

**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

Received:

July 15, 2025

7:13 PM

SECOND SUPPLEMENTAL AND INFORMATIVE MOTION

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

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

1. On July 9, Javelin filed its *Motion to Vacate the Bureau's July 4, 2025 Resolution and Order* ("*Motion to Vacate*"). The Resolution and Order conditionally approved the contract awarded by the Puerto Rico Electric Power Authority ("PREPA") to Power Expectations LLC ("Power Expectations") for 800 MW of temporary emergency generation to address critical capacity shortfalls. This contract arose from a Request for Proposal ("RFP") process in which PREPA initially selected Javelin and Power Expectations as the only qualified proponents for negotiations. Javelin timely filed a Motion for Reconsideration in connection with the award to Power Expectations.

2. The July 4 Resolution and Order directed PREPA to renegotiate the contract's term and price to secure a longer, ten-year term at lower fixed rates. PREPA was granted until July 9, 2025, to inform the Energy Bureau "whether more favorable alternative conditions have been agreed upon for the benefit of ratepayers; or, in the alternative, to explain the reasons why pursuing the modification set forth herein is not feasible."

3. In the *Motion to Vacate*, Javelin stated that extending the contract term to ten years materially departs from the original one-year RFP, effectively creating a new contract beyond its scope. Further, Javelin maintained the award to Power Expectations was legally void and requested the Bureau to order a transparent, competitive resumption of the RFP process with only previously qualified proponents. Javelin incorporates by reference the arguments set forth in its *Motion to Vacate*.

4. Subsequently, on July 11, Javelin filed a *Supplemental and Informative Motion* ("*Supplemental Motion*") informing the Bureau that PREPA publicly announced reopening the RFP to all original participants—including those previously disqualified—with 48 hours to submit best and final offers for a ten-year contract. Notably, despite the July 9 deadline set forth in the

Energy Bureau's July 4 Resolution and Order, PREPA did not seek an extension to respond, provide any report to the Bureau on whether a longer-term contract could be negotiated or the reasons for not being able to do so, nor seek authorization to reopen the RFP. Javelin submitted that this reopening should not be permitted, as it undermines procurement integrity, violates 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"), and fails to promote fair and transparent competition. Among others, Javelin argued that the Bureau should vacate its July 4 Resolution and Order because the RFP contemplated a short-term emergency generation contract, not a long-term infrastructure commitment; current grid conditions demonstrate urgent need for rapid temporary capacity; a decade-long contract involves materially different logistics and economics, warranting a separate RFP; and amending the emergency RFP's scope to create a long-term obligation would contradict its original purpose and harm consumers. Javelin hereby incorporates by reference the arguments set forth in its *Supplemental Motion*.

5. After Javelin filed the *Supplemental Motion*, on July 12, 2025, the Third Party Procurement Office ("3PPO") informed the Puerto Rico Court of Appeals, in *Gothams Energy LLC v. Autoridad de Energía Eléctrica, et al.*, Case No. TA2025RA00057, that in response to the Energy Bureau's July 4 Resolution and Order mandating a ten-year contract term with revised energy rates, it has determined that the competitive procurement process for temporary emergency generation must be reopened. See Exhibit 1. According to 3PPO, this reopening will allow all original RFP participants — including entities previously disqualified — to submit revised proposals under the new terms imposed by the Bureau. 3PPO also informed the Court of Appeals that, in coordination with PREPA and the Public-Private Partnerships Authority, it will proceed to formally notify all proponents about the reopening and the modified conditions.

6. Additionally, on July 12, 2025, 3PPO sent a notice directly to Javelin acknowledging receipt of its request for reconsideration regarding the RFP's adjudication to Power Expectations. In that notice, 3PPO informed Javelin that, in light of the material changes imposed by the Bureau's July 4 Resolution and Order, no further action will be taken on any reconsideration requests. Instead, all original proponents — including Javelin — will be asked to submit revised proposals reflecting the new ten-year term and updated conditions. 3PPO indicated that the revised RFP guidelines will be issued shortly and that Javelin will be notified of the new submission process once available. See Exhibit 2. None of the foregoing was authorized by the Energy Bureau.

7. Today, PREPA has changed course once again. A 3PPO document entitled “Invitation to Submit Proposal” has announced that the RFP was cancelled and a new RFP for temporary power generation has been issued. The new RFP “includes material changes to the scope of work, technical specifications, and commercial requirements, and replaces the prior solicitation in full.” See Exhibit 3. The new RFP is for proposals for up to a 10-year term but is still presented as an emergency power generation RFP. This new RFP, however, has not been reviewed nor approved by the Energy Bureau as required by Section 4.2 of Regulation 8815.

8. Javelin stands ready to deliver its proposed, shovel-ready, 200 MW of generation at the Costa Sur facility. Javelin respectfully submits that resuming the RFP exclusively with the previously qualified proponents offers the most appropriate, responsible, and swiftest path to addressing the current energy emergency — a solution that is clearly in the public interest.

9. *First*, PREPA’s decision to cancel the RFP and launch a new one open to all, including bidders who were disqualified during the initial RFP, exceeds the scope of what the Energy Bureau expressly ordered in its July 4, 2025 Resolution and Order and directly contravenes the provisions of Regulation 8815, which require review and approval of a new RFP. The Bureau’s directive was limited to renegotiating the contract’s term and pricing to secure more favorable conditions for consumers — not to invalidate the original qualification determinations, revive proposals from non-qualified parties, let alone cancel the RFP to open a new one.

10. *Second*, allowing previously disqualified proponents back into the process directly violates the safeguards of Regulation 8815, which demands that only proponents who meet the required technical, financial, and ethical qualifications be permitted to participate and receive an award. Restarting negotiations must therefore be limited to the proponents that PREPA already deemed qualified. Any broader reopening erodes confidence in the procurement process, undermines fair competition, and exposes Puerto Rico’s energy system to unacceptable risk.

11. Finally, Puerto Rico’s worsening grid crisis — now exacerbated by recent developments involving the supply of natural gas — makes clear that what the island needs is immediate, short-term emergency generation, not the delay and uncertainty of reshuffling the process or starting again at zero with a new RFP with unqualified suppliers. Moreover, the similarity between the current RFP and the new RFP — both of which involve turnkey, emergency power generation solutions — begs the question: Why open a new RFP when 3PPO just ran a very similar RFP weeks ago? If more alternatives are desired, the logical course of action given grid conditions would be to take the current RFP to its conclusion with the previously qualified bidders. Additional supply alternatives can be readily addressed through a **separate** RFP. The emergency procurement must remain focused on quickly contracting credible, ready-to-perform

suppliers who can deliver generation capacity at the scale and speed the island urgently requires. For these reasons, Javelin respectfully urges the Energy Bureau to direct PREPA and 3PPO to stop improvising and reiterates that the RFP should be resumed solely with the previously qualified proponents, under clear and transparent terms consistent with Regulation 8815 and the original emergency objective.

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) disallow the opening of a new RFP in substitution of the original RFP; (iv) direct PREPA to resume the procurement with the qualified proponents of the original RFP, 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: This motion will be notified 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 15, 2025.

McCONNELL VALDÉS LLC

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EXHIBIT 1

**ESTADO LIBRE ASOCIADO DE PUERTO RICO
TRIBUNAL DE APELACIONES
REGION JUDICIAL DE SAN JUAN**

| | |
|---|---|
| <p>GOTHAMS ENERGY, LLC <i>Recurrente</i></p> <p>v.</p> <p>AUTORIDAD DE ENERGÍA ELÉCTRICA DE PUERTO RICO (AEE); AUTORIDAD PARA LAS ALIANZAS PÚBLICO PRIVADAS (AAPP); NEGOCIADO DE ENERGÍA DE PUERTO RICO (NEPR <i>Recurridas</i></p> | <p>TA NUM.: TA2025RA00057</p> <p>SOBRE: RECURSO DE REVISION</p> |
|---|---|

**COMPARECENCIA ESPECIAL DE LA OFICINA
DE ADQUISICIONES DE TERCEROS**

AL HONORABLE TRIBUNAL DE APELACIONES:

COMPARECE la Oficina de Adquisiciones de Terceros (“3PPO”, por sus siglas en inglés), por conducto del suscribiente y, muy respetuosamente, **EXPONE, ALEGA, INFORMA y SOLICITA:**

INTRODUCCION

Puerto Rico está sumido en una crisis en el sistema de transmisión, distribución y generación de energía que ha provocado que, tanto la Gobernadora como el Departamento de Energía de Estado Unidos, emitieran órdenes declarando una emergencia energética. Las órdenes están dirigidas a agilizar procesos que permitan poner en vigor soluciones que eviten, o al menos reduzcan sustancialmente, los constantes apagones.

Los apagones son el resultado de una producción de energía que es insuficiente para; a) atender los picos de energía frecuentes, típicos en épocas como el verano; b) mantener reservas que puedan suplir las deficiencias de energía resultantes de averías; c) y mantener reservas que permitan llevar a cabo los mantenimientos que requiere sacar generadoras de servicio.

Lo anterior manifiesta la necesidad de fuentes temporeras de energía, las que a su vez estarían disponibles para atender las emergencias que puedan suscitarse durante la temporada de huracanes.

Para atender esta crisis se aumentaron, en los últimos meses, la cantidad de megavatios de energía en la red eléctrica. Además, se determinó inyectar a la red eléctrica aproximadamente 800 megavatios adicionales utilizando como fuente equipos de generación temporera.

Con este fin, se inició un proceso competitivo¹ que levantó el interés de múltiples suplidores de energía temporera debido a la magnitud del proyecto y a los beneficios económicos que representa para estos. Como es norma, proponentes no favorecidos levantaron objeciones al proceso, imputaron irregularidades y entablaron acciones judiciales como la presente. Gotham Energy, LLC, uno de los proponentes en el proceso competitivo para el suministro de energía temporera, radicó un recurso de revisión judicial² que se encuentra pendiente ante este Honorable Tribunal.

Debido a que las circunstancias que promovieron la radicación del presente recurso han variado y que la Oficina de Adquisición de Terceros, el “3PPO”, por sus siglas en inglés, (“Third Party Procurement Office”), determinó reabrir el proceso competitivo, esta comparecencia persigue el propósito de informar sobre desarrollos procesales relacionados con el RFP 3PPO-0314-20-TPG, que pueden tener un efecto en el trámite del presente caso.

I. FUNCIÓN Y ALCANCE DEL 3PPO

El 3PPO fue designado por la Autoridad para las Alianzas Público Privadas (AAPP) como entidad independiente de adquisición encargada de administrar procesos competitivos relacionados con adjudicaciones donde exista o pueda existir un posible conflicto de interés entre los operadores privados del sistema eléctrico y los proponentes, velando por los mejores intereses del Pueblo de Puerto Rico. Conforme a la Resolución NEPR-MI-2023-0001, emitida por el Negociado de Energía de Puerto Rico (NEPR), el 3PPO fue autorizado a desarrollar y gestionar el proceso competitivo de adquisición para servicios de generación temporal de emergencia, incluyendo la emisión, evaluación y recomendación del RFP 3PPO-0314-20-TPG. Sus funciones incluyeron la preparación de los documentos de solicitud de propuestas, la coordinación del proceso de evaluación de las propuestas recibidas, la facilitación de negociaciones con los proponentes seleccionados y asistió a PREPA en la presentación del contrato ante el NEPR para su evaluación y aprobación.

II. DESARROLLOS POSTERIORES A LA DETERMINACIÓN DEL NEPR

¹ El proceso competitivo lo maneja “Regulatory Compliance Services, Corp”., una entidad jurídica creada en el año 2003 con el propósito de proveer asesoría en asuntos regulatorios. Entre sus componentes se encuentran ex fiscales federales y un ex Inspector General del Departamento del Tesoro de Estados Unidos. Esta entidad, la cual opera de manera independiente, atiende todo proceso competitivo donde subsidiarias y afiliadas de Luma o Genera compiten. En el contexto del presente asunto, New Fortess, compañía matriz de Genera, manifestó su intención de presentar propuesta por lo que nos fue delegado el manejo del proceso.

² El recurso fue radicado antes de finalizado un proceso de revisión/ reconsideración instada administrativamente por Gotham ante 3PPO.

El 4 de julio de 2025, el NEPR emitió una Resolución y Orden en el Caso Núm. NEPR-MI-2024-0005 mediante la cual ordenó que cualquier contrato adjudicado bajo el RFP 3PPO-0314-20-TPG fuera ejecutado por un término fijo de diez (10) años, con una tarifa energética distinta a las cuales se evaluaron las propuestas originales. Estas exigencias representan un cambio material respecto a los términos originalmente divulgados a los proponentes y sobre los cuales se estructuró y evaluó el proceso competitivo.

Como resultado, el 3PPO emitió una comunicación formal el 9 de julio de 2025 al director ejecutivo de la Autoridad para las Alianzas Público-Privadas, el ingeniero Josué Colón, indicando que a raíz de la Resolución del Negociado de Energía de Puerto Rico (NEPR) del 4 de julio de 2025, y conforme a su mandato bajo el marco del proceso independiente de contratación, resultaba necesario brindar a todos los proponentes la oportunidad de presentar propuestas que tomen en consideración el término, ahora autorizado, de diez (10) años, y la nueva tarifa energética. Esta recomendación surge del reconocimiento de que los cambios materiales y sustanciales impuestos por el regulador, incluyendo una extensión del término contractual y modificaciones en la tarifa energética, alteran significativamente las condiciones bajo las cuales se evaluaron las propuestas originales. La reapertura del proceso busca permitir que los proponentes originales, así como otros potencialmente interesados, puedan someter propuestas revisadas conforme a las nuevas condiciones, garantizando así el cumplimiento regulatorio, trato equitativo y la integridad del proceso de contratación pública.

III. NOTIFICACIÓN A LOS PARTICIPANTES

En coordinación con la AEE y la AAPP, el 3PPO procederá a notificar formalmente a todos los proponentes participantes en la convocatoria original incluyendo a Gotham Energy, LLC sobre la reapertura del proceso competitivo y las nuevas condiciones aplicables al mismo. Este curso de acción busca garantizar transparencia, libre competencia, y una oportunidad equitativa de participación conforme a las normas locales y federales aplicables.

IV. DOCUMENTO DE REFERENCIA

Se aneja comunicación enviada por el 3PPO al director ejecutivo de la Autoridad para las Alianzas Público-Privadas, el ingeniero Josué Colón, indicando que a raíz de la Resolución del Negociado de Energía de Puerto Rico (NEPR) del 4 de julio de 2025, resultaba necesario reabrir el proceso competitivo en respuesta a los cambios sustanciales ordenados por el NEPR.

V. EXPOSICIÓN FINAL

El proceso que se ha reabierto para la contratación de suplidores de energía temporera por un término de diez años, con una tarifa energética distinta, es similar al anterior e incluye, entre otros; 1) un periodo para presentar propuestas; 2) un periodo para contestar preguntas; 3) requerimiento de fianza; 4) la evaluación de las propuestas por un comité independiente; 5) periodo para la negociación de contrato con los seleccionados, en fin, todas las salvaguardas procesales que contempla un proceso competitivo.

La presente comparecencia persigue el propósito de informar al Honorable Tribunal sobre determinaciones que, respetuosamente entendemos, no confligen con la Orden emitida en este caso el 9 de julio de 2025 sino que, por el contrario, reinsertan al recurrente en el proceso competitivo según solicitado por este.

El 3PPO, en colaboración con la AEE y la AAPP, continuará tomando todas las medidas necesarias para implementar un proceso competitivo revisado, justo, transparente y conforme a la normativa vigente.

POR TODO LO CUAL, se solicita muy respetuosamente de este Honorable Tribunal que tome conocimiento de lo antes informado.

RESPETUOSAMENTE SOMETIDO.

En San Juan, Puerto Rico a 12 de julio de 2025.

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July 9, 2025

Josué Colón

Executive Director

Puerto Rico Public-Private Partnerships Authority (P3A)

Centro Gubernamental Minillas

Edificio Norte, Piso 15

Avenida José de Diego #100

Santurce, PR 00907

Dear Executive Director, Josué Colón

Following the issuance of the Puerto Rico Energy Bureau's Resolution and Order dated July 4, 2025 (Case No. NEPR-MI-2024-0005), and pursuant to our mandate under the Independent Third-Party Procurement framework, we write to recommend the issuance of a new Request for Proposals (RFP) for the temporary emergency power generation project.

As recognized by the Energy Bureau, the proposed extension of the contract term from a maximum of four (4) years to up to ten (10) years, coupled with materially different pricing parameters (\$0.189/kWh at Aguirre and \$0.203/kWh at Costa Sur), constitutes a material deviation from the terms originally presented under the prior RFP process.

This change introduces a substantially different commercial structure—one that could have significantly affected bidder interest, competition dynamics, and pricing outcomes had it been included ab initio. Accordingly, we recommend that a new RFP be issued and opened for a period of ten (10) days, limited to the revised term and pricing structure outlined by the Energy Bureau.

This approach aligns with the principles of transparency, competitiveness, and fairness required by Regulation 8815 and Article 6.32 of Act 57-2014, as amended. It also ensures

that all qualified market participants are provided an equal opportunity to compete under the new framework, and that the process remains insulated from challenges based on unequal or post hoc adjustments.

We are prepared to support the rapid issuance of the new RFP, including preparation of revised documentation and coordination with PREPA, Genera PR, and other stakeholders.

We look forward to P3A's direction on this matter.

Respectfully,

3PPO

EXHIBIT 2



July 12, 2025

Javelin Global Commodities

Subject: Response to Request for Reconsideration – RFP 3PPO-0314-20-TPG

Dear NFE Legal Team,

We acknowledge receipt of your request for reconsideration related to the evaluation of proposals submitted under RFP No. 3PPO-0314-20-TPG, titled *Emergency Temporary Power Generation Units*.

Please be advised that, in light of the material changes mandated by the Puerto Rico Energy Bureau (PREB) through its Resolution and Order issued on July 4, 2025 (Case No. NEPR-MI-2024-0005), we will not be taking further action on any requests for reconsideration.

Instead, to ensure fairness and transparency, all proponents — including your firm — will be given the opportunity to submit a revised proposal under the updated terms and conditions established by the PREB. These updated guidelines will be included in the revised RFP package, which will be released shortly. The 3PPO will notify you of the new event number in Power Advocate once it is available.

We appreciate your continued interest in contributing to Puerto Rico's energy stabilization efforts and encourage your participation in the forthcoming submission process.

Sincerely,

Third-Party Procurement Office (3PPO)

EXHIBIT 3



Invitation to Submit Proposal

RFP No. 3PPO-0314-20-TPG2

Dear Proponent,

The Third-Party Procurement Office (3PPO), on behalf of the Puerto Rico Electric Power Authority (PREPA), announces the release of the new **235693 : Temporary Power Generation 2**.

Please note that **the previous RFP No. 3PPO-0314-20-TPG has been officially canceled**. This new version includes material changes to the scope of work, technical specifications, and commercial requirements, and replaces the prior solicitation in full.

The purpose of this revised RFP is to identify one or more eligible proponents capable of delivering a turnkey emergency power generation solution through temporary interconnection. The solution must be resilient to adverse weather conditions and extreme climate events, and proposals must include a clear demonstration of expected downtime, if any, in the event of a hurricane or other critical incident. This will allow PREPA to assess recovery timelines for power generation following disruptions.

Revised Scope of Work:

The updated RFP seeks a **primarily land-based solution** that provides a **combined generation capacity of up to 800 MW**, distributed as follows:

- **Up to 400 MW at 230 kV / 60 Hz at the Aguirre site**
- **Up to 200 MW at 115 kV / 60 Hz at Costa Sur**
- **Up to 200 MW at 115 kV or 230 kV / 60 Hz at an alternative site**, if available

The solution may also include **floating power generation units (barges)** as part of the overall capacity strategy, provided they contribute to the system's reliability and operational continuity.

We strongly encourage your firm to review the **revised RFP documents**, including all updated technical, commercial, and regulatory requirements, and consider submitting a proposal under this new solicitation.

You may access the RFP and submit your proposal via **Power Advocate** using the following event number:

 **Event Number: 235693 – Temporary Power Generation 2**

Thank you for your attention and continued interest.

Best regards,

Third-Party Procurement Office (3PPO)

On behalf of the Puerto Rico Electric Power Authority (PREPA)