

**GOVERNMENT OF PUERTO RICO
PUBLIC SERVICE REGULATORY BOARD
PUERTO RICO ENERGY BUREAU**

NEPR Received: May 8, 2020 12:35 PM
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IN RE:

**REQUEST FOR PROPOSALS FOR
TEMPORARY EMERGENCY
GENERATION**

CASE NO.:

NEPR-AP-2020-0001

SUBJECT:

Request for Confidential Designation and
Treatment

**MEMORANDUM OF LAW REQUESTING CONFIDENTIAL
TREATMENT TO INSURANCE CLAIM COMMUNICATIONS**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW the Puerto Rico Electric Power Authority through the undersigned legal representation and respectfully sets forth and pray:

1. Yesterday, May 7, 2020, PREPA¹ submitted a *Motion in Compliance with Bench Order Entered on April 30, 2020* (the “Motion in Compliance”). The Motion in Compliance includes several communications between PREPA, the insurance companies and the insurance companies’ adjusters related to the insurance claims made by PREPA for the damages to Unit 5 of the Costa Sur Plant and the emergency generation lease. PREPA deems the communications with the insurers confidential and therefore, these were not made part of the filing of the Motion in Compliance and were submitted under seal to the Energy Bureau.

2. Pursuant to Regulation 8543² and Regulation 8815³, PREPA herein submits that the aforementioned communications should be designated as confidential and remain under seal.

¹ Capitalized terms not defined herein shall have the meanings ascribed to them in the *Motion in Compliance with Bench Order Entered on April 30, 2020* filed by PREPA.

² Regulation 8543 of the Puerto Rico Energy Bureau, *Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings*, approved on December 18, 2014.

³ Regulation 8815 of the Puerto Rico Energy Bureau, *Joint Regulation for the Procurement, Evaluation, Selection, Negotiation and Award of Contracts for the Purchase of Energy and for the Procurement, Evaluation, Selection, Negotiation and Award Process for the Modernization of the Generation Fleet*, approved on September 1, 2016.

3. Exhibit C of the Motion in Compliance includes several confidential communications between PREPA, the insurers and the insurers' adjusters.⁴

4. The communications between PREPA and its insurers concerning PREPA's insurance claim for earthquake-related losses at the Costa Sur Plant contain confidential information concerning PREPA's efforts to negotiate and obtain advance payments from its insurers while the insurers continue to adjust PREPA's loss under the Policies. These communications also contain interpretations regarding the scope of potential coverage under PREPA's insurance policies, requests for information from the insurers regarding the Costa Sur Plant as well as other generation facilities in Puerto Rico that may be relevant to their insurance coverage determinations, and comments and suggestions on ways that PREPA might try to mitigate its insured losses under PREPA's insurance policies. Claim adjusting negotiations are an iterative process, and statements by PREPA and its insurers in claim related communications by their nature are not final. Making this type of information public at this time will interfere with the good faith discussion and negotiations between PREPA and the insurers, result in a deterioration of the free exchange of ideas necessary for a timely and productive claim negotiation process, and compromise PREPA's ability to secure advance payments from its insurers which are necessary to finance repairs and mitigate further losses. The communications can be unsealed once the insurance claim process is completed.

WHEREFORE, PREPA respectfully requests the Energy Bureau to find that the Exhibit C of the Motion in Compliance is confidential and therefore, it will remain under seal.

⁴ (i) Letter from RTS International Loss Adjusters to PREPA dated March 3, 2020; (ii) Report from Lloyd Warwick International to OIL Insurance Limited LTD dated March 20, 2020; (iii) Letters from JS Held to RTS International Loss Adjusters dated March 25, 2020; (iv) Letter from RTS to PREPA dated April 28, 2020 and attachments, (v) Letter from PREPA to RTS International Loss Adjusters dated May 4, 2020 and (vi) Letter from PREPA to RTS International Loss Adjusters dated May 6, 2020.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 8th day of May 2020.

/s Katuska Bolaños
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CERTIFICATE OF SERVICE

It is hereby certified that, on this same date I have filed the above motion using the Energy Bureau's Electronic Filing System, at the following address: <http://radicacion.energia.pr.gov> and that a courtesy copy of the filing was sent via e-mail to: rstgo2@gmail.com; rolando@bufeteemmanuelli.com; jessica@bufete-emmanuelli.com; notificaciones@bufete-emmanuelli.com; pedrosaade5@gmail.com; larroyo@earthjustice.org; jluebkmann@earthjustice.org;⁵ rmurthy@earthjustice.org.⁶

In San Juan, Puerto Rico, this 8th day of May 2020.

s/ Katuska Bolaños
Katuska Bolaños

⁵ Counsel has not filed an application to appear *pro hac vice*.

⁶ *Id.*

Exhibit C of the Motion in Compliance

[This exhibit has been submitted under seal.]