

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

NEPR

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IN RE:

REVIEW OF GENERA PR, LLC
REQUEST TO OPERATE PALO SECO
MP AND MAYAGUEZ CT WITH
NATURAL GAS AS PRIMARY FUEL

CASE NO.: NEPR-MI-2024-0004

SUBJECT: Memorandum of Law in Support of Confidential Treatment of Information Submitted as Part of Genera's Response to Resolution and Order Dated November 20, 2024, for the Reevaluation of the Cambalache Fuel Swap Request

**MEMORANDUM OF LAW IN SUPPORT OF CONFIDENTIAL TREATMENT OF
INFORMATION SUBMITTED AS PART OF GENERA'S RESPONSE TO RESOLUTION
AND ORDER DATED NOVEMBER 20, 2024, FOR THE REEVALUATION OF THE
CAMBALACHE FUEL SWAP REQUEST**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW GENERA PR LLC ("Genera"), as agent of the Puerto Rico Electric Power Authority ("PREPA"),¹ through its counsels of record, and respectfully submits and prays as follows:

I. Introduction

1. On July 23, 2024, Genera filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") a document titled *Motion to Submit Request for Leave to Change Cambalache Units 2 & 3 Primary Fuel* ("Cambalache Fuel Swap Request"). Genera requested the Energy Bureau to approve switching the primary fuel used to operate

¹ Pursuant to the *Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement* ("LGA OMA"), dated January 24, 2023, executed by and among the Puerto Rico Energy Power Authority ("PREPA"), Genera, and the Puerto Rico Public-Private Partnerships Authority ("P3 Authority"), Genera is the sole operator and administrator of the Legacy Generation Assets (as defined in the LGA OMA) and the sole entity authorized to represent PREPA before the Energy Bureau with respect to any matter related to the performance of any of the O&M Services provided by Genera under the LGA OMA.

combustion Units 2 and 3 of the Cambalache Power Plant from ultralow sulfur diesel (“ULSD”) to liquefied natural gas (“LNG”), while allowing ULSD to remain as the backup fuel.

2. On November 20, 2024, the Energy Bureau issued a Resolution and Order titled *Resolution and Order for Request for Leave to burn natural gas as the primary fuel for Cambalache Units 2 and 3* (“November 20th Resolution”). After reviewing the information submitted by Genera for the Cambalache Fuel Swap Request and based on the prior fuel swap request review for Palo Seco MPs and Mayaguez CT, the Energy Bureau concluded that the Cambalache Fuel Swap Request was incomplete and lacked sufficient detail, clarity, and adequate information for a comprehensive evaluation. Consequently, the Energy Bureau denied without prejudice the request to modify Cambalache Units 2 & 3 Primary Fuel to natural gas.

3. Notwithstanding, the Energy Bureau noted in its November 20th Resolution that if Genera is interested in the evaluation of the Cambalache Fuel Swap Request, it must submit a comprehensive petition that, at a minimum, includes the information, details, and explanations outlined in Annex A to the November 20th Resolution.

4. On March 6, 2025, Genera submitted a document titled *Motion to Submit Response to Resolution and Order Dated November 20, 2024, for the Reevaluation of the Cambalache Fuel Swap Request* (“March 6th Motion”). Through the March 6th Motion, Genera submitted its responses for the Energy Bureau’s evaluation to the questions and requests for information outlined in Annex A to the November 20th Resolution. Additionally, Genera informed the Energy Bureau that Exhibit A to the March 6th Motion referenced a document marked as Exhibit B, which was submitted under seal of confidentiality because it includes certain sensitive commercial information and critical infrastructure information. Genera respectfully requested that the Energy Bureau maintain Exhibit B under seal of confidentiality pursuant to the Energy Bureau’s **Policy**

on Management of Confidential Information, CEPR-MI-2016-0009, issued on August 31, 2016, and partially amended on September 16, 2016. Genera further informed the Energy Bureau that it would submit a Memorandum of Law supporting its request.

5. In accordance with the March 6th Motion, Genera respectfully submits this Memorandum of Law to support its request for maintaining the confidentiality of Exhibit B of the March 6th Motion. This request is made pursuant to the Energy Bureau's **Policy on Management of Confidential Information**, CEPR-MI-2016-0009, issued on August 31, 2016, and partially amended on September 16, 2016 (“Energy Bureau’s Policy on Management of Confidential Information”), as it contains sensitive commercial information and trade secrets.

II. Identification of Confidential Information

Document Name and File Date	Pages in which Confidential Information is Found, if applicable	Summary of Legal Basis for Confidential Designation, if applicable	Summary of why each claim or designation conforms to the applicable legal basis for confidentiality
Exhibit B - Cambalache 2&3 Fuel Swap Project Description	Entire document.	Sensitive commercial information and Trade Secrets under Act 80-2011, <i>infra</i> .	Exhibit B contains proprietary commercial, engineering, and operational details—such as equipment specifications, cost breakdowns, and project timelines—relating to Genera’s proposed natural gas fuel swap at the Cambalache facility. Public disclosure of these details could (1) compromise Genera’s competitive positioning, (2) reveal trade secrets regarding the design and execution of the project, and (3) deter fair market negotiations. Confidential Information, CEPR-MI-2016-0009.

III. Memorandum of Law in Support of Confidential Treatment

A. Applicable Law

The governing statute for the management of classified information submitted to the Energy Bureau is Section 6.15 of Act No. 57 of May 27, 2014, as amended, also known as the *Puerto Rico Energy Transformation and RELIEF Act*, 22 L.P.R.A. § 1051 *et seq* (“Act No. 57-2014”). This section stipulates that “[i]f any person who is required to submit information to the Energy [Bureau] believes that the information to be submitted carries a confidentiality privilege, such person may request the [Bureau] to treat such information as confidential...” 22 L.P.R.A. § 1054n. If, after conducting appropriate evaluation, the Energy Bureau determines that the information warrants protection, it is required to “grant such protection in a manner that minimally 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 Section 6.15(a). Consequently, such information must be withheld from the public domain by the Energy Bureau and “must be duly safeguarded and provided exclusively to the personnel of the Energy [Bureau] who need to know such information under nondisclosure agreements.” *Id.* at Section 6.15(c). Therefore, “[t]he Energy [Bureau] must swiftly act on any privilege and confidentiality claim made by a person under its jurisdiction through a resolution for such purposes before any potentially confidential information is disclosed.” *Id.* at Section 6.15(d).

Additionally, the Energy Bureau’s Policy on Management of Confidential Information detail the procedures a party should follow to request confidential treatment for a document or a portion of it. The Energy Bureau’s Policy on Management of Confidential Information requires identifying confidential information and filing a memorandum of law explaining the legal basis and support for a request to file information confidentially. *See* Section A of the Energy Bureau’s Policy on Management of Confidential Information. The memorandum should also include a table that identifies the confidential information, a summary of the legal basis for the confidential

designation, and an explanation of why each claim or designation conforms to the applicable legal basis for confidentiality. *Id.* The party seeking confidential treatment of information filed with the Energy Bureau must also file both a "redacted" (or "public") version and an "unredacted" (or "confidential") version of the document that contains the confidential information. *Id.*

In addition to the aforementioned, it is worth noting that under Act No. 80 of June 3, 2011, also known as *the Industrial and Trade Secret Protection Act of Puerto Rico*, 10 L.P.R.A. § 4131 *et seq.* ("Act No. 80-2011"), certain information may be granted protection as a trade secret. Specifically, Act No. 80-2011 provides that industrial or trade secrets are deemed to be any information:

- (a) That has a present or 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.

See Act No. 80-2011, 10 L.P.R.A. § 4132

Furthermore, in the context of Act No. 80-2011, information refers to knowledge that amplifies or clarifies existing understanding, including but not limited to formulas, compilations, methods, techniques, processes, recipes, designs, treatments, models, or patterns. *See* Article 2(a) of Act No. 80-2011. In addition, Puerto Rico's Supreme Court has delineated a trade secret as any process of manufacturing, treating, or preserving materials, a formula or recipe, a blueprint or pattern for the development of machinery, or even a list of specialized customers that constitute a distinct market, thereby bestowing a competitive advantage upon its owner. *See Ponce Adv. Med. v. Santiago González*, 197 DPR 891, 903-904 (2007).

B. Grounds for Confidentiality

This Memorandum of Law seeks confidential treatment for **Exhibit B – Cambalache Units 2 & 3 Fuel Swap Project Description** (the “Exhibit B”), filed under seal as part of Genera’s March 6th Motion requesting reevaluation of the Cambalache Fuel Swap. **Exhibit B** contains sensitive engineering specifications, commercial cost breakdowns, and operational details pertaining to the proposed natural gas fuel swap at Cambalache Units 2 & 3. As discussed below, this information meets the definition of a trade secret under **Act No. 80-2011**, as it holds significant independent economic value and provides Genera with a competitive advantage in the energy sector.

The information within Exhibit B is neither publicly available nor readily accessible to Genera’s competitors or other third parties. It reflects proprietary methodologies, including specialized cost estimates, project timelines, and system designs for the regasification facility and associated retrofits of the turbines. Furthermore, the compilation and analysis of these data points—ranging from equipment specifications to advanced commissioning processes—required significant investments of time, expertise, and financial resources on the part of Genera. Public disclosure would therefore risk exposing Genera’s confidential strategies and operational approaches, undermining its commercial position and impeding fair competition in the Puerto Rico energy market.

By detailing the technical and financial aspects of the Cambalache fuel swap project, **Exhibit B** underscores Genera’s unique know-how and proprietary calculations, encompassing precisely the kind of confidential commercial information that Act No. 80-2011 aims to protect. **Act No. 80-2011** defines trade secrets to include any information that (1) has independent economic value and is not generally known or easily ascertainable by proper means, and (2) is

subject to reasonable efforts to maintain its confidentiality. Because the fuel-swap strategies, cost projections, and engineering analyses in Exhibit B confer a tangible business advantage on Genera and are shielded from public dissemination, they squarely qualify for protection under the statute.

Moreover, withholding Exhibit B from public disclosure is consistent with Section 6.15 of **Act No. 57-2014** and the **Energy Bureau's Policy on Management of Confidential Information**, CEPR-MI-2016-0009. Genera has properly identified these materials as confidential, demonstrated the legal basis for their protection, and provided both a confidential and a redacted version of the filing. Maintaining the confidentiality of this information advances the public interest by safeguarding proprietary data and ensuring a fair and competitive marketplace, while still preserving transparency regarding non-sensitive aspects of the proceeding.

Accordingly, Genera respectfully requests that the Energy Bureau maintains the confidential status to **Exhibit B – Cambalache Units 2 & 3 Fuel Swap Project Description** pursuant to the relevant provisions of **Act No. 80-2011**, **Act No. 57-2014**, and the **Energy Bureau's Policy on Management of Confidential Information**. Doing so protects Genera's trade secrets and commercial interests without compromising the Bureau's mandate to uphold transparency in its proceedings.

WHEREFORE, Genera respectfully requests that the Energy Bureau **take notice** of the above for all purposes and **maintain** under seal of confidentiality Exhibits B of this Motion.

ESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 19th day of March 2025.

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CERTIFICATE OF SERVICE

We hereby certify that a true and accurate copy of this motion was filed with the Office of the Clerk of the Energy Bureau using its Electronic Filing System.

In San Juan, Puerto Rico, this 19th day of March 2025.

/s/ Alejandro López Rodríguez
Alejandro López Rodríguez