



PUERTO RICO  
ELECTRIC POWER AUTHORITY

# PREPA

GOVERNMENT OF PUERTO RICO

## RESOLUTION 5171

**TO AUTHORIZE AND APPROVE AN AMENDMENT TO THE PUERTO RICO THERMAL GENERATION FACILITY OPERATION AND MAINTENANCE AGREEMENT, DATED AS OF JANUARY 24, 2023, TO REPLACE THE EXISTING INCENTIVE STRUCTURE, AMONG OTHER MATTERS**

**WHEREAS:** The Puerto Rico Electric Power Authority (PREPA) is a public corporation, and an instrumentality of the Government of Puerto Rico created by Act No. 83 of May 2, 1941, as amended (Act No. 83). PREPA was created to provide electrical energy in a reliable way contributing to the general welfare and sustainable future of the people of Puerto Rico, maximizing benefits and minimizing social, environmental, and economic impacts. In addition, it provides a service based on affordable, fair, reasonable, and non-discriminatory costs that is consistent with environmental protection, non-profit, focused on citizen participation, and its clients.

**WHEREAS:** Act No. 83 authorizes PREPA, in the management of its purposes, to grant contracts and formalize all the instruments that are necessary or convenient in the exercise of any of its powers.

**WHEREAS:** Pursuant to the provisions of the Puerto Rico Electric System Transformation Act, Act No. 120-2018, as amended ("Act 120"), on January 24, 2023, the Puerto Rico Public-Private Partnerships Authority ("P3 Authority"), the Puerto Rico Electric Power Authority ("PREPA") and Genera PR, LLC ("Genera") entered into a certain Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement ("LGA O&MA"), pursuant to which Genera became the entity responsible for the operation and maintenance of PREPA's Legacy Generation Assets (as defined in the LGA O&MA);

**WHEREAS:** The LGA O&MA establishes an incentive-based compensation structure requiring Genco to compensate Genera through a performance incentive fee for achieving certain operational efficiencies and cost reductions in the operation of the Legacy Generation Assets (the "Incentive Structure");

**WHEREAS:** After thoroughly evaluating the terms and conditions of the LGA O&MA, the parties to the LGA O&MA determined that the Incentive Structure is inefficient and warrants revisions, as PREPA's estimates indicate that the incentive payments under the existing Incentive Structure could total up to \$1 Billion;





**WHEREAS:** In the spirit of promoting long-term cost savings, avoid administrative complexity and unwanted litigation and to provide greater certainty for the people of Puerto Rico, the parties have negotiated an amendment to the LGA O&MA (the "LGA O&MA Amendment"), in the form attached hereto as Exhibit A, whereby Genera would receive a one-time payment of \$110 million, disbursed in eleven (11) equal monthly installments, in exchange for agreeing to eliminate the LGA O&MA Incentive Structure; and

**WHEREAS:** The execution of the LGA O&MA Amendment is subject to the final approval of PREPA, the P3 Authority, Genco, Genera, the Puerto Rico Energy Bureau ("PREB") and the Financial Oversight and Management Board for Puerto Rico ("FOMB").

**THEREFORE,** be it resolved by this Governing Board:

1. To approve the LGA O&MA Amendment, substantially in the form presented to this Board and attached hereto as Exhibit A, subject to the final approval of Genco, the P3 Authority, Genera, PREB and FOMB.
2. To authorize Mary Carmen Zapata Acosta, Executive Director of PREPA and GenCo (the "Authorized Representative"), on behalf of and in representation of PREPA and GenCo, to execute, sign and deliver the LGA O&MA Amendment and any other documents, certifications, statements, agreements, contracts or instruments required under the LGA O&MA Amendment or that the Authorized Representative deems necessary or convenient for the consummation of the transactions contemplated by the LGA O&MA Amendment, all subject to such changes, modifications or additions as the Executive Director of PREPA deems necessary or appropriate, and whose approval of any such change, modification or addition shall be evidenced by the execution and delivery of such documents, without the necessity of further action.
3. To authorize and direct, officers, agents, employees and the Authorized Representative of PREPA to do all acts and things required of them by the provisions of this Resolution, including but not limited to, the execution of any documents, certificates, or agreements required to give effect to the provisions of this Resolution, and any other such action is hereby authorized and ratified.

This Resolution shall take effect immediately upon its adoption.

Approved in San Juan, Puerto Rico, on this 25<sup>th</sup> day of March 2024

  
Maricarmen Boria Goltia  
Corporate Secretary



**EXHIBIT A**

**LGA O&MA First Amendment**

[See attached.]







PUERTO RICO  
ELECTRIC POWER AUTHORITY

# PREPA

GOVERNMENT OF PUERTO RICO

## RESOLUTION 5172

### TO AUTHORIZE THE PREPA GENCO LLC LIMITED LIABILITY COMPANY AGREEMENT

**WHEREAS:** The Puerto Rico Electric Power Authority ("PREPA") is a public corporation and instrumentality of the Government of Puerto Rico created pursuant to Act No. 83 of May 2, 1941, as amended, with the statutory mandate to provide reliable, affordable and sustainable electrical energy to the People of Puerto Rico.

**WHEREAS:** The Puerto Rico Electric System Transformation Act, Act No. 120-2018, as amended ("Act 120"), directed PREPA to enter into public-private partnership agreements to delegate its transmission and distribution functions, the sale of electric power, the operation of the Energy Control Center and other related functions, including the operation and maintenance of PREPA's legacy power generation assets.

**WHEREAS:** The Puerto Rico Energy Public Policy Act, Act No. 17 of April 11, 2019 ("Act No. 17"), recognized that the quality of Puerto Rico's electric power service contributes to the island's overall competitive value as an investment destination and, thus, to its economic development and job creation potential.

**WHEREAS:** On May 27, 2021, the Fiscal Oversight and Management Board for Puerto Rico ("FOMB") certified the 2021 PREPA Fiscal Plan, requiring PREPA to complete operational and financial reorganization through the formation of various subsidiaries to improve the management of its responsibilities and assets. *msg*

**WHEREAS:** In compliance with Act 17 and the 2021 Fiscal Plan, PREPA decided to segregate its legacy thermal generation assets and related responsibilities into a new subsidiary named PREPA GenCo LLC ("GenCo").

**WHEREAS:** Pursuant to Resolution No. 4939, dated as of December 15, 2021, PREPA's Governing Board authorized the formation of GenCo and approved the draft of that certain PREPA GenCo LLC Limited Liability Company Agreement ("GenCo LLC Agreement"), attached hereto as Exhibit A, and that certain Capital Contribution Agreement by and between PREPA and GenCo (the "Capital Contribution Agreement"). *romer*



**WHEREAS:** On June 19, 2023, the then executive director of PREPA, Josué Colón Ortiz, executed the GenCo LLC Agreement and the Capital Contribution Agreement, thereby formally making GenCo the legal entity responsible for owning, operating and/or delegating the operation of PREPA's legacy thermal generation assets.

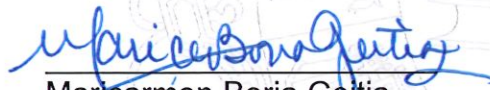
**WHEREAS:** On January 24, 2023, PREPA entered into that certain Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement, (the "GOMA") with the Puerto Rico Public-Private Partnerships Authority and Genera PR LLC and, subsequently, on June 19, 2023, it assigned its rights and obligations under the GOMA to GenCo.

**THEREFORE:** Be it resolved by this Governing Board to:

1. Ratify the GenCo LLC Agreement dated as of June 19, 2023, attached hereto as Exhibit A, including, without limitation, that the members of the Board of Managers of GenCo shall be the same as the members of the PREPA Governing Board.
2. Ratify that the chairman, vice chairman and secretary of PREPA's Governing Board shall likewise be the chairman, vice chairman and secretary of GenCo's Board of Managers.
3. Ratify the appointment of Mary C. Zapata as the Executive Director of GenCo

This Resolution shall take effect immediately upon its adoption.

Approved in San Juan, Puerto Rico, on this 25<sup>th</sup> day of March 2025.

  
Marcarmen Boria Goltia  
Corporate Secretary

