ("PGHOA") executed on June 19, 2023, amongst the Puerto Rico Electric Power Authority ("PREPA"), PREPA GenCo LLC ("GenCo"), PREPA HydroCo LLC ("HydroCo"), LUMA Energy ServCo, LLC ("LUMA"), and the Puerto Rico Public-Private Partnerships Authority ("P3A")

<sup>3</sup> Reference the "Notice of PREPA Non-Compliance with Service Account Funding" letters sent from LUMA to PREPA on December 16, 2022 (#LUMA-PREP-T-00435), January 18, 2023 (#LUMA-PREP-T-00440), February 15, 2022 (#LUMA-PREP-T-00472), March 16, 2023 (#LUMA-PREP-T-00488), April 18, 2023 (#LUMA-PREP-T-00509), May 18, 2023 (#LUMA-PREP-T-00543), and June 16, 2023 (#LUMA-PREP-T-00574), July 20, 2023 (#LUMA-PREP-T-00595), and August 16, 2023 (#LUMA-PREP-T-00606),



Furthermore, PREPA neglects to recognize that since Commencement, LUMA has improved Accounts Receivable and decreased outstanding collections. Namely, between August 1, 2022 and May 1, 2023, LUMA decreased the pre-Commencement Accounts Receivable Total Balance by approximately 40% and post-Commencement Accounts Receivable Total Balance by approximately 25%. While these efforts have in fact helped PREPA's liquidity, it should be clear that PREPA's contractual obligations to fund service accounts is not contingent on this and PREPA is solely responsible for ensuring it has sufficient funding on hand to meet its contractual obligations.

Additionally, PREPA also states:

"It is of vital importance that LUMA can attend to the contractual issues that I have mentioned here, but also that LUMA improves its actual performance in the federal reimbursement request process. While we at PREPA, with fewer personnel and resources, have been able to receive over \$700 million in federal reimbursements from September 2021 to the present, LUMA in the same period and with much more fiscal resources has only managed to get FEMA/COR3 to reimburse close to \$45 millions. We all need that performance to improve so that we can count on those federal refund funds available, and address the present fiscal deficiencies with more alternatives.

LUMA assures PREPA that it is utilizing the reimbursement request process and maximizing federal dollars for the improvement of the T&D System. LUMA's current Request for Reimbursement ("RFR") production is \$81 million, with hundreds of highly complex projects in progress. While PREPA mentions it has received over \$700 million in federal reimbursement, it is unclear what PREPA is including in this number. LUMA assumes the majority of the \$700 million is related to Working Capital Advances ("WCA"), which are not considered reimbursements, making this comparison incompatible. As PREPA is aware, RFRs can only be submitted once expenses are incurred and paid for, which produces a lag in recovery of FEMA funds. LUMA anticipates a material increase in RFR payments in the coming year based on recent activities that qualify for FEMA funding. Furthermore, LUMA has initiated several projects to further maximize results and periodic 'Continuous Improvement Sessions' with COR3 to streamline the process and expedite RFRs.

Lastly, LUMA reminds PREPA that all formal communications must be sent to LUMA in alignment with the established Communication Protocol, as updated on July 20, 2023 (LUMA-PREP-T-00589).

In conclusion, PREPA has a clear contractual obligation to fully fund the Service Accounts. LUMA remains committed to collaboratively working with PREPA to transform Puerto Rico's electrical system, operating prudently and transparently, and making measurable improvements towards creating a reliable, resilient, and safe T&D System for Puerto Rico.

Sincerely,

  
Juan Saca

President & Chief Executive Officer



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