

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

NEPR

Received:

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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 PETITION TO  
WITHDRAW DECEMBER 23<sup>rd</sup> 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**

COMES NOW the Puerto Rico Public-Private Partnerships Authority (the "P3 Authority")<sup>1</sup> 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

<sup>1</sup> 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

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and the corresponding report submitted to the Puerto Rico Energy Bureau (“PREB”) be treated as confidential.

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 (“First Amended Request”)*. With this *First 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 theretofore.

3. On November 21, 2022, the PREB issued a *Resolution* pursuant to which it took notice of the foregoing and, thus, determined that the *First Amended Request* filed by the P3 Authority had the effect of substituting the *Initial Request*, given the substantial amendments to the Preliminary Agreement. The PREB determined that it would evaluate the *First Amended Request* as a new petition to issue an Energy Compliance Certificate, which, in turn, triggered a new 30-day term as per Section 5(g) of Act 120. This new 30-day term expired on December 21, 2022.

4. Pending the evaluation of the *First Amended Request*, on December 16, 2022, the P3 Authority filed a document titled *Puerto Rico Public-Private Partnership Authority’s Petition to Withdrawn November 17<sup>th</sup> 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. Thus, 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.

5. Pending the resolution of the *Petition to Withdraw*, on December 23, 2022, the P3 Authority filed a document titled *Puerto Rico Public-Private Partnership Authority's Motion Submitting Documents, as Amended, and Requesting Confidential Treatment* (“*Second Amended Request*”). With this *Second Amended Request*, the P3 Authority submitted, among other documents, an amended version of the Preliminary Agreement referenced above, in which revisions requested by the FOMB had been incorporated. This *Second Amended Request* is still pending before the PREB.

6. Notwithstanding the foregoing, the P3 Authority is in the process of including further amendments to the Preliminary Agreement with the specific purpose of further clarifying certain terms, conditions and obligations thereunder. The P3 Authority is working arduously and diligently to integrate into the Preliminary Contract, as amended, the additional revisions at issue.

7. Therefore, the P3 Authority respectfully requests that the PREB deem withdrawn the December 23 filing and hold in abeyance the evaluation of the Preliminary Agreement, as amended, and the issuance of the Certificate of Energy Compliance until the P3 Authority submits a revised Preliminary Agreement.

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 *inter alia* information as to the selected proponent, drafts of ancillary documents that are work-in progress and to be completed on or before the effective date of the Preliminary Agreement, 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.<sup>2</sup>

**WHEREFORE**, the P3 Authority respectfully requests that PREB **GRANT** this request and, consequently, (1) deem withdrawn the December 23 filing and hold in abeyance the P3 Authority's *Second Amended Request*, as defined above, 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 13th day of January 2023.

**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>.

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<sup>2</sup> Although the arguments included herein are sufficient to treat as confidential any documents submitted to the PREB in relation with the above-caption proceeding, the P3 Authority incorporates by reference the additional arguments adduced in the *Initial Request*, the *First Amended Request* and the *Second Amended Request*, as those documents are defined above.

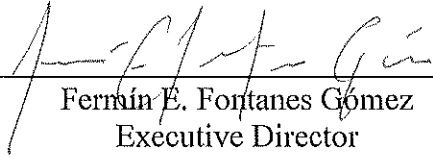
**PUERTO RICO PUBLIC-PRIVATE PARTNERSHIPS AUTHORITY**

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