

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

NEPR

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IN RE: THE IMPLEMENTATION OF THE
PUERTO RICO ELECTRIC POWER
AUTHORITY INTEGRATED RESOURCE
PLAN AND MODIFIED ACTION PLAN

CASE NO.: NEPR-MI-2020-0012

MOTION TO SUBMIT AMENDMENTS FOR TWO EXECUTED ESSA'S

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW the Puerto Rico Power Authority ("PREPA"), through its counsel of record, and respectfully submits and prays as follows:

1. On June 13th, 2022, the Energy Bureau issued a *Resolution and Order* approving nine (9) 4-hour duration utility-scale Battery Energy Storage System (BESS) projects totaling 490 MW and one (1) 17 MW VPP project. In the June 13th, 2022, Order, the Energy Bureau authorized PREPA to finalize its negotiations with the proponents to contract additional utility-scale BESS projects (250 MW out of the 490 MW) beyond those initially recommended by PREPA.

2. On August 26th, 2022, PREPA entered and signed the Energy Storage Service Agreements (ESSA) 2023-P00053 for the Salinas Battery Project with a capacity of 100MW and four (4) hour duration. On November 30th, 2023, the fifth amendment of the Salina ESSA was executed to amend, among others, the location of the interconnection point.

3. Likewise, on August 26th, 2022, PREPA entered and signed the ESSA 2023-P00052 for the Jobos Battery Project with a capacity of 100MW and four (4)

hour duration. On November 30th, 2023, the fourth amendment of the Jobos ESSA was executed.

4. On December 1st, 2023, PREPA received a formal request to increase the capacity of the Salinas and Jobos Battery Projects to a maximum of 175MW and 110MW, respectively. Any additional costs related to these increases would be under the developer's responsibilities.

5. On December 8th, 2023, LUMA confirmed that the Jobos interconnection facilities can accommodate an additional 10MW of battery storage and that the Ciro Sectionalizer Interconnection Point of Salinas Project is able to accommodate an additional 75MW of battery storage capacity with non or minimal network upgrades, contingent to additional studies and associated costs.

6. The proposed amendments represent an increase in the monthly payments due to the higher dispatch capacity from the batteries. All other terms and conditions of both contracts and previous amendments remain unchanged.

7. Pursuant to the above, PREPA hereby submits the Sixth Amendment for the Salinas Battery Project and the Fifth Amendment for the Jobos Battery Project for the PREB's evaluation and approval. See Annex A and B, respectively.

8. Given that the information contained in Annex A and Annex B is part of a deliberative process, incorporates trade or business secrets that are deemed confidential according to applicable law, and have been requested by

Resource Providers to be maintained in a confidential manner, PREPA hereby requests that the information in Annex A and Annex B be maintained confidential.

9. Article 6.15 of the *Puerto 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. states that “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).

10. In the exercise of its powers, the PREB and PREPA approved Regulation 8815, which has force of law. *Id.* at Art. 6.3 (b). Regulation 8815 includes language in Art. 10.2 which protects confidential information in those competitive bidding processes contemplated in the regulation. In its pertinent

part, it states that “[o]nce the Contract has been executed, the Authority shall make public the report of the Project Committee which shall contain the information related to the procurement, evaluation, scoring, selection and negotiation process, and the information contained in the Proposal as required by law, except trade secrets, proprietary or privileged information of the Proponent clearly identified as such by the Proponent, or information that must otherwise be protected from publication according to law, unless otherwise ordered by a court order, in each case, if the Authority determines that the protection of such information is appropriate.”

11. As previously stated, the information provided by Proponents in the BFOs comprises business and trade secrets which Proponents have specifically requested be maintained in a confidential manner. Accordingly, PREPA respectfully request that the Energy Bureau find that these documents and information are confidential and thus order they be maintained under seal.

WHEREFORE, for the reasons stated above, PREPA respectfully requests that the PREB take **NOTICE** of the present Motion, **APPROVE** the Sixth Amendment for the Salinas Battery Project, **APPROVE** the Fifth Amendment for the Jobos Battery Project, and **GRANT** PREPA's petition for confidentiality **ORDERING** that the documents included as Annex A and B be kept under seal.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 16th day of April 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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Exhibit A
(submitted under seal)

Exhibit B
(submitted under seal)