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# Monthly Report on the T&D System

For the Month of September 2022

October 20, 2022

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## 1.0 Mission, Goals and Areas of Responsibility

LUMA assumed operations of Puerto Rico's Transmission and Distribution System (T&D System) on June 1, 2021, with the mission to recover and transform the energy grid and deliver customer-centric, reliable, resilient, safe and sustainable electricity at reasonable prices for the 1.5 million customers LUMA is proud to serve. LUMA manages and operates the government-owned T&D Assets under the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement ("T&D OMA") executed on June 22, 2020, among 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").

This report outlines LUMA's key activities for the month of September 2022.

## 2.0 Monthly Sales Summary

The information included in this report is based on *preliminary data*<sup>1</sup> for September 2022 and is subject to change.

- Consumption was lower in September month over month (0.5%) and year over year (8.9%). This is in line with the widespread outages as a result of Hurricane Fiona.
- Energy sales in September decreased 8.5% from the previous month data but increased 8.9% compared to the same month a year ago.
- Revenues for Fuel Charge Adjustment ("FCA") and Purchase Power Charge Adjustment ("PPCA") were lower in September compared with the last month, in line with the widespread outages as a result of Hurricane Fiona. FCA and PPCA continue to be higher than the same time last year in line with increased global fuel prices.

**Table 2--1. Energy billed by customer segment**

Consumption (GWh)	Residential	Commercial	Industrial	Public Lighting	Agriculture	Other Authorities	Total
2022 September	588.1	645.9	144.5	23.0	1.9	3.1	1,406.7
2022 August	611.8	613.7	159.0	23.4	2.2	3.4	1,413.6
2021 September	705.5	639.2	170.5	24.0	2.1	3.1	1,544.4

**Table 2-2. Energy sales by rate component**

Energy Sales (\$M)	Base	FCA <sup>2</sup>	PPCA <sup>3</sup>	CILT & Subsidies <sup>4</sup>	Total
2022 September	97.8	242.9	38.0	27.4	406.1

<sup>1</sup> Fuel data for the month has not been provided to LUMA from PREPA and so FCA data is estimated and subject to material change.

<sup>2</sup> FCA: Fuel Charge Adjustment

<sup>3</sup> PPCA: Purchased Power Charge Adjustment

<sup>4</sup> CILT: Contribution In Lieu of Taxes

Energy Sales (\$M)	Base	FCA <sup>2</sup>	PPCA <sup>3</sup>	CILT & Subsidies <sup>4</sup>	Total
2022 August	92.8	279.8	43.1	28.3	444.0
2021 September	111.7	189.5	47.5	24.3	373.1

**Table 2-3. Energy sales by customer segment**

Energy Sales (\$M)	Residential	Commercial	Industrial	Public Lighting	Agriculture	Other Authorities	Total
2022 September	162.5	191.8	40.9	9.5	0.6	0.9	406.1
2022 August	183.3	199.6	48.4	10.9	0.7	1.0	444.0
2021 September	155.5	170.5	37.3	8.5	0.5	0.7	373.1

## 3.0 Outage Summary

### Reported Events

- In anticipation of Tropical Storm Fiona (later Hurricane Fiona), the LUMA Crisis Management Committee (CMC) activated the LUMA Emergency Operations Center (LEOC) on September 15, 2022, at 0800 hours.
- In compliance with Section 5.14 (b) of the T&D OMA and the LUMA Emergency Response Plan, LUMA provided approximately forty (40) Emergency Event Update reports to P3A and PREB in the month of September and upon LEOC activation.
- More than two thousand utility workers (LUMA employees and contractors) actively responded around the island to the storm.
- As of September 30, 2022, the emergency work continued and the LEOC and ROCCs were activated.
- LUMA continues to have serious concerns regarding generation insufficiency and low reserve margins as a direct result of the damage caused by Hurricane Fiona to the generation and fuel fleet in Puerto Rico.

**Table 3-1: Significant Generation Outages**

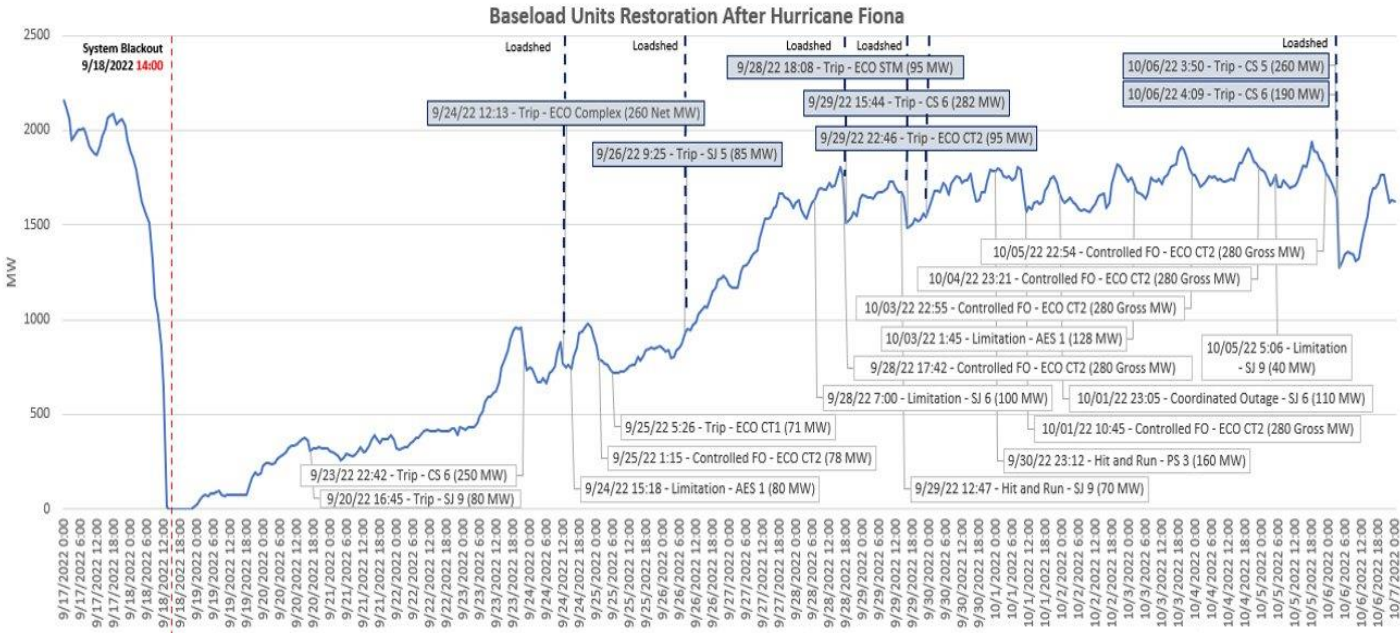
Date	Description of outage
09/02/2022	San Juan 7: Forced Outage
09/03/2022	Palo Seco 3: Maintenance Outage Palo Seco 4: Forced Outage San Juan 7: Derated AES 2: Derated
09/06/2022	Costa Sur 5: Derated Costa Sue 6: Derated AES 2: Forced Outage
09/07/2022	Costa Sur 6: Forced Outage Costa Sur 5: Derated

<b>09/08/2022</b>	San Juan 5: Derated and Maintenance Outage
<b>09/09/2022</b>	San Juan 6: Maintenance Outage
<b>09/14/2022</b>	Palo Seco 3: Derated
<b>09/15/2022</b>	AES 2: Forced Outage Cambalache 2: Forced Outage
<b>09/17/2022</b>	Palo Seco 3: Derated
<b>09/18/2022</b>	Systemwide blackout
<b>09/18/2022 – 09/26/2022</b>	Restoration process following Hurricane Fiona
<b>09/28/2022</b>	Aguirre 2: Forced Outage San Juan 6: Derated AES 1: Derated AES 2: Derated
<b>09/29/2022</b>	Eco Electrica CT2: Forced Outage
<b>09/30/200</b>	San Juan 9: Forced Outage Costa Sur 6: Forced Outage

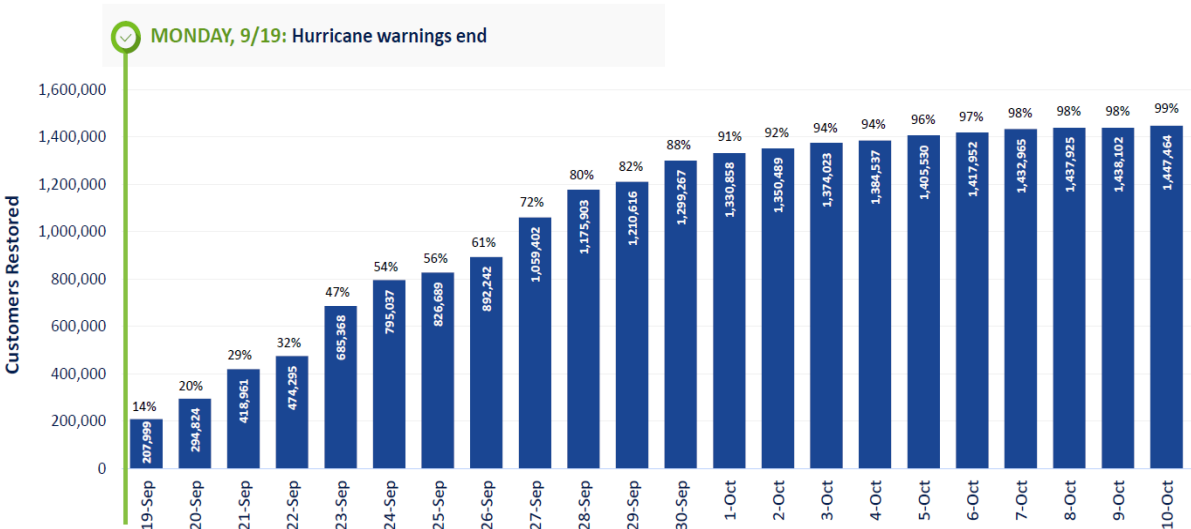
**Table 3-2: Significant Transmission Outages**

<b>Date</b>	<b>Description of outage</b>
<b>09/02/2022</b>	Encantada Substation trip Line 50500 tripped
<b>09/03/2022</b>	Line 50700 tripped
<b>09/04/2022</b>	Line 50700 tripped
<b>09/07/2022</b>	Line 36100 tripped
<b>09/08/2022</b>	Line 36100 tripped Line 50200 tripped
<b>09/09/2022</b>	Line 36100 tripped Line 50200 tripped Line 50400 tripped
<b>09/10/2022</b>	Line 36100 tripped
<b>09/11/2022</b>	Line 50500 tripped
<b>09/12/2022</b>	Line 50500 tripped Line 38300 tripped
<b>09/18/2022-09/30/2022</b>	Restoration process following Hurricane Fiona

### Restoration Progress Since System Blackout on September 18, 2022



### Customer Power Restoration



## 4.0 PREB Filings & Hearings

As part of LUMA's commitment to transparency, LUMA participated in and supported discussions with the Puerto Rico Energy Bureau (PREB) across a broad range of topics.

- [NEPR-AP-2020-0025](#) | **LUMA's Performance Metrics** – On September 9, 2022, LUMA filed a document entitled Motion to Amended Request for Extension of Time to Submit a Revised Annex



IX & Pre-Filed Written Direct Testimonies in Compliance with Resolution and Order (R&O) of August 1, 2022. LUMA requested until October 3, 2022, to complete the submission of Revised Annex IX and until October 6, 2022, to submit written testimonies in support of the Revised Annex IX. LUMA based its request on overlapping docket filings to take place between September 9 and September 20 and on LUMA's participation in the technical conference on the Fiscal Year 2023 Certified Budget for September 13, 2022. On September 16, 2022, the PREB issued an R&O granting LUMA's request to file testimony and a revised Annex IX by October 6, 2022. Additionally, the PREB granted Intervenor's requests for additional discovery on LUMA's supplemental written testimony and the amended portions of Annex IX. On September 30, 2022, LUMA submitted a Motion to Amend Procedural Calendar, Requesting Additional Time to Submit Revised Annex IX and Pre-Filed Written Direct Testimonies due to Change in Circumstances, and Proposing Amended Procedural Calendar. LUMA requested until October 28, 2022. It supported its request based on LUMA's activation of the Emergency Operations Center in response to Hurricane Fiona, which required the engagement of many key personnel & components of the organization.

- [NEPR-MI-2019-0007](#) | **Performance Metrics** – On September 16, 2022. LUMA filed an Urgent Request for Additional Extension of Time to Comply with the R&O of August 18, 2022, due to a change in circumstances. LUMA requested until September 30, 2022, to file its submission in compliance with a portion of the August 18, 2022 Order. On September 23, 2022, the PREB ordered LUMA and PREPA to comply with the August 18, 2022, Resolution by Friday, October 14, 2022. On September 28, 2022, LUMA filed a Motion in Compliance with Specific Order Contained in R&O dated as of August 18, 2022, regarding the reporting of certain data related to non-technical losses. LUMA informed that it will commence reporting on the non-technical losses' metric within the upcoming Quarterly Performance Metric Report due on October 20, 2022 and will continue to report this metric on an on-going basis.
- [NEPR-MI-2020-0012](#) | **IRP** – LUMA began contacting local organizations to potentially help manage stakeholder engagement for the 2024 IRP. The first group of RFPs were sent on September 14, 2022. As of the end of September, LUMA had not received PREB's approval of the list of qualified consultants to continue with the contracting process for the technical consultant.
- [NEPR-MI-2021-0013](#) | **Electric Vehicle Infrastructure** - On September 1, 2022, LUMA submitted the Draft Phase I EV Plan and requested to postpone the Compliance Technical Hearing No. 3 and associated deadline to submit the revised Phase EV Plan.
- [NEPR-MI-2020-0001](#) | **Streetlight Report** – On September 12, 2022, LUMA submitted the August Streetlight Progress report.
- [NEPR-IN-2022-0002](#) | **April 6<sup>th</sup> Incident** – On September 9, 2022, LUMA submitted the Exponent Power Plant Analysis Report.
- [NEPR-MI-2021-0004](#) | **LUMA's Budgets** – On September 1, 2022 –LUMA filed a Motion submitting PREPA Information in Response to Item "iv." in response to the August 12 Order. On September 02, 2022, LUMA submitted a Motion in Compliance to Show Cause through which requested PREB that no penalties will be imposed on LUMA in connection with the filing of the FY2022 Q4 Report and find that LUMA timely complied with the August 26 Order. On September 6, 2022, PREB issued an R&O denying LUMA's August 31 Motion and PREB requested LUMA file the FY2022Q4 report on September 8, 2022. On September 7, 2022, PREB issued an R&O, through which it amended the Procedural Calendar and added an additional day to conduct the

Virtual Technical Conference (VTC) on September 14, 2022. On September 8, 2022, LUMA submitted the presentation to be used during the VTC scheduled for September 13, 2022. Also, on the same day, LUMA submitted the Financial Results for FY2022 Q4. On September 9, 2022, LUMA submitted a Motion for rescheduling the second day of the Technical Conference to the earliest availability for both LUMA and PREPA, on September 27, 2022. On September 13, 2022, the Technical Conference was held as scheduled. PREB issued a bench order through which it rescheduled a second day of the VTC for September 27, 2022 and ordered LUMA to respond to 18 requests for information (RFIs) on September 23, 2022. On September 20, 2022, PREB issued an R&O rescheduling the second day of the VTC for October 18, 2022, and amended the Procedural Calendar, taking notice that LUMA and PREPA are focused on the recovery of the electric system due to Hurricane Fiona. PREB granted LUMA and PREPA until October 7, 2022, to file the RFIs from the September 13, 2022 VTC.

- [NEPR-MI-2021-0002](#) | **Federal Funding** – On September 2, 2022, LUMA submitted two FEMA approvals associated with the Distribution Streetlighting and the Distribution Pole and Conductor Repair Improvement Programs. On September 7, 2022, LUMA submitted the fourth quarter federal funding report for FY2022. On September 16, 2022, LUMA submitted the updated 90-Day Plan. On September 22, 2022, LUMA submitted three FEMA approvals, including two for Distribution Pole and Conductor Repair and one for Transmission Priority Pole Replacement Improvement Programs.
- [NEPR-MI-2020-0001](#) | **Permanent Rate** – On September 8, 2022, LUMA sent PREPA a formal letter requesting them to provide all required data necessary for LUMA to meet its obligations. On September 13, 2022, having not received the necessary documents, LUMA filed a motion with PREB requesting an extension on the filing deadline of the quarterly factors. On September 15, 2022, PREB issued an R&O granting LUMA's brief extension to submit the quarterly factors filing. PREB extended the deadline to September 19, 2022. On September 20, 2022, in the aftermath of Hurricane Fiona, PREB issued an R&O further extending LUMA's filing deadline to September 23, 2022. On September 23, 2022, LUMA submitted the proposed FCA and PPCA quarterly factors. On September 29, 2022, recognizing the effects of Hurricane Fiona, PREB opted not to hold a Technical Conference and issued an R&O in which it set the new factors.
- [NEPR-AP-2018-0004](#) | **Unbundling of Assets (Wheeling)** – On September 20, 2022, PREB issued an R&O scheduling a technical conference for October 21, 2022.
- [NEPR-MI-2021-0015](#) | **Development of Wind Study** – On September 30, 2022, LUMA filed with the PREB the Wind Study Report titled, Wind Energy Costs in Puerto Rico Through 2035. The filed Wind Study Report was completed by the National Renewable Energy Laboratory (NREL), in collaboration with LUMA and other stakeholders.

## 5.0 Legislative Matters and Material Legal Update

- Monitoring legislative activity, responding to requests for comments and preparing LUMA employees for public hearings is an important and significant responsibility, requiring multiple interactions with members and staff of the Puerto Rico Senate and House of Representatives over the course of many weeks and months on some occasions.
- Responding to these inquiries requires considerable resources and time from LUMA.



**Table 5--1: Summary of Requests for Comments or Legislation Filed in the Puerto Rico Senate or House of Representatives**

<b>Committee</b>	<b>Bill or Resolution</b>	<b>Comments Requested</b>	<b>LUMA Response or Legislation Title</b>
<b>Senate Committee on Innovation, Telecommunications, Urbanism, and Infrastructure</b>	Senate Bill 956	August 17, 2022	<p>Senate Bill 956 proposes to create the Act for the “Transformation of Public Roads for the Production of Renewable Energy Act”.</p> <p>On August 17, 2022, LUMA received a request for comments from the Committee.</p> <p>On September 6, 2022, comments were submitted to the Committee as requested.</p>
<b>House Committee on Government Affairs</b>	Joint House Resolution 356	September 1, 2022	<p>Joint House Resolution orders Secretaries, Presidents and Executive Directors of various government agencies and corresponding Public Corporations to settle their electric energy debts or make payment plans with LUMA Energy and/or the Puerto Rico Electric Power Authority within a term not to exceed thirty (30) days; and for other related purposes.</p> <p>On August 31, 2022, LUMA received a request for comments from the Committee.</p> <p>On September 9, 2022, comments were submitted to the Committee as requested.</p>
<b>Committee on Development and Public Fund Oversight of the Western Region</b>	House Resolution 617	September 8, 2022	<p>House Resolution orders the Committee on Development and Public Fund Oversight of the Western Region; and the Committee on Economic Development, Planning, Telecommunications, Public-Private Partnerships and Energy of the House of Representatives of the Commonwealth of Puerto Rico, to perform an exhaustive and continuous investigation into any matter related to the performance, execution, and compliance by LUMA Energy of its obligations under the Public-Private Partnership contract with the Puerto Rico Electric Power Authority, and related to the quality and effectiveness of the services provided by</p>

			<p>LUMA Energy to Representative District No. 20 which is composed of sectors from the municipalities of Cabo Rojo, Hormigueros and San Germán; and other related purposes.</p> <p>On September 1, 2022, LUMA received a request for comments from the Committee. On said date, the comments were submitted to the Committee.</p>
<b>Senate Committee on Economic Development, Essential Services and Consumer Affairs</b>	Senate Bill 979	September 13, 2022	<p>Senate Bill 979 proposes to amend Act 57-2014, as amended, known as the "Energy Transformation and RELIEF Act"; to renumber Chapter VII Transitory and General Provisions as Chapter VIII; to create a new Chapter VII entitled Solar Systems and Energy Storage Financing and Installation Program; to require all electric utilities in Puerto Rico to submit to the Puerto Rico Energy Bureau for its approval and supervision a Solar Systems and Energy Storage Financing and Installation Program; to establish its requirements, definitions, terms, eligibility, public policy, exclusive jurisdiction to address disputes that may arise in connection therewith, and for other related matters.</p> <p>On September 13, 2022, the Committee requested comments. Due to Hurricane Fiona the submission of comments has been postponed.</p>
<b>Senate Committee on Government</b>	Senate Resolution 63	September 13, 2022	<p>To order the Committee on Government of the Senate of the Commonwealth of Puerto Rico to conduct a continuous investigation on the proper functioning of the Agencies, Departments, Offices, and entities of the Government of the Commonwealth of Puerto Rico that are under its jurisdiction, to determine whether they follow the laws and regulations of the Commonwealth of Puerto Rico</p>

			<p>On September 13, 2022, the Committee requested information.</p> <p>Due to Hurricane Fiona the submission of comments has been postponed.</p>
<b>House Committee on Fiscal Control of Public Funds</b>	House Resolution 9	September 23, 2022	<p>HR9 orders the Committee on the Fiscal Control of Public Funds of the House of Representatives of the Commonwealth of Puerto Rico, to establish the necessary procedures and structures to monitor, follow up and carry out continuous evaluations on the use and management of federal resources, tools, programs, and funds by the agencies, instrumentalities, public corporations and municipalities of the Commonwealth of Puerto Rico; and for other related purposes.</p> <p>On September 23, 2022, LUMA received a request for production of documents from the President of the House of Representatives of PR.</p> <p>On September 26, 2022, LUMA submitted the documents requested.</p>
<b>House Committee on Economic Development, Planning, Telecommunications, Public Private Partnership, and Energy</b>	House Resolution 446	September 23, 2022	<p>HR446 orders the Committee on Economic Development, Planning, Telecommunications, Public-Private Partnerships and Energy of the House of Representatives of the Commonwealth of Puerto Rico to conduct an ongoing investigation on all matters related to the performance, execution and compliance of LUMA Energy with the obligations assumed in the public-private partnership agreement with the Puerto Rico Electric Power Authority, and for other related purposes.</p> <p>On September 23, 2022, a request for production of documents was received from the Committee.</p> <p>On September 26, 2022, LUMA was summoned to a Public Hearing to be held</p>

			<p>on September 29, 2022. The letter included a request for documents.</p> <p>Due to the activation of the LEOC during the emergency caused by Hurricane Fiona, LUMA requested a deferral of the Public Hearing and the production of documents for 20 working days.</p> <p>On September 29, 2022 LUMA received a letter denying the request, scheduling the Public Hearing for October 3, and ordering the information requested be submitted by Friday, September 30, 2022.</p> <p>On September 30, 2022, the Committee sent a letter postponing the submittal of documents to October 3, 2022, and the Public Hearing for October 5, 2022.</p>
<b>House Committee on the Development and Fiscal Oversight of the Western Region</b>	House Resolution 162	September 23, 2022	<p>House Resolution designates the Standing Committees of the House of Representatives of Puerto Rico of the Nineteenth Legislative Assembly; to establish their composition and corresponding jurisdictions.</p> <p>On September 23, 2022, LUMA received a letter from Hon. Jocelyne M. Rodríguez Negrón, Chairwoman of the Committee on the Development and Fiscal Oversight of the Western Region, requesting information regarding the Energy Recovery Plan for district 19 (Mayaguez-San Germán).</p>
<b>House Committee on Tourism and Cooperative Movement</b>	House Resolution 162	September 28, 2022	<p>To designate the Standing Committees of the House of Representatives of Puerto Rico of the Nineteenth Legislative Assembly; to establish their composition and corresponding jurisdictions.</p> <p>On September 28, 2022, LUMA received a request for information from Hon. José H. Rivera Madera, Chairman of the House Committee on Tourism and Cooperative Movement.</p>

Table 5-2: Material Litigation Update<sup>5</sup>

Case No.	Party Names	Description	Significant Updates
<b>Adv. Proc. No. 21-00041</b>	UTIER v. Pierluisi et al.	Plaintiffs are requesting the annulment of the OMA because they claim that it violates the Contracts Clause and does not comply with Act 120-2018, given that it allegedly does not recognize UTIER's collective bargaining agreement.	The Court has not yet ruled on the pending Motion to Dismiss.
<b>Adv. Proc. No. 21-00049</b>	SREAEE v. PIERLUISI et al.	Similar claims to 21-00041. In addition, alleges that the OMA violates ERISA and would damage the SREAEE due to lack of funds.	The Court has not yet ruled on the pending Motion to Dismiss.
<b>Case No. KLRA202100406</b>	In re Revisión de los Términos de Servicio de LUMA	ICSE seeks order to annul and overturn PREB's approval of Modified Terms of Service and Liability Waiver. They argue the waiver is an infringement of PR's Civil Law tradition as it goes against the Law, Moral, and Public Order.	<p>On March 10, 2022, the Puerto Rico Court of Appeals dismissed ICSE's petition due to lack of standing to pursue the remedy claimed. The petitioner did not request reconsideration and represented before PREB that it will not seek recourse from the Puerto Rico Supreme Court.</p> <p>On April 11, 2022, Petitioner filed a Motion requesting Adjudicative Procedure before the PREB and a Motion requesting Investigation and Relief. The Independent Office for Consumer Protection (ICPO) filed a similar request on the same date and requested that the proceeding to evaluate the Liability Waiver of the</p>

Case No.	Party Names	Description	Significant Updates
			<p>Modified Terms of Service be consolidated with the PREB’s investigation of the April 6, 2022, incident. On April 14, 2022, PREB accepted ICSE’s and ICPO’s motions requesting the opening of the adjudicative proceeding to evaluate the Limited Liability Waiver of the Modified Terms of Service, announced its decision to initiate an adjudicative proceeding regarding the Modified Terms of Service and notified the parties that a procedural itinerary would be issued.</p>
<b>SJ2022CV02868</b>	<p>Ismael Herrero Domenech and the class composed of all residential electrical energy consumers that are customers of LUMA Energy LLC v. LUMA Energy LLC, Wendco of Puerto Rico Inc. et al. v. LUMA Energy LLC</p>	<p>The residential and commercial customers in the consolidated class actions filed with the Puerto Rico State Court (“Plaintiffs”), seek to be compensated for damages for LUMA’s alleged failure to properly maintain and operate certain equipment pursuant to the T&amp;D OMA that caused an island-wide blackout on April 6, 2022. Plaintiffs claim over \$500 million in damages.</p> <p>LUMA was served on July 19, 2022, and on July 29, 2022, we filed a Notice of Removal with the Title III Bankruptcy court.</p>	<p>On August 26, 2022, the Plaintiffs filed a Motion to Remand. Plaintiffs’ Request alleges in essence that the US District Court should remand the case to local court because LUMA is not a party to the PROMESA debt adjustment procedure and, therefore, lacks standing to remove the consolidated class actions. Plaintiffs further argue that since the T&amp;D OMA was approved by the Court as part of PREPA’s Bankruptcy proceeding, its indemnity provisions constitute a post-petition event and</p>

Case No.	Party Names	Description	Significant Updates
			<p>may not serve as basis for the removal of the class actions.</p> <p>On September 13, 2022, LUMA filed its Opposition to the Motion to Remand arguing, in sum, that (1) LUMA has standing to remove the case to federal court because it is a party to the Class Action; (2) the federal court has “related to” jurisdiction over the Removed Class Action pursuant to PROMESA § 306(a)(2), as the Removed Class Action could have a significant and material impact on PREPA’s Title III Case, and (3) there is no basis for this Court to exercise either permissive abstention or equitable remand where the Removed Class Action strikes at the very heart of LUMA’s obligations under the O&amp;M Agreement.</p> <p>Plaintiffs did not file a Reply within the time granted by the Court. LUMA’s deadline to file its Motion to Dismiss is 30 days after the court rules on the Motion to Remand.</p>
<b>SJ2022CV05387</b>	CADFI Corp. v. PREPA, LUMA and	Plaintiff, CADFI Corp. (Broad Coalition for Functional Diversity on Equality), and	On July 27, 2022, the Municipality of San Juan removed the case to the

Case No.	Party Names	Description	Significant Updates
	Municipality of San Juan	<p>other individual Plaintiffs, allege that some electric posts are located in the middle of some sidewalks in San Juan in violation of the American with Disabilities Act (“ADA”) and the Standards for Accessible Design promulgated by the US Department of Justice. The Plaintiffs seek from the codefendants the following remedies: (1) a permanent injunction pursuant to ADA Title II and other federal regulation (28 C.F.R. §§35.151(a),(b),(c), or (i); 45 C.F.R. §§84.22) ordering the Defendants to remedy, reinstall, and/or relocate the electric posts in the sidewalks of San Juan so that they do not interfere with the free mobility of persons with disabilities; (2) nominal damages for \$1 pursuant to ADA and the Rehabilitation Act, and (3) costs and attorneys’ fees pursuant to 42 U.S.C. 12205. As provided by the Operations team, a rough estimate of the costs that LUMA would have to incur if the Complaint was to be granted exceeds \$1.5 million.</p>	<p>Puerto Rico District Court. LUMA and PREPA, both co-defendants, consented to the Removal. On August 29, 2022, the Municipality of San Juan filed a Motion to Dismiss. Plaintiffs’ deadline to respond is September 14, 2022. On September 9, 2021, LUMA and PREPA filed a Joint Motion regarding the applicability of the automatic stay. The Plaintiffs requested until Sept. 30 to file their response to the Joint Motion. On Sept. 23, the Municipality filed a Motion requesting to Join PREPA and LUMA’s Motion re: Applicability of Stay. Also, on Sept. 23, 2022 Plaintiffs filed their Opposition to the Municipality of San Juan’s Motion to Dismiss, alleging in sum that (1) that Plaintiffs have standing even when they do not live in San Juan because they have visited and intend to continue visiting San Juan; (2) the Municipality has a duty to maintain sidewalks even if PREPA can decide where to locate its lampposts within the sidewalks; (3) the statute of limitations is one year from when the person encountered</p>



Case No.	Party Names	Description	Significant Updates
			<p>the barriers and not when they were placed, and (4) the Municipality is an indispensable party in relation to the intervention with the sidewalks that Plaintiffs are requesting.</p> <p>On September 30, 2022, Plaintiffs requested an extension until October 12, 2022, to file an Opposition to the Notice on the Automatic Stay. Plaintiffs' counsel references difficulties in connection with Hurricane Fiona, as justification for the second request for extension.</p>

**Footnote**

5: Material Litigation Activity refers to all litigation related to challenges to the OMA, matters that could impede the OMA work or litigation with significant financial risk. This does not include ordinary litigation proceedings that originate as part of the operation of the T&D System, including but not limited to pre-litigation dispute resolution, management of active litigation, discovery, PREB invoice challenges, and other litigation procedures.

## 6.0 Material OMA Items

- **PREPA Reorganization and Title III Exit**
  - The Reorganization of PREPA continues to miss key milestones outlined in the Fiscal Plan. This on-going delay is impeding critical progress on the PREPA Transformation.
  - PREPA submitted the PREPA-GenCo-HydroCo Operating Agreement (PGHOA) to the PREB for review and approval on September 14, 2022.
  - At a hearing held on September 29, 2022, the Title III court ordered the parties to litigate, on an extremely expedited schedule, the “gating issues” involving the extent to which PREPA’s bond claims are secured and the potential recourse of the bondholders. She also required the Oversight Board to file a proposed plan of adjustment for PREPA by December 1, 2022, with a hearing on confirmation of the plan to be held in June 2023.
  - At the September 29, 2022, hearing, the also court stayed the PREPA bondholders’ motion to dismiss the PREPA Title III case or alternatively to lift the automatic stay to permit the appointment of a receiver for PREPA. Judge Swain said that proceeding with the motion is not a good use of judicial resources at this time.

- The judge granted the mediation team's request to continue the mediation process, concurrently with the expedited litigation.
  - LUMA continues to dedicate resources to work with PREPA on supporting a cooperative and collaborative relationship while addressing key issues as they arise. However, LUMA remains concerned by PREPA's slow responsiveness on many key issues and ignoring division of responsibilities stipulated in the T&D OMA that are having a negative impact on LUMA's ability to perform its obligations under the T&D OMA.
- **FY2023 Budget Process and Generation Allocation**
    - Following significant efforts by P3A, the FOMB and LUMA to reach a consolidated FY2023 Certified Budget by June 30, 2022, LUMA submitted LUMA's revised FY2023 Budget documents to P3A on July 14, 2022, as requested in P3A's June 28, 2022, letter and informatively to PREB on July 13, 2022.
    - On July 16, 2022 PREB initiated a budget review and approval process by which they issued additional information requests (many pertaining to the unchanged T&D Budgets, for which PREB previously issued information requests in May 2022 and LUMA provided responses in June 2022) and set a procedural schedule which required multiple updates, including rescheduling the August 17, 2022 technical conference to September 9, 2022 then to September 13, 2022 then expanding it over multiple days, with the next technical conference scheduled on September 27, 2022 but rescheduled due to Hurricane Fiona to October 18, 2022.
  - **PREB directives on Allocation of Generator Network Upgrade Costs to LUMA's Budget**
    - Following PREB's June 13, 2022, R&O in NEPR-MI-2020-0012, requiring transmission system network upgrade projects associated with selected Tranche 1 to be funded from LUMA's Non-Federally Funded Capital Budget or, if approved by FEMA, from the Federally Funded Capital Budget and LUMA's motion for reconsideration and stay on June 22, 2022, PREB issued an R&O denying LUMA motion for reconsideration.
    - PREB's directives on this matter which potentially favor specific generators and are in violation of the text of the public RFP document were issued without a hearing, presentation of evidence or any opportunity to be heard.
    - LUMA continues to have grave concerns about the potential negative impacts to reliability and resilience of the system and increased costs to customers if these directives are carried out. If similar directives are made with the next renewable RFP Tranches, this will have a cascading effect on LUMA's ability to remediate identified critical System Remediation Plan Improvement Programs, meet Contract Standards and Performance Metrics and limit LUMA's rights under Section 7.4 of the T&D OMA.
  - **PREB directives regarding LUMA's Incentive Performance Metrics**
    - On August 1, 2022, the PREB issued an R&O denying LUMA's February 17, 2022, Opposition and Objection PREB's R&O requiring additional metrics after deeming LUMA's Annex IX filing as complete and based on partial testimony. The PREB ordered LUMA to file a revised Annex IX to the OMA including targets and metrics on Interconnection, Energy Efficiency/Demand Response and Vegetation Management, in addition to requiring the LUMA file supplemental or revised testimony for these additional metrics.

- LUMA continues to have grave concerns regarding PREB's handling of these proceedings including PREB's management of the administrative docket, and PREB's stance on the imposition of penalties and its rights over the payment of the Incentive Fee. LUMA's concern extends to the PREB's current handling of the administrative docket and the proceedings in the context of due process and its impact on the performance Incentive Fee under the T&D OMA which would be directly impacted by regulatory actions by the PREB and could result in a reduction of the likelihood of LUMA earning the Incentive Fee.
- **PREB directives regarding PREPA's Performance Metrics (Docket No. NEPR-MI-2019-0007)**
  - On August 18, 2022, the PREB issued an R&O, on —what was referred to as— the June 2021 – May 2022, 12-Month Metrics Summary. This unscheduled and unprecedented R&O ordered LUMA to, among other things, designate a representative to work with the PREB to develop a process to collect and report monthly peak data, to provide a detailed timeline on when LUMA anticipates reporting the metric that denotes the Percent of Automatically Generated NTL Leads found to be occurrences of theft metric and to file a bi-monthly progress report on efforts to commence reporting said metric.
  - Additionally, the August 18, 2022, R&O states that for the period examined —June 2021 to May 2022— LUMA's performance remained within the expected baseline target for approximately 84% of the metrics evaluated, while PREPA remained at approximately 50%. Based on these findings, the PREB ordered PREPA and LUMA to file respective motions explaining the causes of the negative performance along with the plan for corrective actions to be taken to remediate the performance.
  - LUMA is gravely concerned about the way the PREB has depicted LUMA's performance, including statements made by Commissioners to the media, and the PREB's utilization of the data reported by LUMA since June 1, 2021. For that reason, LUMA is working on a motion contesting some of the conclusions reached by the PREB, as well as requesting the correction of data as multiple charts and assertions made by the PREB misrepresent LUMA's performance. Some of the issues found are charts plotted with data points that are not based on LUMA's filings over the period allegedly analyzed by the PREB, charts and graphs that do not depict LUMA's actual performance, and alleged “non-performance” on metrics that are the result of actions/omissions of PREPA that are not attributable to LUMA. Likewise, PREB utilized statistics that depict data that responds to statutory mandates required by agencies and municipalities on issues like the implementation of energy efficiency measures but are represented in a way that incorrectly implies that LUMA can influence the results of the implementation of those statutory mandates and/or policies that are not LUMA's responsibility.
- **Resource Adequacy**
  - In the Emergency Event Update reports for Hurricane Fiona to P3A and PREB LUMA reported on difficulties with sufficient generation during the restoration period due to low availability of generation and damages to the generation fleet caused by Hurricane Fiona. LUMA also reported on material issues with fuel supply during and after the event that also resulted in lower generation availability and threatened system stability and the adequacy of generation to meet demand. LUMA also communicated these concerns to the Government of Puerto Rico and to federal agencies and urged them to consider options to add emergency generation resources in Puerto Rico.