

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

NEPR

Received:

Jul 18, 2025

3:26 PM

IN RE: Petition for approval of amendment to PPOA between Energiza, LLC and PREPA

CASE NO.: NEPR-AP-2025-0003

MOTION IN COMPLIANCE WITH THE JULY 2, 2025, RESOLUTION AND ORDER

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW the Puerto Rico Electric Power Authority ("PREPA"), through its counsel of record, and respectfully submits and prays as follows:

1. On July 2, 2025, the Energy Bureau issued a *Resolution and Order* ("July 2-Resolution and Order") ordering PREPA, among other matters, to submit, no later than July 7, 2025, all supporting documents, spreadsheets, models, and other relevant files in their original native format (e.g., Excel, Word, or other editable formats), with all underlying formulas, links, and source data fully preserved for the approval of an amendment to the Energiza, LLC PPOA.

2. On July 8, 2025, PREPA filed a *Motion for Extension* requesting the Energy Bureau a 4-day extension, until Friday, July 11, 2025, to complete the compilation and submission of the required materials. On July 11, 2025, PREPA requested a second extension, until July 18, 2025, to submit the documentation.

3. Therefore, PREPA hereby submits the required supporting documentation, as Exhibits A, B, and C, in compliance with the July 2-Resolution and Order.

I. **Confidential Treatment: Memorandum of Law**

4. PREPA respectfully requests that the Energy Bureau keep Exhibits A through C confidential. Exhibits A through C contain ongoing deliberative materials and evaluation-related content that are part of the decision-making process concerning the proposed contract amendment. Therefore, the entirety of Exhibits A through D are protected under the deliberative process privilege until the evaluation process concludes.

5. 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).

6. 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.

7. 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.

8. 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.

9. Moreover, Article 6.15 of the *Puerto Rico Energy Transformation and RELIEF Act*, Act 57-2014, is the core provision for managing confidential information filed before the Energy Bureau. It provides, in its pertinent part, that “any person who is required to submit information to the Energy [Bureau] believes that the information to be submitted has any confidentiality privilege, such person may request the [Bureau] to treat such information as such[.]”

10. If the Energy Bureau, after the appropriate evaluation, believes such information should be protected, it shall grant such protection in a manner that least affects the public interest, transparency, and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted.” *Id.* at Art. 6.15 (a). If the Energy Bureau determines that the information is confidential, “the information shall be duly safeguarded and delivered exclusively to the personnel of the Energy [Bureau] who needs to know such information under nondisclosure agreements.” *Id.* at Art. 6.15 (c). “The Energy [Bureau] shall swiftly act on any privilege and confidentiality claim made

by a person subject to its jurisdiction by means of a resolution to such purposes before any allegedly confidential information is disclosed." *Id.* at Art. 6.15 (d).

11. Furthermore, the Energy Bureau's Policy on Confidential Information (as amended, the "Confidentiality Policy") details the procedures a party should follow to request that a document or portion thereof be afforded confidential treatment. The policy requires identifying confidential information and filing a memorandum of law explaining the legal basis and support for a request to file information confidentially. See CEPR-MI-2016-0009, § A, as amended by the Resolution dated September 20, 2016, CEPR-MI-2016-0009. The memorandum should also include a table that identifies the confidential information, a summary of the legal basis for the confidential designation, and why each claim or designation conforms to the applicable legal basis of confidentiality. *Id.* at ¶ 3.

12. Accordingly, PREPA respectfully requests that Exhibits A through C be afforded full confidential treatment until the conclusion of the evaluation process and execution of the PPOA amendment. The proposed amendment remains a draft subject to the Energy Bureau's evaluation and approval. Below is a summary of the information for which PREPA seeks confidential treatment:

File	Summary of Legal Basis for Confidential Treatment
Ex. A – Letter from Energiza to P3	Deliberative material
Ex. B - Proposed Energiza Amendments Workbook	Deliberative material
Ex. C - Historical spot and futures price data	Deliberative material

WHEREFORE, for the reasons stated above, PREPA respectfully requests that the Energy Bureau take **NOTICE** of the present Motion, **GRANT** confidential treatment to Exhibits A through C, and **DEEM** PREPA in compliance with the July 2-Resolution and Order.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 18th 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>.

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