

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

**NEPR**

**Received:**

**Nov 21, 2024**

**12:40 AM**

**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 THE REVIEW AND APPROVAL OF CERTAIN  
PPOA AND ESSAS BY THE ENERGY BUREAU**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

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

1. On August 24, 2020, the Puerto Rico Energy Bureau ("Energy Bureau") issued a Final Resolution and Order related to the PREPA Integrated Resource Plan ("IRP") under Case No. CEPR-AP-2018-0001, which partially approved and partially rejected PREPA's proposed IRP.

2. As part of the IRP Final Resolution and Order, the Energy Bureau directed the adoption and implementation of a Modified Action Plan containing specific directives and requirements, including the development of a Renewable Generation Resource and Battery Energy Storage Resource Procurement Plan.

3. Pursuant to the Modified Action Plan, the Energy Bureau required PREPA to file a Procurement Plan and conduct competitive solicitation processes

to procure new renewable generation resources and battery energy storage resources to meet Act 17 renewable energy targets.

4. On February 22, 2021, PREPA launched Tranche 1 RFP 112648 to procure 1,000 MW of renewable generation resources and at least 500 MW of battery energy storage resources, aligning with the guidance of the Energy Bureau and the Financial Oversight and Management Board for Puerto Rico (FOMB).

5. On June 30, 2022, PREPA and Convergent Coamo Energy Storage 1, LLC ("Convergent Coamo") entered and signed a Power Purchase and Operating Agreement ("PPOA") 2022-P00122 for the Coamo Project, which consists of 100MW. Likewise, on February 13, 2024, PREPA entered and signed three Energy Storage Services Agreements ("ESSA") 2024-P00053 with Convergent Ponce Energy Storage 1, LLC ("Convergent Ponce") for the Ponce Battery Project; (ii) ESSA 2024-P00054 with Convergent Peñuelas Energy Storage 1, LLC ("Convergent Peñuelas") for the Peñuelas Battery Project; and (iii) ESSA 2024-P00055 with Convergent Caguas Energy Storage 1, LLC ("Convergent Caguas") for the Caguas Battery Project. The energy storage facilities of Ponce and Caguas consist of 25MW with a duration of four hours, and the Peñuelas Battery Project consist of 100MW with a duration of four hours.

6. Convergent Energy Storage is currently seeking financing through the Department of Energy's Loan Program Office (LPO). The Puerto Rico Fiscal Agency and Financial Advisory Authority (AAFAF) and the Puerto Rico Public-

Private Partnerships Authority (P3A) have been actively involved with the LPO in reviewing, discussing, and negotiating amendments to the PPOAs.

7. As part of the financing requirements, amendments to the PPOAs and ESSAs are necessary to incorporate the contractual terms relevant to financing. The proposed amendments include the proposed distribution of benefits (contracted rate reductions) resulting from the LPO financing. All other clauses, terms, conditions, specifications, stipulations, insurances, and requirements established in the PPOA and ESSAs will remain unaltered.

8. The proposed amendments represent a total energy cost-saving of \$0.00306/kWh for the PPOA. Regarding the ESSAs, the proposed amendment for Caguas represents an energy cost-saving of \$815.64MW-month; for Peñuelas the energy cost saving is \$920.25MW-month, and for Ponce the energy cost saving is \$853.05MW-month. As such, the estimated total savings between the original prices and new prices represent a 3.17% reduction for all the projects combined.

9. Pursuant to the above, PREPA hereby submits the following for the Energy Bureau's evaluation and approval: (1) the Second Amendment for the Convergent Coamo Project (**Annex A**), (2) First Amendment for the Convergent Peñuelas Project (**Annex B**), (3) First Amendment for the Convergent Caguas Project (**Annex C**), and (4) First Amendment for the Convergent Ponce Project

**(Annex D).**<sup>1</sup> An explanatory memorandum detailing the price adjustments is included as Annex E.

10. Given that the information contained in Annexes A, B, C, D and E are 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 Annex A, B, C, D and E be kept confidential until the execution of the proposed amendments if approved by the Energy Bureau and the FOMB.

11. 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

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<sup>1</sup> PREPA also includes redline versions of the proposed amendments.

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).

12. 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."

13. As previously stated, the proposed amendments include information that is part of an ongoing negotiation process and incorporates trade or business secrets that Proponents have specifically requested be maintained in a confidential manner. Accordingly, PREPA respectfully requests that the Energy Bureau find that these documents and information are confidential and thus order that 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 proposed amendments, and **GRANT** PREPA's petition for confidentiality, **ORDERING** that the documents included as Annex A, B, C, D and E be kept under seal.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 20<sup>th</sup> day of November 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>, and courtesy copies were sent via e-mail to LUMA Energy, LLC through its counsels of record at [margarita.mercado@us.dlapiper.com](mailto:margarita.mercado@us.dlapiper.com), [julian.angladapagan@us.dlapiper.com](mailto:julian.angladapagan@us.dlapiper.com), [laura.rozas@dlapiper.com](mailto:laura.rozas@dlapiper.com), [yahaira.delarosa@us.dlapiper.com](mailto:yahaira.delarosa@us.dlapiper.com) and to Genera PR, LLC through its counsels of record at [jfr@sbgblaw.com](mailto:jfr@sbgblaw.com), [alopez@sbgblaw.com](mailto:alopez@sbgblaw.com).

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