

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

NEPR

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

CASE NO.: NEPR-MI-2020-0012

**MOTION TO SUBMIT THE REPORT OF THE SELECTION COMMITTEE'S EVALUATION OF
THE TRANCHE 4 RENEWABLE ENERGY AND ENERGY STORAGE SOLICITATION**

TO THE HONORABLE ENERGY BUREAU,

COMES NOW the Puerto Rico Electric Power Authority ("PREPA") through its undersigned legal representation and, very respectfully, informs and requests as follows:

1. On August 24, 2020, the Puerto Rico Energy Bureau ("Energy Bureau") entered a Final Resolution and Order related to the PREPA Integrated Resource Plan (IRP) under Case No. CEPR-AP-2018-0001, through which it approved in part and rejected in part PREPA's proposed IRP. As part of the IRP Final Resolution and Order, the Energy Bureau ordered the adoption and implementation of a Modified Action Plan, which contains specific directives and requirements, including the formulation of a Renewable Generation Resource and Battery Energy Storage Resource Procurement Plan ("Procurement Plan").

2. In accordance with the Modified Action Plan, the Energy Bureau ordered PREPA to file a Procurement Plan and develop competitive solicitation processes for the procurement of new renewable generation resources and battery energy storage resources in support of, among other things, meeting Act 17 targets for renewable energy installations.

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

4. On October 29, 2021, the Energy Bureau issued a Resolution and Order ("October 29 Resolution") in which it determined to conduct the Tranche 2 RFP using an Independent Coordinator ("PREB-IC"). On January 27, 2022, the Energy Bureau informed the appointment of the PREB-IC and established its responsibilities and duties. Furthermore, the Energy Bureau determined that the PREB-IC would conduct the Tranche 2 to 6 evaluation process. Once this evaluation is completed, the PREB-IC will provide its input and recommendations to the Selection Committee.

5. In response to the Energy Bureau's determination to conduct the Tranche 2 to 6 RFP process through the PREB-IC, the Puerto Rico Public-Private Partnership Authority ("P3 Authority") withdrew PREPA's authorization to perform the Tranche's RFP process and recommended the creation of a Selection Committee for the evaluation and selection of proposal.

6. On June 9, 2022, the Energy Bureau issued another Resolution and Order to create the Selection Committee recommended by the P3 Authority. The Energy Bureau resolved that the PREB-IC will carry out the Tranches RFP bid evaluation process, and once the evaluation was complete, the PREB-IC would submit its input and recommendations to the Selection Committee. Thereafter, the Selection Committee would prepare a report, including the reasons for selecting the chosen proponents, a description of the procedure followed for the selection, comparisons between the proponents and the rankings obtained, and all other information pertinent to the followed procedure and the evaluation conducted. The report would then be presented

to the Energy Bureau for the final determination on selecting the most favorable proposals.

7. With regards to PREPA's responsibilities and duties concerning the RFP Process, the Energy Bureau indicated in the June 9, 2022, Resolution, among other things, that PREPA must “[e]xecute the corresponding PPOA's (upon the timely completion of the approvals by the PREPA Governing Board) based on the results of the final PREB determination on the bid evaluation and selection process by the PREB-IC and the Selection Committee.”

8. On October 24, 2024, the Energy Bureau launched the Tranche 4 Request for Proposals No. NEPR-0003 for the procurement of 500MW of Utility-Scale Renewable Energy Resource Capacity and 250MW of Energy Storage Capacity with an effective duration of six hours, at an acceptable price. Only four Interconnection Requests applications were submitted by the deadline, and therefore those were the only eligible to complete and submit a proposal form for Tranche 4. Ultimately, only one of those proponents submitted a proposal.

9. Following the issuance of the Tranche 4 RFP, the PREB-IC and the Selection Committee evaluated the proposal and concluded that the proposal conforms with the requirements of the RFP. As a result, the Selection Committee accepted the proposal and recommended PREPA's Governing Board to approve the Energy Storage Service Agreement (ESSA).

10. On December 11, 2024, the Selection Committee submitted a Report on the Evaluation of and Selection of the Tranche 4 Proposal to PREPA's Governing Board. The Selection Committee included a draft of the ESSA in its report for review and approval by the Energy Bureau and the Financial Oversight and Management Board for Puerto

Rico. The Selection Committee recommended for approval the 50 MW 6-hour Battery Energy Storage System (BESS) proposal.

11. On December 13th, 2024, PREPA's Governing Board approved the submission of the Selection Committee's Evaluation Report to the Energy Bureau.

12. Pursuant to the above, PREPA is submitting the Selection Committee's Evaluation Report of Tranche 4 Renewable Energy with its attachments for the final decision on the proposal. See Exhibit A.

13. PREPA respectfully requests that Exhibit A be kept confidential during the ongoing administrative competitive procurement process, as it contains information that is part of a deliberative process and includes trade or business secrets that are considered confidential under applicable law.

14. 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).

15. 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."

16. Pursuant to the above, PREPA respectfully requests confidential treatment of Exhibit A as part of the ongoing deliberative process for the Tranche 2 RFP, which has yet to be awarded.

WHEREFORE, for the reasons stated above, PREPA respectfully requests that the Energy Bureau **TAKES NOTICE** of the above and **GRANT** PREPA's petition for confidentiality, **ORDERING** that the documents included as Exhibit A be kept under seal.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 26th day of December 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

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Exhibit A

Confidential