

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

NEPR

Received:

Dec 23, 2022

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IN RE: CERTIFICATE OF ENERGY
COMPLIANCE

CASE NO.: NEPR-AP-2022-0001

SUBJECT: Amended Request for Issuance
of Certificate of Energy Compliance in
Accordance with Act 120-2018.

**PUERTO RICO PUBLIC-PRIVATE PARTNERSHIPS AUTHORITY'S MOTION
SUBMITTING DOCUMENTS, AS AMENDED, AND REQUESTING CONFIDENTIAL
TREATMENT**

COMES NOW the Puerto Rico Public-Private Partnerships Authority (the "P3 Authority")¹ and pursuant to Act 29-2009, 27 P.R. Laws Ann. §2601 *et seq.* ("Act 29"), Act 57-2014, 22 P.R. Laws. Ann. §1051 *et seq.* ("Act 57"), and Act 120-2018, 22 P.R. Laws. Ann. §1111 *et seq.* ("Act 120") (each as amended), respectfully submits:

1. On October 21, 2022, the P3 Authority filed a document titled *Puerto Rico Public-Private Partnerships Authority's Request for Issuance of Certificate of Energy Compliance and Request for Confidential Treatment* ("Initial Request") in which it sought a Certificate of Energy Compliance for a Preliminary Contract related to a PREPA Transaction in accordance with the relevant statutory provisions. In addition, the P3 Authority requested that the Preliminary Contract and the corresponding report submitted to the Puerto Rico Energy Bureau ("PREB") be treated as confidential.

¹ The P3 Authority is filing this on behalf of the LGA Partnership Committee, as defined herein.

The P3 Authority's contact information is:

Address: Public-Private Partnerships Authority, Roberto Sánchez Vilella (Minillas) Government Center, De Diego Ave. Stop. 22, San Juan, PR 00907.

Tel: 787-722-2525

Email of the Executive Director: Fermin.Fontanes@p3.pr.gov

2. On November 17, 2022, the P3 Authority filed a document titled *Puerto Rico Public-Private Partnerships Authority's Motion Submitting Documents and Requesting Confidential Treatment ("Amended Request")*. With this *Amended Request*, the P3 Authority submitted, among other documents, an amended version of the Preliminary Agreement referenced above. Furthermore, the P3 Authority renewed its request as to the confidential treatment of all documents submitted to the PREB in connection with this proceeding, as provided by law.

3. On November 21, 2022, the PREB issued a *Resolution* noting it would evaluate the *Amended Request* as a new petition to issue an Energy Compliance Certificate. In turn, that triggered a new 30-day term as per Section 5(g) of Act 120.

4. Pending the evaluation of the *Amended Request*, on December 16, 2022, the P3 Authority filed a document titled *Puerto Rico Public-Private Partnerships Authority's Petition to Withdraw November 17th Filing and to Hold in Abeyance its Request for Issuance of Certificate of Energy Compliance, as Amended, and Requesting Further Confidential Treatment of Documents Submitted ("Petition to Withdraw")*. In the *Petition to Withdraw*, the P3 Authority explained that it had recently received notice from the Financial Oversight and Management Board for Puerto Rico ("FOMB") of its interest in including certain amendments to the Preliminary Agreement. Therefore, the P3 Authority requested that the PREB deem withdrawn the November 17 filing and hold in abeyance the evaluation of the Preliminary Agreement until the P3 Authority submitted a revised Preliminary Agreement. The *Petition to Withdraw* is still pending before the PREB.

5. The revisions of the Preliminary Agreement requested by the FOMB have been completed. Thus, the P3 Authority is submitting with this motion the Preliminary Agreement, as revised. See, Exhibit I.

6. Section 19.3 (a) was revised as per the FOMB's input.

7. The P3 Authority respectfully requests that the PREB resume above-captioned proceeding and, after considering the attached revised Preliminary Agreement, issue the Certificate of Energy Compliance pursuant to Act 120.

8. In addition, the P3 Authority respectfully requests that all documents submitted heretofore continue to be treated as confidential, pursuant to PREB's laws and regulations providing for the protection of information and documents that are privileged or declared confidential pursuant to the provisions of law or regulations. See, e.g., Art. 6.15 of Act 57; see also, as persuasive authority, Art. 1.15 of PREB's Regulation 8701.

9. As explained in previous filings, the documents related to the issuance of Certificate of Energy Compliance as to the Preliminary Agreement must be kept confidential until its execution, at which time non-confidential portions of the same will be disclosed. See, Section 9 of Act 29, made applicable to the instant proceeding through Section 4 of Act 120. See also, Articles 5.1(a)(ii)(6), 4.5(n), 4.7(b)(iii)(3) and 11.2 of the Regulation for the Procurement, Evaluation, Selection, Negotiation and Award of Partnership Contract and Sale Contracts for the Transformation of the Electric System under Act No. 120-2018.

10. The documents already submitted to the PREB include information as to the selected proponent, information related to or arising out of the negotiation process with the selected proponent, and relating to the terms and conditions of the Preliminary Contract, all of which must remain confidential while the process remains open and until the Transformation Contract is executed.²

² Although the arguments included herein are sufficient to treat as confidential any documents submitted to the PREB in relation with the captioned proceeding, the P3 Authority incorporates by reference the additional arguments adduced in the *Initial Request*, the *Amended Request*, and the *Petition to Withdraw*, as those documents are defined above.

WHEREFORE, the P3 Authority respectfully requests that PREB **GRANT** this request and, consequently, (1) resume the above-captioned proceeding and take into consideration the a revised Preliminary Agreement attached herein as **Exhibit I** in considering and issuing the Certificate of Energy Compliance required under Act 120, and (2) treat as confidential this motion and all documents submitted heretofore and any additional document that might be submitted until the execution of the Transformation Contract.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 23rd day of December 2022.

T IS HEREBY CERTIFIED that on this same date, we electronically filed the foregoing with PREB through its filing system at <http://www.radicacion.energia.pr.gov>.

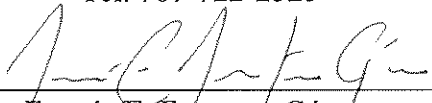
PUERTO RICO PUBLIC-PRIVATE PARTNERSHIPS AUTHORITY

Roberto Sánchez Vilella (Minillas) Government Center

De Diego Ave. Stop 22

San Juan, P.R. 00907

Tel. 787-722-2525



Fermín E. Fontanes Gómez
Executive Director

Email: Fermin.Fontanes@p3.pr.gov