

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

NEPR

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IN RE: REVIEW OF THE PUERTO RICO
ELECTRIC POWER AUTHORITY'S 10-YEAR
INFRASTRUCTURE PLAN – DECEMBER
2020

CASE NO.: NEPR-MI-2021-0002

SUBJECT: MOTION SUBMITTING FOR
REVIEW AND APPROVAL THE SCOPE OF
WORK FOR THE TRANSFER OWNERSHIP
TO PREPA OF TEMPORARY GENERATION
UNITS

**URGENT MOTION SUBMITTING FOR REVIEW AND APPROVAL THE SCOPE OF WORK
FOR THE TRANSFER/OWNERSHIP TO PREPA OF THE TEMPORARY GENERATION UNITS**

COMES NOW the Puerto Rico Electric Power Authority (“PREPA”), through its counsel of record, and respectfully submits and requests as follows:

I. Introduction

As a public utility, PREPA is fully committed to providing reliable, clean, and affordable power services to the inhabitants of Puerto Rico. PREPA's power grid is an extensive, isolated Island system, and PREPA thus cannot rely on support from other utilities to provide power. In order to keep a steadfast and secure energy infrastructure, PREPA must make certain that its system is both reliable and stable at all times.

For the past few years, the assurance of reliability and continuity of Puerto Rico's electric power system has been thwarted by numerous natural disasters. The havoc created by hurricanes Irma and Maria in 2017, the earthquakes in the southern part of the island in 2020, and hurricane Fiona in 2022 have contributed to the challenge of preserving the island's electrical system.

In the aftermath of Hurricane Fiona in Puerto Rico, the generation fleet of PREPA and various private companies was adversely impacted, and an urgent need arose for the addition of temporary power generation of at least 700 MW to the grid. As a result of PREPA and the Government of Puerto Rico requesting assistance from the Federal Emergency Management Agency ("FEMA"), approval was received from the Direct Federal Assistance program ("DFA"). Temporary generation units were installed in the Palo Seco Steam Plant (150 MW) and in the San Juan Power Plant (200 MW), as well as dual fuel (diesel and natural gas) adding additional power to the electrical grid.¹ These temporary generation units have avoided an estimated 41 load shed at peak hours, according to LUMA Energy PR ("LUMA").

The operation of these temporary generation units will end on March 15th, 2024, but the necessity of the additional power that the temporary generation units added to the grid persists. As such, it urges PREPA to acquire these temporary units from FEMA, pursuant to the procedure established by the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau" or "PREB").

Specifically, on March 26th, 2021, the Energy Bureau issued a *Resolution and Order (NEPR-MI-2021-0002)*, through which it ordered PREPA to submit each specific capital investment project for approval to avoid potential noncompliance with the Approved Integrated Resource Plan ("IRP") and Modified Action Plan. It was further ordered that PREPA submit the specific projects to

¹ See Exhibit 1.

the Energy Bureau at least thirty (30) calendar days before their submittal to FEMA, the Puerto Rico Central Office for Recovery, Reconstruction and Resiliency ("COR3"), or any other federal agency, and to continue reporting to the Energy Bureau and FEMA, within the next five (5) years, the progress of all ongoing efforts related to the final approval of the submitted projects not yet approved by the Energy Bureau.

Based on the aforementioned, and in compliance with the Energy Bureau's *Order*, PREPA herein presents the description of the proposed Project, the initial scope of work, and the costs it will incur for which PREPA will seek reimbursement from FEMA in the following days.

II. Background

During the past two years, PREPA has been insistent and consistent in its intent to impress upon the Energy Bureau the unequivocal need to have resilient and reliable generation of energy for the People of Puerto Rico while the ongoing transition to renewable energy ensues and becomes a concrete reality. PREPA's principal objective during the past years has been to execute its legal and fiduciary responsibilities. This, despite being encumbered by natural disasters and fiscal obstacles that have inherently affected the dependability and quality of reliable energy generation.

As of October 2021, PREPA assessed its generation fleet, given the load-shedding events that had transpired during August and September 2021. The assessment identified that maintenance and major repairs on turbines, boilers,

generators, and hangers were long overdue. An action plan was immediately designed by PREPA, including the estimated funds needed and the time it would take to bring the generation fleet up to date.

As a result of the above, on November 15th, 2021, PREPA filed before the Energy Bureau a document titled *Motion to Submit Fourth Group of Generation Projects* (the “November 15th Motion”). Through the November 15th Motion, PREPA submitted one hundred-four (104) work descriptions (“Generation Projects”) containing a general description of works of conservation, repairs, and retrofitting of generation units and their auxiliary equipment. The latter includes, among other things, boilers, turbines, rotors, generators, motors, pumps, breakers, and control systems for their respective generation power plants. The works were planned with a list of tasks to be performed in the following Plants: San Juan Power Complex, Aguirre Power Plant and Combined Cycle, Costa Sur Power Plant, Palo Seco Steam Plant, Hydrogas Turbine Peaking Units, Cambalache, Mayagüez Gas Turbines. PREPA prepared a comprehensive list of repair works projects of its generation assets for which PREPA would seek reimbursement under several programs from FEMA; eg. Section 404 and Section 428 Public Assistance. In addition, on November 29th, 2021, PREPA filed before the Energy Bureau a document titled *Motion to Clarify and Request for Technical Conference* (“November 29th Motion”), which presented further information regarding the request submitted in the November 15th Motion.

On January 4th and June 4th, 2022, the Energy Bureau issued two *Resolutions and Orders* (together, the “January 4th and June 4th Orders”). Through the January 4th and June 4th Orders, the Energy Bureau conditionally approved one hundred and four (104) generation projects for a total cost of \$306,177,997.16.

PREPA reiterated to the PREB that its dependable available generation capacity was insufficient to comply with the minimum reserve requirements. Consequently, PREPA asserted that if one significant forced outage occurred, it could potentially not have available generation to cover the demand and reserve requirements. As a result of the above, through *Resolution and Order* of July 21st, 2022 (the “July 21st Resolution”), the Energy Bureau reevaluated its determination in the June 4th Order about the proposed projects in the Aguirre Power Plant and the Palo Seco Power Plant (“Aguirre and Palo Seco Power Plants Deferred Projects”) and approved the same.

PREPA’s reasoning for the requested projects includes:

1. The need to maintain PREPA’s generation fleet in service with up to date maintenance and repairs is an undeniable part of a sound and responsible operation. This fact is enhanced by the reality of Puerto Rico being an isolated energy system and the fragility of its current generation system.
2. The Caveats and Limitations of the Approved IRP regarding a significant decline of the load served by PREPA have not been met during the last years, as the load demand has increased by nearly 3,000 MW according

- to PREPA's certified 2022 Fiscal Plan approved by the Financial Oversight and Management Board ("FOMB" or "Oversight Board"). Therefore, the power system must have enough dependable generation capacity to supply the increase in demand in a safe and reliable manner, thus avoiding massive and frequent load-shedding events.
3. Considering that sufficient capacity from new renewable resources is an ongoing process, the Energy Bureau must act accordingly and allow Puerto Rico's current energy system to provide reliable energy to the People of Puerto Rico. For this purpose, PREPA's priority was that the requested repairs were conducted to maintain the generating units operating efficiently, providing the necessary resources to serve the growing demand projections and providing continuity and reliability in the electrical service.
 4. The generation produced by PREPA's fleet is limited. One of the constraints that PREPA constantly phases is that it needs to perform planned maintenance, but, due to the age and condition of the fleet, if another unit is forced out of the system, it causes a domino effect of postponing planned maintenance. There is not enough available generation to substitute the generation produced by the units that will be taken out of service for maintenance, while maintaining a safe operational reserve.

According to the most recent statistics published by LUMA ([Autoridad de Energía Eléctrica - Organizations - Indicadores. PR](#)), the energy production to supply the demand reached a peak record for this year of **3,260 MW** in August 2023, at 7:41 pm; that is 332 MW more than peak demand one (1) year ago in August of 2022 (2,928 MW). This represents the highest increase in energy supply. It is also noted that on June 15th, 2023, the energy production was **3,144 MW**; that is 128 MW more than the peak demand one (1) year ago in June of 2022 (3,016 MW).

From what has elapsed in FY 2023-24, there are two important observations to highlight: (i) the system peak demand of 3,260 MW occurred in August 2023, and (ii) a sustained demand of more than 3,000 MW has been recorded in the months of June, August, September, and October 2023, which PREPA understands was due to the intense heat wave that prevailed on the island between April and November 2023. If the mentioned weather conditions persist, the power system will need as much generation capacity as possible.

Considering the capacity of the existing installed generating units, the operating reserve should be maintained between approximately 700MW and 750MW, and with the recent peak load demand of 3,260 MW, according to System Operating Principles ("SOP") prepared by LUMA and approved by the Energy Bureau, the required capacity to operate Puerto Rico's power system should be **4,000 MW**. PREPA further highlighted that its dependable available generation capacity was insufficient to comply with the minimum reserve

requirements. Consequently, PREPA asserted that if one significant forced outage occurred, it could potentially not have available generation to cover the demand and reserve requirements. Considering the most recent peak demand, the tendency of hot waves in the Hurricane Seasons, and all the challenges PREPA confronts, PREPA needs a minimum of **4,000 MW** of dependable generation capacity to comply with an operational reserve and to proceed with the works repairs and conservation program.

Attached as Exhibit 14 is a summary of the energy production peaks from July 2018 to November 2023. This summary clearly reflects that load demand peaks increased after FY 2018-19; this period of 2018-19 coincides with when the IRP analysis was carried out by PREPA, and the load reduction forecast was considered.

It must be noted that the system reliability decreases as the dependable available generation capacity decreases. When the available operational generation capacity is lower than the minimum required for a reliable operation, the power system is at a high risk of losing stability. This risk is even higher in an isolated system like Puerto Rico, where an unstable event can evolve into a total outage or blackout more easily than in an interconnected system. To prevent such total system outages during generation capacity limitations, the system operator must execute partial outages across the power system, affecting thousands of customers. Therefore, outages resulting from generation capacity

limitations usually disconnect huge blocks of load from the power system, which could include critical loads such as hospitals and other essential service facilities.

As PREPA has explained in multiple motions, even though PREPA and or Genera PR, LLC had completed several projects of its generating units' repairs program, its thermal generation fleet is still fragile and, unfortunately, was further damaged by Hurricane Fiona on September 18th, 2022. In addition, the generation system does not have enough dependable capacity to comply with the operating reserve required by the System Operating Principles ("SOP") prepared by LUMA and approved by the Energy Bureau. According to the SOP, the operating reserve in Puerto Rico should be greater than or equal to 300 MW in addition to the MW capacity of the larger generating unit available. As previously mentioned, considering the capacity of the existing installed generating units, the operating reserve shall be maintained between 700 MW and 750 MW.

III. PREPA's Request for review and approval of the scope of work for the transfer/ownership to PREPA of the Temporary Generation Units

In response to the damages caused to the generation fleet by Hurricane Fiona, and as requested by PREPA and the Government of Puerto Rico, a Federal Task Force was created with representatives from the U.S. ARMY Corps of Engineers ("USACE"), U.S. Department of Energy ("DOE"), FEMA, and the EPA. In conjunction with PREPA, this Task Force assessed the condition of the power system after the passage of the Hurricane.

Through the General Requisition Form (RF113)², PREPA requested, and FEMA agreed to provide, Direct Federal Assistance (“DFA”) under the Public Assistance Grant Program for FEMA-4671-DR-PR (Hurricane Fiona). FEMA issued Mission Assignments (“MA”) and established the Puerto Rico Power System Stabilization Task Force (“PSSTF”) to coordinate and integrate efforts to execute the Commonwealth’s Power System Stabilization Plan (“PSSTF Plan”). This Task Force was formed to focus on strategies that would allow Puerto Rico’s energy system to maintain sufficient power and reserve capacity to meet the needs of its customers while allowing required maintenance and repairs to be carried out by PREPA and private independent power providers simultaneously.

Based on its assessment, on October 18th, 2022, PREPA requested the installation of 700 MW of additional power to the grid, considering the existing installed generating units’ capacities. The first phase of the Temporary Generation project consisted of the installation of 350 MW in the north: 200 MW at the San Juan Plant and 150 MW at the Palo Seco Plant, which allowed the integration of additional power into the electrical grid. The Palo Seco units (150MW) were commissioned on May 29th, 2023, and the San Juan units (200MW) were commissioned on September 26th, 2023, both burning natural gas as their primary fuel.

With the support of the temporary generation facilities in San Juan and Palo Seco, additional reserve capacity was provided to carry out PREPA’s generating

² See Exhibit 10.

unit repair program with greater confidence, accuracy, and reliability while maintaining the continuity of power supply.

Federal law limits the duration of emergency assistance FEMA provides in the event of a major disaster declared by the President. This particular project is being carried out under FEMA's authority for emergency work under section 403 of the Stafford Act (42 U.S.C. 5170b), as implemented by Title 44 of the Code of Federal Regulations (44 C.F.R. § 206.208). Accordingly, on October 16th, 2023, FEMA informed COR3 that it would begin with demobilization efforts since the funding and operation of the temporary electric generation combustion turbines at PREPA's Palo Seco and San Juan sites would end on March 15th, 2024.³

On January 5th, 2024, FEMA sent a letter to COR3 approving the negotiation of the acquisition of the temporary equipment by lease or purchase.⁴ Further, it indicated that FEMA would provide funding for acquisition only. Finally, FEMA advised COR3 that Genera PR, LLC ("Genera"), as an NFE subsidiary, must be excluded from all discussions and from sharing information between Puerto Rico and the Federal government.

Even though the emergency assistance declared ended in October 2023, the emergency works to stabilize PREPA's generation fleet have not yet been completed, and there is a lack of reliable generation to meet the load and the operating reserve requirements. Therefore, these temporary combustion turbines

³ See Exhibit 2.

⁴ See Exhibit 9.

at PREPA's Palo Seco and San Juan sites, which provide reliable capacity, are much needed to maintain and quickly restore power to customers.

PREPA hereby seeks from the Energy Bureau the approval of the initial scope of work for the acquisition and ownership to PREPA of the temporary generation units in the San Juan and Palo Seco sites; this project is of paramount importance and will benefit the people of Puerto Rico, including the islands of Vieques and Culebra, in the following ways:

1. The San Juan and Palo Seco temporary generation units are located in the metropolitan area, providing cost-effective generation in the Northern part of the Island where most of the demand is located.
2. Since the San Juan and Palo Seco temporary generation units are operating by burning natural gas as its primary fuel, this has resulted in the reduction of emissions to the air of SO₂, as well as other pollutants in the San Juan air district designated by EPA, which has a direct and positive effect in the environment and health of the People of Puerto Rico, particularly those that live and work in the municipalities of San Juan, Guaynabo, Bayamon, and Toa Baja. It also helps achieve attainment, but it also benefits and supports PREPA's transition from fossil fuels to clean and renewable energy, which must be executed in parallel with delivering a safe and reliable electric service to Puerto Rico's population.

3. If during an emergency or major atmospheric the North-South transmission lines are damaged and delays occur in the restoration of the electric system, the temporary generating units located in the north of the island will play a pivotal role in supplying the local load as the system is recovered and the power flows south to north are re-established.
4. The addition of the temporary generation units, as well as the integration of the new emergency units (Peakers & Blackstart), play an essential role in achieving a safe, reliable, and cost effective operation of the system in the face of a growing load demand that increases more than projected due to the rise in temperatures recorded in 2023, contrary to the demand projections that were used in the IRP 2019, where a drastic decline in load demand was anticipated.
5. The 350 MW of generation added by FEMA after Hurricane Fiona has reduced the risk of insufficient generation. Lacking those resources, the risk to customers would be substantially higher. To help further reduce the risk of load shed, overall plant availability must be improved to ensure sufficient resource adequacy exists to meet energy demand. The addition of a dependable bulk supply would reduce the risks of shortfalls. As illustrated by the sensitivity results in Appendix 17 of the Exhibit 13, the retirement of FEMA emergency

generation on March 15th, 2024, would substantially increase the risk to customers. Based on the current forecast, adding incremental bulk supply resources would help reduce the risk of shortfalls.

6. PREPA fully supports the current renewable energy integration and transition policy according to the current IRP. Notwithstanding and especially considering that substantial capacity of new renewable resources is in process with Trenches 1, 2, and 3, it is imperative that Puerto Rico's energy system provide reliable energy to the People of Puerto Rico with the permanent 350 MW installed in Palo Seco and San Juan. For this purpose, to continue to provide dependable generation capacity resources, the Temporary Units in San Juan and Palo Seco are essential to avoid vast and frequent load-shedding events. Also, the Temporary Units are necessary to supply the demand increase above 3,000 MW, to comply with the operational reserve requirements, and to provide continuity and reliability in the electrical service. The reality mentioned above directly affects the feasible retirement schedule of PREPA's thermal units.

Since the short-term repair of PREPA's generation fleet could not be completed, there is no reliable generation that can replace the retirement of the 350 MW of temporary generation in the San Juan and Palo Seco sites; as previously stated, this would reduce the capacity of reliable power to meet demand as well as the operational reserve. The transfer of ownership of the

temporary generation units in the San Juan and Palo Seco sites to PREPA would reduce the risk of insufficient generation and prevent the risk of load shedding in Puerto Rico's electric system.

Based on the information provided by Genera and LUMA, as of today, there is only 47% of generation capacity in operation and an average of 100 MW in reserve, which is below the industry-applicable standard of approximately 700MW. When the available operational generation capacity is lower than the minimum required for a reliable operation, the power system has an exceedingly high risk of losing stability (as evidenced by past experience), which is even more acute in an isolated system where any instability event can evolve into a total outage or blackout more easily than in an interconnected system.

The electric power system supplies energy to many critical services, such as hospitals, industries, schools, water supplies, and communication systems. A fault in the electric power service could endanger the lives of many individuals, such as patients in a hospital without a reliable backup power system, and negatively affect the operation of commerce and industry. The inability of the system to deliver power to all locations throughout the island shortly after a hurricane or tropical storm can result in harsh living conditions and loss of life caused by the unavailability of essential services such as potable water, refrigeration for medication, and communications.

In addition to PREPA's actions to assess the generation system condition since 2021 and after Hurricane Fiona, since October 6th, 2022, LUMA, as the

electrical system operator, has been submitting to the Energy Bureau regular reports on their risk assessment of the electrical system after the hurricane. As can be observed in LUMA's update reports and the assessments conducted by the Federal Task Force, the reliability and safety of the power system greatly depend on maintaining an adequate capacity of dependable installed generation capable of supplying the energy demand within safe levels of operational reserve. Further, LUMA's adequacy studies warn PREPA that if the 350 MW Temporary Units are retired, there is a high risk of service interruptions that would directly affect the quality of life of customers and the economic development of Puerto Rico.

Therefore, the utility is responsible for having as much available generation capacity as possible during the months expected to experience maximum or peak demand for energy. Consequently, any programmed repair or maintenance work shall be completed before the peak demand season. In Puerto Rico, the peak demand season coincides with the high hurricane season, usually from August through October, with September and October being the most common peak demand months. In general, the peak demand occurs during the hottest months of the year, like those mentioned before. Still, there are years that the peak occurs earlier, like the most recent peak of this year.

a. LUMA's 2024 Resource Adequacy Study and Stabilization Plan Analysis

On November 1st, 2023, LUMA filed a *Motion Submitting Final Update on Stabilization Plan for Temporary Emergency Generation Capacity* (Case No.

NEPR-MI-2022-0003), as described in Exhibit 12. Below is a summary of the key findings of this resource of the Exhibit 12:

1. The FEMA generation has significantly reduced load shed events, which will continue if they remain in operation. The FEMA generation avoided an estimated 41 load shed at peak hours for the five-month events through October 31st, 2023. The analysis includes two cases:
 - FEMA generation until March 15th, 2024
 - The FEMA generation would avoid an additional 18 load shed events for the next five months (November 1, 2023 – March 15, 2024)
 - FEMA generation until December 31st, 2024
 - The FEMA generation would avoid an additional 11 load shed events if continued for the nine months through December 31st (March 15 - December 31, 2024)

On November 14th, 2023, LUMA filed with the PREB a *Motion to Submit LUMA's 2024 Resource Adequacy Study (NEPR-MI-2022-0002)*, and included a document titled "Puerto Rico Electrical System Resource Adequacy Analysis dated December 11, 2023".⁵

The resource adequacy report provides information on the strategic decisions for the Puerto Rico electric system. The adequacy report analysis assesses overall electricity generation sufficiency needs by evaluating the risk of insufficient electric supply to meet demand. Generation adequacy is a critical component of any electrical system, and this analysis speaks directly to the expected reliability and stability of Puerto Rico's electric system and the capacity

⁵ See Exhibit 13.

of generators to meet demand. Below is a summary of the key findings of this resource adequacy analysis:

2. The Loss of Load Expectation (LOLE) for Puerto Rico FY2024 was calculated to be 37.5 days per year. In contrast, the average Loss of Load Hours (LOLH) was estimated to be 194.5 hours per year, approximately 62% of the observed LOLH are observed during evening hours. The LOLE is the expected number of days in the time horizon (1 year) for which generation capacity is insufficient to serve the demand. The LOLH is the expected number of hours within a time horizon (1 year) when a system's hourly demand is projected to exceed the available generating capacity. Various characteristics of the Puerto Rico electric system help explain the wide distribution of LOLE.
 - The forced outage rates for PREPA's existing power plants are very high, meaning the power plants break down frequently.
 - PREPA's power plants often require prolonged planned maintenance outages due to their poor current condition and relatively long durations to execute repair activities.
 - Puerto Rico cannot import electricity from neighbors and has a limited number of power plants that generate electricity. The loss of a single large power plant (either planned maintenance or forced outage) immediately reduces the total available generating capacity by roughly 10%.
 - Partial plant deratings represent limitations that the generator imposes on a plant's capacity when called upon.
3. The availability of generation is historically unreliable and too frequently incapable of operating when electricity generation is needed.
4. The frequency of generation caused load shed is likely to persist in FY2024, primarily due to the relatively poor condition and associated high forced outage rates of existing generators in the electric system. In the forecast and the recent historical data, the average number of days resulting in generation-caused load shed is above three days per month.
5. The 350 MW of generation added by FEMA after Hurricane Fiona has reduced the risk of insufficient generation. Lacking those resources, the risk to customers would be substantially higher. To help further reduce the risk of load shed, overall generation plant availability must be

improved to ensure sufficient resource adequacy exists to meet forecasted energy demand. The addition of dependable bulk supply resources would reduce the risks of shortfalls.

- The study presents the impact of the 350 MW of FEMA emergency generation as a sensitivity to the Base Case. As is detailed in the sensitivity results, **350 MW of high available generation reduces the risk substantially from a LOLE of 37.5 days/year of the base case to 7 days/year and from 194.5 hours/year of LOLH to 29.4 hours/year.**
 - This sensitivity analyzes the operational impact of adding various amounts of emergency generation, totaling 150 MW, 350 MW, and 700 MW. In addition to helping improve overall system resource adequacy, one of the critical benefits of additional emergency generation is it would allow the existing baseload generators to be temporally taken offline for much-needed maintenance,
 - As illustrated by the sensitivity results in Appendix 17, the retirement of FEMA emergency generation would result in a substantial increase in risk to customers. Based on the current forecast, adding incremental bulk supply resources would help reduce the risk of shortfalls. The scale and timing of further mitigation depend mainly on the size and timing of the installation of additional generation resources.
6. As part of the sensitivity analysis, new flexible combined turbine thermal resources. A total of 11 new 21 MW resources (231 MW total) are added for this simulation. As is detailed in the sensitivity results, **231 MW of high available generation reduces the risk substantially from a LOLE of 37.5 days of the base case to 12.1 days and from 194.5 hours/year of LOLH to 53.3 hours/year.**
 7. The people of Puerto Rico remain critically dependent on the performance of PREPA's generation plant to meet expected customer demand. To help reduce the risk of load shed, generation plant availability must be improved to ensure sufficient resource adequacy exists to meet forecasted energy demand.
 8. To help address future resource issues, LUMA proposes the permanent addition of dependable resources and emphasizes several demand-side mitigation efforts, including a demand response program.

The recent Reliability and Adequacy studies conducted by LUMA indicate that adding reliable and consistent capacity is necessary to minimize the risk to customers of not having electric power service. Their Adequacy analysis concluded that both FEMA's temporary generation units and the 11 Peaker's units reduce the risk of a power outage. The analysis and cases presented in Exhibit 1 of the Stabilization Plan conclude that adding FEMA's emergency units reduces the risk of load shedding and interruption of electric service.

It is well known that the IRP was based on a projection of decreasing demand over the study horizon (2018-2038), and the Modified Action Plan, together with the unit retirement program and the renewables Tranche, is tied to this assumption. This decreasing load projection is also present in the PREPA's certified 2023 Fiscal Plan approved by the Financial Oversight and Management Board (<https://oversightboard.pr.gov/fiscal-plans/>) with the Distributed Generation (DG), Electric Vehicle (EV), and Energy Efficiency (EE) sensitivities.

However, the reality that PREPA faces on a daily basis is that since 2018, demand has not decreased, but on the contrary, each year has remained between 2900 MW and 3,000 MW, and for FY 2024, a peak of 3,151 MW was recorded. Therefore, it is necessary to continue adding reliable and constant generation to the grid to meet the demand and operational reserve requirements.

Considering the importance of the Temporary Units, the Government of Puerto Rico has responsibly requested FEMA to extend direct federal assistance until the end of 2024 and to assist with the transfer of ownership to PREPA and reimbursement of purchasing costs.⁶ The extension is a precautionary measure taken in the event that the transfer of ownership is completed after the March 15th, 2024, expiration date. This would prevent the interruption of services provided by the MA units on the Island. Notwithstanding, all efforts are being made by the Government of Puerto Rico to complete the transfer of ownership before the DFA expires.

Thus, in light of the above, PREPA hereby respectfully requests the Energy Bureau to: (i) evaluate and grant leave to conduct all tasks necessary to transfer ownership of the MA Units or Temporary Units to PREPA; (ii) grant leave to PREPA to continue working with all associated permitting activities to continue dispatching the Temporary Units at 350MW base-load availability until the integrated resource plan revision process makes a different determination; and (iii) grant PREPA leave to continue supporting COR3 with the federal processes available to have the costs of the MA Units reimbursed with federal funds.

Given that the information contained in Exhibits 1-14 are part of a negotiation process, incorporates trade or business secrets that are deemed confidential according to applicable law, PREPA hereby requests that the information in Exhibits 1-14 be maintained confidential. Article 6.15 of the *Puerto*

⁶ See Exhibit 3.

Rico Energy Transformation and RELIEF Act provides that “any person who is required to submit information to the Energy [Bureau] believes that the information to be submitted has any confidentiality privilege, such person may request the [Bureau] to treat such information as such[.]” Act 57 at Art. 6.15. “If the Energy [Bureau], after the appropriate evaluation, believes such information should be protected, it shall grant such protection in a manner that least affects the public interest, transparency, and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted.” *Id.* at Art. 6.15 (a). If the Energy Bureau determines that the information is confidential, “the information shall be duly safeguarded and delivered exclusively to the personnel of the Energy [Bureau] who needs to know such information under nondisclosure agreements.” *Id.* at Art. 6.15 (c). “The Energy [Bureau] shall swiftly act on any privilege and confidentiality claim made by a person subject to its jurisdiction by means of a resolution to such purposes before any allegedly confidential information is disclosed.” *Id.* at Art. 6.15 (d).

Therefore, PREPA respectfully requests the Energy Bureau to APPROVE the Scope of Work to transfer ownership of Temporary Generation Units to PREPA.

WHEREFORE, for the reasons stated above, PREPA respectfully requests that the Energy Bureau take **NOTICE** of the present Motion, **APPROVE** the Scope of Work to transfer ownership of Temporary Generation Units to PREPA, and **GRANT** PREPA’s petition for confidentiality **ORDERING** that the documents included as Exhibits 1-14 be kept under seal.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 13th day of January 2024.

CERTIFICATE OF SERVICE: We hereby certify that this document was filed with the Office of the Clerk of the Energy Bureau using its Electronic Filing System at <https://radicacion.energia.pr.gov/login>, which will send notification of such filing to all attorneys of record.

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Exhibits 1-14

(Under seal)