



# Monthly Report on the T&D System

For the Month of July 2022

August 17, 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 July 2022.

## 2.0 Monthly Sales Summary

The information included in this report is based on *preliminary fuel data* provided by PREPA for July 2022 and is subject to change.

- Consumption was higher in July both month over month (1.28%) and year over year (1.67%).
- Billed sales in July increased 22.58% from the previous month and increased 53.20% compared to the same month a year ago, however base revenues to commercial customer class decreased due to a one-time credit to a wholesale customer of approximately \$33 million.
- Fuel costs for PREPA's generation facilities and EcoEléctrica are substantially higher compared to the same month last year due to increased global market prices and updated supply contract terms. These costs are reflected in higher Fuel Adjustment Clause in rates compared to last year.

**Table 2-1. Energy billed by customer segment<sup>1</sup>**

Consumption (GWh)	Residential	Commercial	Industrial	Public Lighting	Agriculture	Other Authorities	Total
2022 July	649.2	677.0	160.1	22.9	2.3	3.1	1,514.6
2022 June	663.8	666.1	137.2	22.6	2.4	3.2	1,495.3
2021 July	641.6	671.4	149.4	22.3	2.1	2.7	1,489.5

**Table 2-2. Energy sales by rate component<sup>1</sup>**

Energy Sales (\$M)	Base	FCA <sup>2</sup>	PPCA <sup>3</sup>	CILT & Subsidies <sup>4</sup>	Total
2022 July	71.7	370.3	45.2	37.5	524.7
2022 June	92.2	249.2	46.7	21.3	409.4
2021 July	102.8	162.2	55.9	21.6	342.5

Table 2-3. Energy sales by customer segment<sup>1</sup>

Energy Sales (\$M)	Residential	Commercial	Industrial	Public Lighting	Agriculture	Other Authorities	Total
2022 July	230.1	225.2	56.6	10.9	0.8	1.1	524.7
2022 June	175.8	184.2	38.4	9.4	0.7	0.9	409.4
2021 July	141.7	154.1	29.9	15.7	0.5	0.6	342.5

**Footnotes**

1: As billed.

2: FCA: Fuel Charge Adjustment

3: PPCA: Purchased Power Charge Adjustment

4: CILT: Contribution In Lieu of Taxes

## 3.0 Outage Summary

### Reported Events

- No Emergencies or Major Outage Events were recorded in July 2022.
- Several forced outages occurred throughout the month.
- LUMA continues to have serious concerns regarding our reserve margins as a direct result of PREPA's ongoing outage overruns, for instance Aguirre continues to be offline, over ten weeks (two and a half months) after PREPA's original return to service projection of June 4, 2022.

Table 3-1: Significant Generation Outages

Date	Description of outage
07/01/2022	San Juan 5: Forced Outage Cambalache 3: Forced Outage
07/03/2022	San Juan 6: Forced Outage San Juan 9: Forced Outage
07/06/2022	San Juan 5: Forced outage Costa Sur 6: Derated
07/08/2022	San Juan 5: Forced Outage
07/09/2022	AES 2: Planned Outage
07/11/2022	San Juan 5: Forced Outage
07/14/2022	San Juan 5: Derated
07/19/2022	Costa Sur 6: Derated
07/22/2022	Palo Seco 3: Derated AES 1: Derated
07/23/2022	Palo Seco 3: Forced Outage San Juan 5: Forced Outage AES 1: Derated
07/26/2022	San Juan 5: Derated San Juan 6: Derated Palo Seco 3: Derated Costa Sur 5: Derated

	Aguirre 2: Derated
07/27/2022	Palo Seco 4: Derated Cambalache 2: Forced outage Cambalache 3: Derated
07/28/2022	Palo Seco 3: Derated San Juan 7: Derated
07/30/2022	Palo Seco 3: Unplanned Outage Aguirre 2: Derated
07/31/2022	Aguirre 2: Derated

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

Date	Description of outage
07/08/2022	Aguirre Auto -Transformer 1 & 2 tripped causing a derate on Unit 2.

## 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. LUMA has been actively involved in supporting PREB's independent coordinator, ACCION Group, for Tranche 2 of the renewable procurement process.

- [NEPR-MI-2019-0007](#) | **Performance Metrics** – On July 29, 2022, LUMA filed a Request for Modification of Schedule for Filing System Data and Submission of Performance Metrics Report for June 2022. An Interim Performance Metrics Report to the PREB submitting June 2022 report data and requesting PREB to alter the schedule for submission and accept the new proposed schedule which aligns with fiscal quarters.
- [NEPR-MI-2021-0013](#) | **Electric Vehicles** – On July 21, 2022, LUMA submitted the Revised EV Rate Design Proposal in response to PREB's bench order from the June 15, 2022, Technical Conference.
- [NEPR-MI-2021-0009](#) | **PR Cost Test** – On July 8, 2022, LUMA submitted comments in response to discussion questions presented during the Technical Conference on the Avoided Cost Study of June 22, 2022, and in Compliance with the PREB's bench order of that date.
- [NEPR-MI-2020-0012](#) | **IRP** – On July 1, 2022, LUMA submitted the status report for the 2024 IRP and reported that LUMA is on schedule.
- Regarding renewable procurement updates maintained in this docket, on July 13, 2022, LUMA filed an informative motion regarding the interconnection studies timeline for the recently approved Tranche 1 Battery Energy Storage Systems (BESS) projects and performed an economic analysis and comparison of the 9 approved BESS resources. The additional studies could potentially affect the results of the previously performed system impact study, that was the basis for network upgrade requirements. On July 21, 2022, LUMA filed a response to the PREB regarding the request for supplemental studies for specific Tranche 1 projects with Points of Interconnection in flood zones.

- On July 28, 2022, LUMA submitted a roadmap for pursuing federal funding for system upgrades as requested in PREB's June 13, 2022, Resolution and Order (R&O). Included in the filing of the roadmap were key points highlighted by LUMA regarding critical issues with PREB's June 13, 2022, and July 20, 2022, R&Os. PREB's directive to pursue federal funding for network upgrades and, while doing so, utilize funds from the non-federally funded capital improvements budget to pay for the system upgrades, will result in deviating funding for projects considered critical for system reliability and to operating consistent to Prudent Utility Practice. This action would adversely affect LUMA's ability to advance programs within the System Remediation Plan (SRP) and will impact performance metrics. LUMA outlined these critical issues and others in LUMA's June 22, 2022, motion and will file another motion on this topic in early August.
- [NEPR-MI-2020-0001](#) | **Streetlight Report** – On July 8, 2022, LUMA submitted the monthly streetlight report with the new format.
- [NEPR-IN-2022-0002](#) | **April 6<sup>th</sup> Incident** – On July 5, 2022, LUMA confidentially responded to four additional PREB requests for information. On July 18, 2022, LUMA confidentially submitted the third update report.
- [NEPR-IN-2022-0003](#) | **July 12<sup>th</sup> Incident** – On July 21, 2022, LUMA submitted an initial report on the incident.
- [NEPR-MI-2021-0004](#) | **LUMA's Initial Budgets** – On July 6, 2022, LUMA submitted a response to the PREB's R&O requesting information regarding LUMA's revised amendment for the FY2022 budget.
- In an informative motion to the PREB, on July 13, 2022, LUMA submitted the FY2023 Budgets as certified by the FOMB. On July 16, 2022, PREB issued an R&O requesting more information on the July 13, 2022 filing and setting up a Technical Conference for August 17, 2022. On July 29, 2022, LUMA filed information in response to PREB's July 16, 2022, R&O, including a comparison of the FY2023 Certified Budget against the approved FY2022 Budget. LUMA continued to prepare for the August 17, 2022, Technical Conference.
- [NEPR-MI-2021-0002](#) | **Federal Funding** – On July 5, 2022, LUMA submitted a motion requesting PREB to issue a determination regarding the "Test and Technology Laboratory" SOW that was submitted on May 20, 2022. On July 19, 2022, LUMA submitted four FEMA approvals, three of them for the Distribution Pole and Conductor Repair and one for the Transmission Line Rebuild T&D projects. On July 29, 2022, LUMA submitted four initial SOWs, including three for the Substation Rebuilds, one for the Distribution Automation T&D projects, and an updated Project List.
- [NEPR-MI-2020-0018](#) | **Physical Security Plan** – On July 15, 2022, LUMA submitted the sixth Physical Security Progress Report and informed the PREB that LUMA has complied with the July 2, 2022, order in its entirety.
- [NEPR-MI-2020-0001](#) | **Permanent Rate** – On July 13, 2022, and again on July 22, 2022, the PREB activated the accelerated reconciliation mechanism for FCA and PPCA, and ordered LUMA to submit recalculated proposed factors, by July 20, 2022, and July 28, 2022. LUMA submitted updated factors in response to both requests. On July 31, 2022, the PREB issued an R&O setting new FCA and PPCA factors for August and September 2022.

## 5.0 Legislative and Legal Matters

- 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**

Committee	Bill or Resolution	Requesting Comments On or Filed	LUMA Response or Legislation Title
<b>Senate Committee on Treasury, Federal Affairs and Fiscal Oversight Board</b>	Senate Resolution 66	July 11, 2022	<p>The SR 66 orders the Committee to conduct an exhaustive investigation, of an ongoing nature, on the administration, use and expenditure of public funds allocated and administered by the public agencies and instrumentalities of the Commonwealth of Puerto Rico, as well as the execution and compliance with the strategic plans of each public instrumentality; in order to evaluate whether the economic resources provided to the agencies and instrumentalities are being adequately used to meet the needs of the citizens and to determine whether it is necessary to take legislative or administrative measures to promote the efficient operation and ensure the adequate budget of the public agencies and instrumentalities for the benefit of the citizens.</p> <p>On <b>July 13, 2022</b>, LUMA participated in the Public Hearing held by the Committee.</p>
<b>Senate Committee on Innovation, Telecommunications, Urban Planning, and Infrastructure Committee &amp; Senate Special Committee for the Eradication of Poverty</b>	Senate Resolution 110, 295 and 465	July 12 and 13, 2022 “On-site Hearings”	<p>The SR110 orders the Committee to conduct an exhaustive investigation on the reasons why different communities in the municipalities of Arecibo, Barceloneta, Camuy, Ciales, Dorado, Florida, Hatillo, Manatí, Morovis, Quebradillas, Vega Alta and Vega Baja, experience intermittent, scarcity, low pressure, or prolonged interruptions in the potable water service of the Puerto Rico Aqueduct and Sewer Authority, and for other related purposes.</p>

		<p>The SR295 orders the Special Committee to conduct an ongoing investigation into the implementation of state, federal and municipal public policies to combat poverty, hunger, community development and self-management, and of the Third Sector; to evaluate the use of public funds available to help Puerto Rico's families escape poverty levels; To oversee the services and status of the Office of Socioeconomic and Community Development of Puerto Rico (ODSEC, for its acronym in Spanish ), with special emphasis on the communities assigned to this agency, the administration of the entity, including its finances, operation, and compliance with laws and regulations, as applicable.</p> <p>The SR465 orders the Committee to conduct an ongoing investigation on the conditions of the infrastructure of the country; the opportunities for development through innovation; the needs of society to improve the telecommunications system; the use of planning and urbanism mechanisms; the performance of public instrumentalities in relation to these issues; the statutes and regulations in force related to the disciplines outlined, as well as the recommendations to be followed to address the problems of Puerto Rico in these matters.</p> <p>On <b>July 12, 2022</b>, LUMA participated in the Committees joint On-Site Hearing in the Calichoza Community (Barrio Hato Viejo) and La Planta Community (Barrio Tanamá) at Arecibo.</p> <p>On <b>July 13, 2022</b>, LUMA participated in the Committees joint On-Site Hearing in the in the Cienegueta Community (Barrio Esperanza) and Canta Gallo Community (Barrio Hato Viejo) at Arecibo.</p>
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<p><b>House Treasury and Budget Committee</b></p>	<p>Joint House Resolution 354</p>	<p>June 29, 2022</p>	<p>JHR354 orders the Puerto Rico Electric Power Authority to apply the residential rate to micro, small and medium-sized businesses for a period of one hundred and eighty days (180) counted from the effective date of this Joint Resolution; the Government of Puerto Rico is ordered to take the necessary steps to subsidize the adjustments ordered in this Joint Resolution through funds corresponding to the American Rescue Plan Act and other related purposes.</p> <p>On <b>July 15, 2022</b>, LUMA submitted comments about the Joint Resolution as requested by the Committee.</p>
<p><b>House Committee for the Development and Oversight of the Northeastern Region</b></p>	<p>House Joint Resolution 344</p>	<p>June 30, 2022</p>	<p>HJR 344 orders the Puerto Rico Electric Power Authority, including its managing entity Luma Energy, LLC, and Luma Energy, LLC, and Luma Energy Servco, LLC, to design and build transmission, sub transmission, and to design and construct electric power transmission, sub transmission and distribution facilities for the benefit of the distribution facilities of the communities of Villa Hugo I, Villa Hugo II and Valle Hill in the Municipality of Canóvanas, in accordance with the regulations, technical codes, standards, construction pattern and to establish that this infrastructure work will be paid for with existing resources.</p> <p>On <b>July 15, 2022</b>, LUMA submitted the comments requested by the Committee.</p>
<p><b>House Committee for the Development and Oversight of the Northeastern Region</b></p>	<p>House Resolution 602</p>	<p>July 8, 2022</p>	<p>The HR602 orders the Committee to conduct an exhaustive and continuous 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, regarding the quality and effectiveness of the services provided by LUMA Energy to Representative District No. 40, which includes sectors of the Municipality of Carolina, and for other related purposes.</p> <p>On <b>July 29, 2022</b>, LUMA submitted comments to the Committee as requested.</p>

<p><b>House Committee for the Development and Oversight of the Northeastern Region</b></p>	<p>House Resolution 620</p>	<p>July 8, 2022</p>	<p>The HR620 orders the Committee for the Development and Fiscal Control of Public Funds of the Northeast 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 conduct an exhaustive and continuous investigation on all matters related to the performance, execution and compliance of LUMA Energy with the obligations assumed in the public-private partnership contract with the Puerto Rico Electric Power Authority, with regard to the quality and effectiveness of the services provided by LUMA Energy to Representative District No. 39, which includes sectors of the Municipalities of Carolina and Trujillo Alto; and for other related purposes.</p> <p>On <b>July 29, 2022</b>, LUMA submitted comments to the Committee, as requested.</p>
<p><b>House Committee on Economic Development, Planning, Telecommunications, Public-Private Partnerships and Energy</b></p>	<p>House Resolution 446</p>	<p>July 13, 2022</p>	<p>The HR446 orders the Committee 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 <b>July 18, 2022</b>, LUMA delivered to the Committee the documentation requested.</p>
<p><b>Senate Committee on Innovation, Telecommunications, Urban Planning, and Infrastructure Committee &amp; Senate Special Committee for the Eradication of Poverty</b></p>	<p>Senate Resolution 465</p>	<p>July 21, 2022 “On-site Hearings”</p>	<p>The SR465 orders the Committee to conduct an ongoing investigation on the conditions of the infrastructure of the country; the opportunities for development through innovation; the needs of society to improve the telecommunications system; the use of planning and urbanism mechanisms; the performance of public instrumentalities in relation to these issues; the statutes and regulations in force related to the disciplines outlined, as well as the recommendations to be followed to address the problems of Puerto Rico in these matters.</p> <p>LUMA was requested to participate in the On-Site Public Hearing that will be held on</p>

			<b>August 11, 2022</b> , to address three major issues in the Candelaria community of Candelaria de Vega Alta: (1) landslide on Calle Rosas; (2) condition of the recreational facilities; and Rosas Street; (2) condition of the recreational facilities; and (3) lack of streetlights on the existing poles in the community.
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**Table 5-2: Material Litigation Activity<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.	Petitioner did not request reconsideration and represented before the Puerto Rico Energy Bureau that it will not seek recourse from the Puerto Rico Supreme Court. On April 11, 2022, Petitioner filed a Motion requesting Adjudicative Procedure before the PREB and a Motion requesting Investigation and Relief, On April 14, 2022, PREB granted

Case No.	Party Names	Description	Significant Updates
			said motions and initiated an adjudicative proceeding regarding the Modified Terms of Service and notified the parties that a procedural itinerary would be issued.
<b>SJ2022CV02868</b>	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	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&D OMA that caused an island-wide blackout on April 6, 2022. Plaintiffs claim over \$500 million in damages. LUMA was served on July 19, 2022, and on July 29, 2022, we filed a Notice of Removal with the Title III. Bankruptcy court.	LUMA argued that removal to the Title III Court is proper because Plaintiffs’ claims are premised upon LUMA’s performance of the Operation and Maintenance Services (“O&M Services”) and operation of the T&D System pursuant to the T&D OMA, and the T&D OMA expressly provides that PREPA shall indemnify LUMA for precisely these types of claims. Therefore, the Class Actions could affect PREPA’s property in PREPA’s Title III case. Plaintiffs may file a motion to remand the case within 30 days of the removal. LUMA has until August 5, 2022 to respond to the Complaint, but an extension of time will be sought.

Case No.	Party Names	Description	Significant Updates
SJ2022CV05387	CADFI Corp. v. PREPA, LUMA and Municipality of San Juan	<p>Plaintiff, CADFI Corp. (Broad Coalition for Functional Diversity on Equality), and 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>On July 27, 2022, the Municipality of San Juan removed the case to the Puerto Rico District Court. LUMA and PREPA, both co-defendants, consented to the Removal. The Municipality of San Juan requested until August 27 to respond to the Complaint. LUMA will seek an extension until August 31<sup>st</sup> to file a motion to dismiss alleging, in summary, that the Complaint is stayed by PREPA’s Title III bankruptcy proceeding.</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**
  - In July, PREPA, P3A, and LUMA agreed on a final revised version of the PGHOA (PREPA-GenCo-HydroCo Operating Agreement)
  - PREPA has not yet submitted the PREPA Reorganization plan (approved by the PREPA Governing Board in December 2021) or PGHOA to the PREB for review and approval. This is significantly impacting and delaying the PREPA transformation.
  - Despite significant efforts by LUMA to establish clear communications channels and dedicate resources to work with PREPA, LUMA remains deeply concerned by PREPA's lack of cooperation with LUMA on numerous issues.
  - Judge Swain designated a mediation team appointed to facilitate mediation over a PREPA plan of adjustment. The deadlines for this process have been delayed on multiple occasions.
- **FY2023 Budget Process and Generation Allocation**
  - Following significant efforts by P3A, the FOMB and LUMA to reach a reasonable 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.
  - 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 including a Technical Conference on August 17, 2022, follow-up responses to be submitted on August 22, and a Virtual Public Hearing on August 24, 2022.
  - LUMA provided responses to PREB's information requests on July 29, 2022, and LUMA teams started to prepare for the Technical Conference on August 17, 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.
  - LUMA continues to have grave concerns due to 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**

- Following the PREB's December 22, 2021 R&O, through which the PREB ordered LUMA to file a revised Annex IX to the OMA, including targets and supporting metrics for Interconnection, Energy Efficiency /Demand Response, and Vegetation Management, LUMA filed its opposition, and objection to the PREB's December 22, 2021 Resolution and Order. Additionally, LUMA requested the PREB to vacate the Order that requires LUMA to add three additional performance metrics areas to the revised Annex IX to the T&D OMA on the grounds that the PREB violated its constitutionally protected due process rights.
- Specifically, LUMA maintained that the PREB effectively adjudicated controversies without affording LUMA the opportunity to be heard as to whether the inclusion of the additional performance metrics in this proceeding is proper considering the contractual provisions of the T&D OMA, the status of the proceedings and the evidence on record.
- LUMA has grave concerns regarding the PREB's handling of these proceedings including PREB's management of the administrative docket, and PREB's stance on the imposition of penalties for lack of performance. LUMA is concerned that PREB's current handling of this docket could result in a reduction of the likelihood of LUMA earning the Incentive Fee.
- Furthermore, the impositions of performance metrics and targets without reasonable input from the Parties to the T&D OMA could lead to the establishment of targets that are not reasonably achievable. This, in turn, represents greater regulatory risk that could require budget reviews and the consideration of commercial remedies to LUMA. All of these items could devolve into impacts to the customer.