

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

IN RE: PLAN PRIORITARIO PARA LA  
ESTABILIZACIÓN DE LA RED  
ELÉCTRICA

CASE NO.: NEPR-MI-2024-0005

NEPR

Received:

Jul 7, 2025

10:36 PM

MOTION TO COMPLY WITH THE JUNE 27, 2025-RESOLUTION AND ORDER

TO THE HONORABLE ENERGY BUREAU,

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

1. On June 20, 2025, PREPA filed a *Motion submitting Proposed Contract resulting from Temporary Emergency Power Generation RFP for the Energy Bureau's Review and Approval* submitting the proposed contract for temporary emergency power generation, as a result of the competitive procurement process for up to 800 mw of temporary power generation capacity and requesting the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") to treat the proposed contract and the accompanying procurement process report- the Independent Third-Party Procurement Office ("3PPO Report")-, identified as Exhibits A and B, as confidential and be kept under seal.

2. On June 27, 2025, the PREB issued a Resolution and Order ("June 27 Resolution and Order"), granting PREPA's request for confidential treatment of Exhibits A and B. However, it ordered PREPA to file both exhibits within five (5) days of the issuance of said Resolution and Order, under Sections 1.4, 6.3, and 6.15 of Act 57-2014 and the PREB's Confidential Information Policy.

3. PREPA respectfully reiterates its request for confidential treatment of Exhibits A and B in full. Both exhibits contain ongoing deliberative materials and evaluation-related content of the proposed contract and the procurement process report. Disclosure at this stage of Exhibits A and B would undermine the integrity of the decision-making process and are, therefore, protected under the deliberative process privilege until the evaluation concludes.

4. Although documents held by public corporations such as PREPA are generally presumed to be public, access to such documents is not absolute. The Puerto Rico Supreme Court has recognized that only

documents that truly enjoy public status are subject to mandatory disclosure. *Bhatia Gautier v. Gobernador*, 199 D.P.R. 59, 82 (2017); *Ortiz v. Director de la Administración de los Tribunales*, 152 D.P.R. 161 (2000).

5. According to *Bhatia Gautier*, the government may validly withhold information when (i) a law so authorizes; (ii) the information is protected by evidentiary privileges; (iii) its disclosure may harm third parties' fundamental rights; (iv) it identifies a confidential source; or (v) it qualifies as "official information" under Rule 514 of Evidence. *Id.* at 83.

6. The Puerto Rico Supreme Court has expressly held that "documents that pertain to pre-decisional and deliberative processes may be shielded from public disclosure." *Id.* at 86. This deliberative process privilege protects materials that are (i) pre-decisional—created before the agency's final determination, and (ii) deliberative—reflecting internal opinions, assessments, and recommendations critical to policy formulation.

7. In addition, Article 4(iv) of the Puerto Rico Government Open Data Act, Act 122-2019, codified at 3 L.P.R.A. § 9894, explicitly exempts from disclosure "[i]nformation and official information related to decision-making in public policy-making processes, as recognized by case law," including deliberative materials.

8. Below is a summary of the information for which PREPA seeks confidential treatment:

File	Summary of Legal Basis for Confidential Treatment
Ex. A Performance Service Agreement draft	Deliberative material
Ex. B 3PPO Report	Deliberative material

9. PREPA respectfully requests that Exhibits A and B remain confidential until the evaluation process concludes and a final contract is executed. The proposed contract is still a draft, subject to the Energy Bureau's review and approval. Moreover, in its July 4, 2025-Resolution and Order, the Energy Bureau directed PREPA to engage in negotiations with the selected proponent to finalize the terms identified therein.

**WHEREFORE**, for the reasons stated above, PREPA respectfully requests that the Energy Bureau take **NOTICE** of the present Motion and **DEEM** PREPA in compliance with the June 27-exhibidResolution and Order.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 7<sup>th</sup> day of July 2025.

**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 LUMA Energy, LLC through its counsels of record at [margarita.mercado@us.dlapiper.com](mailto:margarita.mercado@us.dlapiper.com), [laura.rozas@dlapiper.com](mailto:laura.rozas@dlapiper.com), [yahaira.delarosa@us.dlapiper.com](mailto:yahaira.delarosa@us.dlapiper.com) and to Genera PR, LLC through its counsel of record [lrn@roman-negron.com](mailto:lrn@roman-negron.com).

**GONZÁLEZ & MARTÍNEZ**

1509 López Landrón  
Seventh Floor  
San Juan, PR 00911-1933  
Tel.: (787) 274-7404

**s/ Alexis G. Rivera Medina**

**Alexis G. Rivera-Medina**  
TSPR No.: 18,747  
E-mail: [arivera@gmlex.net](mailto:arivera@gmlex.net)

**s/Natalia Zayas Godoy**

**Natalia Zayas Godoy**  
TSPR No.: 20,415  
E-mail: [nzayas@gmlex.net](mailto:nzayas@gmlex.net)