

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

IN RE: ELECTRIC SYSTEM PRIORITY STABILIZATION
PLAN

CASE NO.: NEPR-MI-2024-0005

SUBJECT: Reporting Directives and
Information Requirement regarding
PREPA's Proposed Contract Resulting
from Temporary Emergency Power
Generation.

NEPR

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SUPPLEMENTAL AND INFORMATIVE MOTION

TOHONORABLE PUERTO RICO ENERGY BUREAU

COMES NOW Javelin Global Commodities US Holdings Inc. ("Javelin"), through undersigned counsel, and respectfully submits this Supplemental and Informative Motion:

1. On July 9, 2025, Javelin filed with the Puerto Rico Energy Bureau (the "Energy Bureau" or "Bureau") a *Motion to Vacate the Resolution of July 4, 2025* (the "Motion to Vacate").

2. Through the Motion to Vacate, Javelin requests that the Energy Bureau set aside its conditional approval of the contract awarded by the Puerto Rico Electric Power Authority ("PREPA") to Power Expectations LLC ("Power Expectations") for the provision of 800 MW of temporary emergency generation to address critical capacity shortfalls.

3. This contract was awarded following a Request for Proposal ("RFP") process in which PREPA initially selected two proponents for negotiations: Javelin and Power Expectations. The award to Power Expectations is currently under review pursuant to Javelin's timely Motion for Reconsideration.

4. In its July 4th Resolution, the Bureau directed PREPA to renegotiate the contract's term and price to secure a longer ten-year term at lower fixed rates.

5. Among other grounds for vacating the July 4 Resolution, Javelin argued that the procurement process violated key provisions of the *Joint Regulation for the Procurement, Evaluation, Selection, Negotiation, and Award of Contracts for the Purchase of Energy and for the Procurement, Evaluation, Selection, Negotiation, and Award Process for the Modernization of the Generation Fleet*, Regulation No. 8815, dated October 11, 2016 ("Regulation 8815"), as well as fundamental principles of public contracting. Specifically, Javelin asserts that its Motion for Reconsideration in the RFP process was not properly notified to the Bureau; a complete administrative record was not maintained; confidential information was disclosed during the blackout period; and that a bidder was permitted to participate despite failing to meet minimum technical, financial, and ethical requirements, including possible undisclosed criminal backgrounds and potentially not complying with the bid bond requirements for the initial RFP.

Javelin further contends that there was no diligent verification of Power Expectations' operational capacity or the legality of its proposal. Moreover, extending the contract term to ten years represents a material deviation from the original one-year term contemplated in the RFP, which will effectively result in an entirely new agreement that departs from its original terms and conditions.

6. Based on these failures, Javelin maintained that the award was void as a matter of law and requested that the Bureau order the RFP process to resume with the previously qualified proponents in a transparent, competitive manner and in full compliance with applicable law.

7. After Javelin filed the Motion to Vacate, PREPA has now announced that it will reopen the RFP process to all companies that participated, giving them 48 hours to submit their best and final offers for a ten-year contract. See https://www.elvocero.com/gobierno/reabren-licitaci-n-para-800-megavattios-de-energ-a-temporera/article_50b11127-4172-47b3-a1e1-b4dad9108775.html.

8. Javelin respectfully submits that PREPA's decision to reopen the RFP process to all companies that originally participated — including those that were previously disqualified or failed to meet minimum qualification standards — should not be permitted. Allowing previously disqualified proponents to re-enter the process undermines the integrity of the procurement, violates the clear requirements of Regulation 8815, and fails to promote the fair and transparent competition that the public contracting framework demands.

9. Regulation 8815 expressly requires that any procurement process be conducted in a manner that ensures that only qualified proponents — those that meet the technical, financial, and ethical requirements — may participate and be awarded contracts. Reopening the process to bidders that PREPA already deemed unqualified circumvents this safeguard, eroding confidence in the process and putting at risk the efficiency, reliability, and legality of any resulting contract.

10. Moreover, expanding the reopened RFP to proponents who were disqualified during the initial stages does not increase true competition; rather, it dilutes competition by placing compliant and qualified proponents, like Javelin, at a disadvantage. Such an action rewards parties who failed to meet minimum requirements while penalizing those who complied with all conditions in good faith and at significant cost and effort.

11. Finally, Javelin emphasizes that the Bureau should vacate its Resolution and Order directing PREPA to explore the extension of the contract term to a ten-year arrangement. The RFP clearly contemplates a short-term, emergency generation contract, not a long-term infrastructure commitment. The current circumstances of the grid, which involve significant

generation shortages and at least one major transformer failure at Aguirre that could take more than one year to be repaired or replaced¹ and could impact up to 450 MW of generation, demonstrate an urgent need to supply temporary capacity as quickly as possible. Load shed events will be the order of the day without such additional capacity being installed in the short term. By contrast, the equipment, logistics, and economics of 10-year energy supply agreement would be materially different and should be the subject of a separate RFP. Crafting a decade-long energy supply obligation through an irregular amendment of the original scope of the emergency generation RFP is contrary to its original intent and does not favor Puerto Rico's consumers.

12. Javelin understands the Bureau's interest in avoiding take-or-pay contracts. However, as Luis Avilés, former CEO of PREPA, noted in his July 4, 2025, commentary which references World Bank procurement guidance, no credible developer will deploy hundreds of millions of dollars in assets without a guaranteed capacity revenue stream to repay the capital cost and financing related to the equipment. See <https://substack.com/inbox/post/167550183>.

13. Turning to the price of energy, Power Expectations' proposal involving a fixed rate over a lengthy period of time – which it presumably discarded later because it is not the proposal that was presented to the Bureau by PREPA – is evidently unfinanceable. As the saying goes, it is too good to be true. A fixed rate is not realistic because it ignores the volatile nature of global fuel markets, which is the main driver in the cost of power generation. To Javelin's knowledge, all prior long-term contracts for base load power generation or fuel supply, including recent contracts with NFE, have included indexed or variable pricing mechanisms. These type of arrangements are typical for the market, which is why no bidder can provide a fixed price energy payment while its fuel costs are inherently variable.

14. Based on the foregoing, while a 10-year, fixed price contract without take-or-pay obligations would be highly desirable in theory, Javelin respectfully submits that it is unachievable under the current circumstances. Embarking down this path will inevitably lead to disappointment by the Bureau in a new process which will fail to meet its objectives and a delay in providing much needed generation (especially in the short term) which Puerto Rico needs to avoid blackouts.

15. Javelin stands ready to deliver its proposed, shovel-ready, 200 MW of generation at the Costa Sur facility. We respectfully submit that resuming the RFP exclusively with the previously qualified proponents offers the most appropriate, responsible and fastest path to the resolution of the current energy emergency. It is also in the public interest.

¹ See <https://substack.com/inbox/post/168079489>

WHEREFORE, in light of the foregoing, Javelin respectfully requests that this Honorable Bureau: (i) GRANT the Motion to Vacate Resolution of July 4, 2025; (ii) vacate the conditional approval of the contract, (iii) direct PREPA to resume the procurement with the qualified proponents, and specifically Javelin with respect to the Costa Sur facility, all in accordance with Regulation 8815 and the basic principles of fair, lawful, and transparent public contracting.

RESPECTFULLY SUBMITTED.

CERTIFICATION: On this date Javelin has notified a copy of this motion to the following parties:

- (1) **Public-Private Partnership Authority**, PO Box 42001, San Juan, Puerto Rico 00940-2001, josue.colon@p3.pr.gov, Administrador@p3.pr.gov;
- (2) **Puerto Rico Electric Power Authority**, PO Box 364267, San Juan, Puerto Rico 00936-4267, mary.zapata@prepa.pr.gov;
- (3) **Genera PR, LLC (Genera)**, PO Box 363068, San Juan, PR 00936-3068;
- (4) **Public-Private Projects Procurement Office** PO Box 363068, San Juan, PR 00936-3068;
- (5) **Regulatory Compliance Services, Corp.**, 1509 López Landrón, Penthouse, San Juan, Puerto Rico 00911;
- (6) **Power Expectations LLC**, PO Box 4983, Carolina, Puerto Rico 00984-4986, powerexpectations@gmail.com;
- (7) **New Fortress Energy, Inc.**, 111 W 19th Street, 8th Floor, New York, NY 10011, wedens@fortress.com;
- (8) **E2 Companies LLC, AKA E2COMPANIES PR LLC**, 1250 Ave. Ponce de León, Suite 600, SAN JUAN, PR, 00907;
- (9) **Distributed Power Solutions**, PO BOX 13669, Santurce Station, San Juan, PR, 00908
- (10) **Impulsora de Proyectos México**, Bosques de Duraznos N° 61 int 12-A, Bosques de Las Lomas, Del Miguel Hidalgo, Ciudad de México, CP 11700, contacto@gemex.mx.
- (11) **Gotham Energy LLC** 48 Wall St Fl 5 New York, NY 10005.

San Juan, Puerto Rico, July 11, 2025.

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