

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

NEPR

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**IN RE: GENERA PR, LLC, ELECTRIC
COMPANY CERTIFICATE
APPLICATION**

CASE NO.: NEPR-CT-2023-0001

SUBJECT: REQUEST FOR FTI REPORT

**MOTION REITERATING ICSE'S MARCH 26
ACCESS OF INFORMATION REQUEST**

TO THE HONORABLE ENERGY BUREAU:

Comes now the **Institute of Competitiveness and Economic Sustainability ("ICSE" as its Spanish acronym)**, represented by the undersigned, respectfully states and prays:

On February 27, 2025, PREPA and Genera filed the FTI Report marked as confidential claiming the attorney-client privilege and the existence of trade secrets.

On March 26, 2025, ICSE filed before this Bureau the *ICSE's Motion Requesting Access to FTI Report ("ICSE's March 26 Motion")* in its exercise of its constitutional right to free expression as interpreted and implemented by the Supreme Court of Puerto Rico in *Soto v. Secretary of Justice*, 112 DPR 477 (1982), and its subsequent case law. ICSE also requested the same document directly to PREPA and the Puerto Rico Public-Private Partnerships Authority ("P3A"). See *ICSE's Informative Motion* of April 3, 2025.

On April 2, 2025, this Energy Bureau entered its Resolution and Order granting PREPA and Genera the opportunity to "provide their respective arguments as to why the Energy Bureau should not order the public release of the [FTI R]eport."

On April 9, 2025, PREPA filed a motion in compliance with this PREB's April 2 Resolution and Order titled *PREPA's Position to ICSE's Motion Requesting Access to FTI Report*. The public corporation asserts, in direct contradiction of its February 27 filing: "PREPA does not oppose the disclosure of the FTI Report." That is, PREPA has voluntarily waived its alleged attorney-client privilege and has accepted the disclosure of alleged trade secrets. PREPA, however, claimed for the first time that this Bureau has discretion to withhold the FTI Report on the basis of a purported deliberative process privilege.

On April 10, 2025, counsel to ICSE received a letter dated April 9, 2025 and signed by the Executive Subdirector of the P3A, in which it claimed that given ICSE has presented before this PREB the same request of access to the FTI Report, "The P3 Authority considers it prudent and necessary for the Energy Bureau to resolve the request without interference from the P3 Authority in the process." (translation ours).

Genera has not complied with this PREB's April 2 Resolution and Order. Therefore, Genera has waived its purported claim to confidentiality raised on February 27 in light of ICSE's March 26 Request and legal basis.

On April 11, 2025, ICSE filed its *Reply to PREPA's April 9 Motion & Notice of P3A Position*, in which ICSE informed the PREB of the P3A's April 9 communication. ICSE also argued that given PREPA's claim of its interest to not withhold the FTI Report to the public's access, there is no party of this record—and, of course, even the P3A also given its April 9 Letter—that has any right or basis to keep financial information secret

regarding a public matter, such as the evaluation of an amendment to a contract for the administration of State generation assets.

Since April 11, there has been no further action from the interested parties regarding the issue. However, this PREB has done nothing regarding the March 26 Request. Therefore, ICSE reiterates its request for the disclosure of the FTI Report. There is no clear opposition to disclosure and there is not even an opposition to partial disclosure. The PREB is obligated by the Constitution of the Commonwealth to disclose the document in its entirety.

We must reiterate that the burden of Genera and PREPA's contract amendment — \$110 million — is currently collected through Puerto Rico consumers' electricity bills pursuant to a Resolution and Order of this Bureau on Case No. NEPR-MI-2020-0001. Meanwhile, there is NO informed discussion regarding the reasonability of this cost that could continue for ten (10) more months. The only public "discussion" that is taking place are the politically self-serving appearances of the Government of Puerto Rico repeating the same superficial slogans that this Energy Bureau when evaluating the February 27 Joint Motion raise "the question of how the amendments constitute a genuine cost-saving mechanism." The public is equally concerned and puzzled. Disclosing the FTI Report is a step in the right direction.

WHEREFORE, it is respectfully requested that this Energy Bureau take into account the foregoing and grant *ICSE's Motion Requesting Access to FTI Report* of March 26, 2025.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, May 1st, 2025.

FERNANDO E. AGRAIT LAW OFFICE
EDIFICIO CENTRO DE SEGUROS
OFICINA 414
701 AVENIDA PONCE DE LEON
SAN JUAN, PUERTO RICO 00907
Tel: (787) 725-3390-3391
Fax: (787) 724-0353

/s/ LCDO. FERNANDO E. AGRAIT
T.S. Núm. 3772
Email: agraitfe@agraitlawpr.com

/s/ LCDO. JOSÉ POU ROMÁN
T.S. Núm. 23,523
Email: jpouroman@outlook.com