

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

NEPR

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IN RE: REQUEST FOR CERTIFICATION
PRIP THREE, LLC

CASE NO.: NEPR-CT-2025-00_____

SUBJECT: Request for Certification as Electric Service Company, request for Certification as Highly Efficient Generation, and request for confidential treatment.

**MOTION TO REQUEST CERTIFICATION AS AN ELECTRIC SERVICE COMPANY, TO
REQUEST CERTIFICATION AS HIGHLY EFFICIENT GENERATION, AND TO REQUEST
CONFIDENTIAL TREATMENT**

To the Honorable Puerto Rico Energy Bureau:

COMES NOW PRIP Three, LLC, through the undersigned counsel, and respectfully states and request the following:

I. Introduction.

PRIP Three, LLC (“PRIP Three”) is a limited liability company organized and existing under the laws of the State of Delaware and duly authorized to do business in Puerto Rico. Its purpose is to provide electric services in the island pursuant to applicable laws and regulations.

On November 26, 2024, PRIP Three entered into a Power Purchase Agreement (“PPA”) with an industrial client located in the north part of Puerto Rico (the “Client”) to sell electricity and saturated steam through the Combined Heat and Power (“CHP”) system described herein. Copy of the PPA is filed under seal as Attachment I-1 to this Motion.

Through this Motion, PRIP Three respectfully request the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) to (i) to certify PRIP Three as an Electric Service Company, as such term is defined in Regulation No. 8701¹, (ii) certify that the CHP system meets the definition of the term *Highly Efficient Generation* for the purposes of Act 60-2019², as established in the November 16, 2021, Resolution in Docket No. CEPR-MI-2016-0001, In Re: Highly Efficient Fossil Generation Definition (“November 16 Resolution”); and (iii) provide confidential treatment to certain information filed through this Motion, as described in Part IV below.

¹ *Amendment to Regulation No. 8618 on Certification, Annual Fees, and Operational Plans for Electric Service Companies in Puerto Rico*, as amended (“Regulation 8701”).

² *The Puerto Rico Incentives Code*, as amended.

II. Request for Certification as an Electric Service Company

Article 6.13 of Act 57-2014³ establishes that “[e]very electric power company in Puerto Rico shall obtain a certification from the Energy Commission in order to provide services.” To that effect, Section 3.01 of Regulation 8701 establishes that “[w]ith the exception of the electric service companies that are operating in Puerto Rico at the time that this Regulation comes into force, no electric service company shall operate or offer any service whatsoever in Puerto Rico without first having requested and obtained a certification from the Energy [Bureau] authorizing it to operate or offer electric service in Puerto Rico subject to the terms and conditions established by the [Energy Bureau] upon the issuance of said Certification.”

Moreover, Section 1.12 of Regulation 8701 ascertains that the Energy Bureau will establish the forms for the submission of the information required by Regulation 8701. Pursuant to the provisions of the referenced Section 1.12, the Energy Bureau established, among others, Forms NEPR-B01, NEPR-B02, NEPR-B03 and NEPR-B04 to submit the information required to obtain a certification as an Electric Service Company.

Through this Motion, PRIP Three submits the required forms as follows: (i) Attachment II-1: Form NEPR-B01 – Personal Information; (ii) Attachment II-2: Form NEPR-B03 – Operational Report; and (iii) Attachment II-3: Form NEPR-B04 – Request for Certification.

Based on the complexity of the information related to PRIP Three’s request for certification, PRIP Three is also including the following documents: (i) Supplemental Attachment II-1 (related to Form NEPR-B01); (ii) Supplemental Attachment II-2 (related to Form NEPR-B03); and (iii) Supplemental Attachment II-3 and Supplemental Attachment II-4 (related to Form NEPR-B04).

1. Personal Information

Attachment II-1 and Supplemental Attachment II-1 contain the information required by Section 2.01 of Regulation 8701 (i.e., Personal Information). Due to the nature of the information provided in Attachment II-1 and Supplemental Attachment II-1, pursuant to Article 6.15 of Act 57-2014 and the August 31, 2016, Resolution in Case No. CEPR-MI-2016-0009, In Re: Policy on Management of Confidential Information in Procedures Before the Commission, as amended by the September 21, 2016, Resolution on the same case (“August 31 Resolution”), PRIP Three respectfully requests the Energy Bureau to classify them as Confidential Information. The Memorandum of Law in support of this request is presented in Part IV of this Motion.

2. Operational Report

Attachment II-2 and Supplemental Attachment II-2 contain the information required by Section 2.02 of Regulation 8701 (i.e., Operational Report). Due to the nature of the

³ *The Puerto Rico Energy Transformation and RELIEF Act*, as amended.

information provided in Attachment II-2 and Supplemental Attachment II-2, pursuant to Article 6.15 of Act 57-2014 and the August 31 Resolution, PRIP Three respectfully requests the Energy Bureau to classify them as Confidential Information. The Memorandum of Law in support of this request is presented in Part IV of this Motion.

3. Request for Certification

Attachment II-3, Supplemental Attachment II-3 and Supplemental Attachment II-4 contain the information required by Section 3.03 of Regulation 8701 (i.e., Request for Certification). Due to the nature of the information provided in Attachment II-3, Supplemental Attachment II-3 and Supplemental Attachment II-4, pursuant to Article 6.15 of Act 57-2014 and the August 31 Resolution, PRIP Three respectfully request the Energy Bureau to classify them as Confidential Information. The Memorandum of Law in support of this request is presented in Part IV of this Motion.

III. Request for Certification as Highly Efficient Generation

Through the November 16 Resolution the Energy Bureau established the definition of the term *Highly Efficient Generation* for the purposes of Act 60-2019. The November 16 Resolution establishes that CHP systems that generate electricity behind the meter to provide service on site must meet two standards: (i) emissions standard and (ii) operational standard.

The November 16 Resolution describes the current emission standard for several types of fuel in terms of the annual rate of CO₂ emissions in lbs CO₂/MWh.⁴ On the other hand, to meet the operational standard, the CHP system must comply with the efficiency standard stated in 18 C.F.R. § 292.205(a)(2)(i) and (d)(1) to (d)(3).⁵

According to the applicable paragraphs of 18 C.F.R. § 292.205, for top-cycling systems which useful thermal energy output is equal or greater than 15% of the total energy output, the yearly useful power output plus one half of the useful thermal energy output must be no less than 42.5% of the total energy input.⁶ If the useful thermal energy output is less than 15% of the total energy output, the yearly useful power output plus one half of the useful thermal energy output must be no less than 45% of the total energy input.⁷ Moreover, the thermal energy output must be used in a productive and beneficial manner.⁸

⁴ November 15 Resolution at 3 of 5.

⁵ *Id.* at 3-4 of 5.

⁶ 18 C.F.R. § 292.205, paragraph (a)(2)(i)(A).

⁷ *Id.*, paragraph (a)(2)(i)(B).

⁸ *Id.*, paragraph (d)(1).

To that effect, the total aggregate energy output (i.e., electric, thermal, chemical, and mechanical) must be used fundamentally for, among others, industrial and commercial purposes and is not intended fundamentally for sale to an electric utility.⁹ The total energy output is considered used fundamentally for industrial and commercial purposes, if at least 50% of the aggregate total energy output is used for such industrial and commercial purposes.¹⁰

Attachment III-1 of this Motion contains the discussion in support of certifying that the CHP system meets the definition of the term *Highly Efficient Generation* for the purposes of Act 60-2019. Based on the referenced discussion, PRIP Three respectfully request the Energy Bureau to certify that the CHP system meets the definition of the term Highly Efficient Generation for the purposes of Act 60-2019.

Due to the nature of the information provided in Attachment III-1, pursuant to Article 6.15 of Act 57-2014 and the August 31 Resolution, PRIP Three respectfully request the Energy Bureau to classify it as Confidential Information. The Memorandum of Law in support of this request is presented in Part IV of this Motion.

IV. Request for confidential treatment

Article 6.15 of Act 57-2014 establishes 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 [Energy Bureau] to treat such information as such”. Moreover, “[i]f 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.”

The referenced Article 6.15 also states that “[t]he Energy [Bureau] shall keep the documents submitted for its consideration out of public reach only in exceptional cases.” In such cases, “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.”

Act 80-2011, known as *The Puerto Rico Industrial and Trade Secret Protection Act*, defines industrial or trade secrets as any information (a) that has a present or a potential independent financial value or that provides a business advantage, insofar as such information is not common knowledge or readily accessible through proper means by persons who could make a monetary profit from the use or disclosure of such information, and (b) for which reasonable security measures have been taken, as circumstances dictate, to maintain its confidentiality.¹¹

⁹ *Id.*, paragraph (d)(2).

¹⁰ *Id.*, paragraph (d)(3).

¹¹ Article 3, Act 80-2011.

According to the Act 80-2011 statement of motives, trade secrets include, but are not limited to, processes, methods, mechanisms, manufacturing processes, formulas, projects, or patterns to develop machinery and lists of specialized clients that may afford an advantage to a competitor. Moreover, **trade secrets include any information bearing commercial or industrial value that the owner reasonable protects from disclosure.**¹²

Furthermore, Article 4 of Act 122-2019, known as *The Puerto Rico Open Government Data Act*, establishes as public policy, among others, that any type of information related to the **street address, telephone number, emergency contact information**, social security number, credit card number, tax **and/or financial information**, bank activity, **confidential information of private third parties**, as well as information that, if disclosed, could constitute an invasion of the privacy of a third party, or impair the fundamental rights of said third party, shall be exceptions to the Public Data disclosure. In other words, public agencies shall refrain from disclosing any third parties' private information.

Finally, the Critical Infrastructures Protection Act of 2001 defines "Critical Infrastructure" as "assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters."¹³

Moreover, the Federal Energy Regulatory Commission ("FERC") defines "Critical Energy Infrastructure Information" ("CEII") as specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (i) relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person in planning an attack on critical infrastructure, (iii) is exempt from mandatory disclosure under the Freedom of Information Act; and (iv) does not simply give the general location of the critical infrastructure.¹⁴ FERC defines "Critical Electric Infrastructure" as "a system or asset of the bulk-power system, whether physical or virtual, the incapacity or destruction of which would negatively affect national security, economic security, public health or safety, or any combination of such matters."¹⁵

Based on the foregoing and for the reasons stated therein, PRIP Three respectfully request the Energy Bureau to designate the documents detailed in Table 1 as confidential information. Redacted versions of these documents (i.e., public versions) are included as part of this Motion, pursuant to the provisions of the August 31 Resolution.

¹² Statement of Motives, Act 80-2011.

¹³ 45 U.S.C. § 5195c(e).

¹⁴ 18 C.F.R. § 388.113(c)(2).

¹⁵ 18 C.F.R. § 388.113(c)(3).

Table 1: Confidential Information Designation and Justification

File Name	Designation	Legal Basis	Justification
Attachment I-1: Power Purchase Agreement	Trade Secret; Third Party Information	Act 80-2011; Article 4 Act 122-2019	Document contains the agreed terms of service between PRIP Three and its industrial client. The information contained in Attachment I-1 is not publicly available and of economic value to PRIP Three whose disclosure may affect PRIP Three's competitiveness. Attachment I-1 also contains Third Party Information regarding PRIP Three and its industrial client.
Attachment II-1: Form NEPR-B01, Personal Information	Third Party Information	Article 4 Act 122-2019	Document contains the personal information of PRIP Three's board members, shareholders, and principal executive officers. It also contains PRIP Three's physical address.
Supplemental Attachment II-1: PRIP Three Corporate Structure	Trade Secret; Third Party Information	Act 80-2011; Article 4 Act 122-2019	Document contains the corporate structure of PRIP Three and the personal information of PRIP Three board members, shareholders, and certain organizational information that is not publicly available, is of economic value to PRIP Three whose disclosure may affect PRIP Three's competitiveness.
Exhibit II-1.1: Incorporation/ Formation Certificate	Third Party Information	Article 4 Act 122-2019	Document contains the personal information of PRIP Three's incorporators.
Attachment II-2: Form NEPR-B03, Operational Report	Third Party Information	Article 4 Act 122-2019	Document includes the personal information of PRIP Three Designated Authorized Representative which is considered Third-Party information.

File Name	Designation	Legal Basis	Justification
Supplemental Attachment II-2, Annex 1: Demand Projection for first year of operation	Trade Secret	Act 80-2011	Document contains the estimated electric sales pursuant the terms of the PPA. This information is not publicly available, is of economic value to PRIP Three whose disclosure may affect PRIP Three's competitiveness.
Supplemental Attachment II-2, Annex 2: Rate and Charges Information	Trade Secret	Act 80-2011	Document contains rates and charges information agreed with PRIP Three's industrial client. This information is not publicly available and is of economic value to PRIP Three whose disclosure may affect PRIP Three's competitiveness.
Supplemental Attachment II-2, Annex 3: Projected Capital Investments	Trade Secret	Act 80-2011	Document contains PRIP Three's projected investments, which reflects PRIP Three's business strategy and the PPA terms. Such information is not publicly available, is of economic value to PRIP Three whose disclosure may affect PRIP Three's competitiveness.
Supplemental Attachment II-2, Annex 4: Credentials of Contracted Entities	Trade Secret	Act 80-2011	Document contains PRIP Three's strategy to operate and manage the system. Such information is not publicly available, is of economic value to PRIP Three whose disclosure may affect PRIP Three's competitiveness.
Attachment II-3: Form NEPR-B04, Request for Certification	CEII Personal Information Trade Secret	Critical Infrastructures Protection Act of 2001; 18 CFR § 388.113; Article 4 Act 122-2019; Act 80-2011	Document contains the physical address of the place where service will be provided which is considered CEII. Document contains PRIP Three's sales projections and a general description of its system assets. Such information is not publicly available and is of economic value to PRIP Three whose disclosure may affect PRIP

File Name	Designation	Legal Basis	Justification
			Three's competitiveness. Document contains the personal information of PRIP Three's Designated Authorized Representative which is considered Third-Party information.
Supplemental Attachment II-3, Annex 2: CPA Certification	Personal Information Trade Secret	Article 4 Act 122-2019; Act 80-2011	Document contains PRIP Three's financial information, which is personal in nature, is not publicly available, and is of economic value to PRIP Three whose disclosure may affect PRIP Three's competitiveness.
Supplemental Attachment II-3, Annex 3: Human Resources Certification	Trade Secret	Act 80-2011	Document contains information regarding PRIP Three's workforce projection and resources. This information reflects PRIP Three's strategy to operate and to manage the system. Such information is not publicly available, is of economic value to PRIP Three whose disclosure may affect PRIP Three's competitiveness.
Supplemental Attachment II-3, Annex 4: Certification of Economic Capacity and Solvency	Personal Information Trade Secret	Article 4 Act 122-2019; Act 80-2011	Document contains PRIP Three's financial information, which is personal in nature, is not publicly available, is of economic value to PRIP Three whose disclosure may affect PRIP Three competitiveness.
Supplemental Attachment II-3, Annex 5: Generation System Description	CEII Trade Secret	Critical Infrastructures Protection Act of 2001; 18 CFR § 388.113; Act 80-2011	Document contains a detailed description of the generation assets to be used by PRIP Three, including locations which is consider CEII. Information contained therein reflects PRIP Three's strategy and approach to provide services in Puerto Rico and its overall business strategies. Such information is not publicly available, is of

File Name	Designation	Legal Basis	Justification
			economic value to PRIP Three whose disclosure may affect PRIP Three's competitiveness.
Supplemental Attachment II-3, Annex 6 and Annex 7: Generator Specification Sheet	Trade Secret	Act 80-2011	Documents contain detailed description of the CHP system generation assets, which is information regarding PRIP Three's strategy to develop the CHP system. Such information is not publicly available and is of economic value to PRIP Three whose disclosure may affect PRIP Three's competitiveness.
Supplemental Attachment II-3, Annex 8 and Annex 9: Energy Recovery System Description and Specification Sheets	Trade Secret	Act 80-2011	Documents contain detailed description of the CHP system thermal assets, which is information regarding PRIP Three's strategy to develop the CHP system. Such information is not publicly available and is of economic value to PRIP Three whose disclosure may affect PRIP Three's competitiveness.
Supplemental Attachment II-4: Permits, authorizations, and endorsements	Trade Secret	Act 80-2011	Document contains information regarding PRIP Three's permitting process and strategy to develop its generation system. Such information is not publicly available and is of economic value to PRIP Three whose disclosure may affect PRIP Three's competitiveness.
Attachment III-1: Highly Efficient Generation Discussion	Trade Secret	Act 80-2011	Document contains detailed technical and operational descriptions of the generation assets to be used by PRIP Three. Information contained therein reflects PRIP Three strategy and approach to provide services in Puerto Rico and its overall business strategies. Such information is not publicly available, is of economic value to

File Name	Designation	Legal Basis	Justification
			PRIP Three whose disclosure may affect PRIP Three competitiveness.
Attachment V-1	Personal Information	Article 4 Act 122-2019	Document contains information regarding PRIP Three's bank account which is personal in nature and is not publicly available.

V. Conclusion.

For all the above, PRIP Three respectfully request that the Honorable Energy Bureau to:

- (1) Certify PRIP Three as an Electric Service Company;
- (2) Determine that the CHP system meets the requirements of the definition of the term Highly Efficient Generation for the purposes of Act 60-2019, as defined by the Energy Bureau in the November 16 Resolution; and
- (3) Determine that the information described in Table 1 of Part IV of this Motion is Confidential Information.

PRIP Three informs the Energy Bureau that it presented the Clerk with a payment in the amount of \$4,900.00 to cover the following: (i) submission of Personal Information (\$100.00); (ii) submission of the Operational Report (\$800.00); and (iii) Request for Certification Fee (\$4,000.00)¹⁶. See Attachment V-1.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on February 13, 2025.

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¹⁶ Aggregate generation capacity of 5 MW to less than 10 MW. See Regulation 8701, Section 3.07(A)(1)(a).

ATTACHMENT I-1

Power Purchase Agreement

(Submitted under seal; redacted version provided)

ATTACHMENT II-1

Form NEPR-B01, Personal Information

(Submitted under seal; redacted version provided)

SUPPLEMENTAL ATTACHMENT II-1

PRIP Three Corporate Structure

(Submitted under seal; redacted version provided)

ATTACHMENT II-2

Form NEPR-B03, Operational Report

(Submitted under seal; redacted version provided)

SUPPLEMENTAL ATTACHMENT II-2

Annexes to Form NEPR-B03, Operational Report

(Submitted under seal; redacted version provided)

ATTACHMENT II-3

Form NEPR-B04, Request for Certification

(Submitted under seal; s version provided)

SUPPLEMENTAL ATTACHMENT II-3

Annexes to Form NEPR-B04, Request for Certification

(Submitted under seal; redacted version provided)

SUPPLEMENTAL ATTACHMENT II-4

Permits, authorizations, and endorsements

(Submitted under seal; redacted version provided)

ATTACHMENT III-1

Highly Efficient Generation Discussion

(Submitted under seal; redacted version provided)

ATTACHMENT V-1

ACH Confirmation

(Submitted under seal; redacted version provided)