

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

NEPR

Received:

Jul 21, 2025

5:01 PM

IN RE:

PUERTO RICO ELECTRIC POWER
AUTHORITY RATE REVIEW

CASE NO.: NEPR-AP-2023-0003

SUBJECT: Genera Memorandum of Law in
Support of Confidential Treatment of
Informative Motion filed July 11, 2025

**MEMORANDUM OF LAW IN SUPPORT OF CONFIDENTIAL TREATMENT OF
GENERA'S "INFORMATIVE MOTION IN COMPLIANCE WITH THE HEARING
EXAMINER'S ORDERS DATED JULY 7 AND JULY 10, 2025" FILED ON JULY 11, 2025"**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW GENERA PR LLC ("Genera"), as agent of the Puerto Rico Electric Power Authority ("PREPA"),¹ through its counsels of record, and respectfully state and request the following:

I. Introduction

1. On July 7 and July 10, 2025, the Hearing Examiner issued Orders directing the parties, including Genera PR LLC ("Genera"), to submit the email addresses of their designated witnesses, as well as the emails of counsel who wish to be copied on communications.

2. On July 11, 2025, Genera complied with said Orders by filing an "Informative Motion on Compliance with the Hearing Examiner's Orders Dated July 7 and July 10, 2025"

¹ Pursuant to the *Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement* ("LGA OMA"), dated January 24, 2023, executed by and among PREPA, Genera, and the Puerto Rico Public-Private Partnerships Authority, Genera is the sole operator and administrator of the Legacy Generation Assets (as defined in the LGA OMA) and the sole entity authorized to represent PREPA before PREB with respect to any matter related to the performance of any of the O&M Services provided by Genera under the LGA OMA.

whereby it listed the email addresses of Genera’s officers, currently designated as witnesses in the instant Rate Case².

3. As previously conveyed to the PREB in said motion³, and in compliance with the *Policy on Management of Confidential Information, CEPR-MI-2016-0009* (“PREB’s Policy on Confidential Information”), as amended, Genera submits the instant Memorandum of Law to respectfully request the Energy Bureau to keep restricted and confidential Genera’s “Informative Motion on Compliance with the Hearing Examiner’s Orders Dated July 7 and July 10, 2025”, which contains said email addresses, for the reasons that follow.

II. Identification of Confidential Information

Document Name and File Date	Pages in which Confidential Information is Found, if applicable	Summary of Legal Basis for Confidential Designation, if applicable	Summary of why each claim or designation conforms to the applicable legal basis for confidentiality
<i>“Informative Motion on Compliance with the Hearing Examiner’s Orders Dated July 7 and July 10, 2025”</i> filed by Genera on July 11, 2025.	N/A	Disclosure would compromise data security duties imposed to the Operator per Section 1.3 of the LGA OMA. Hence, disclosure of said officer’s email addresses would compromise the Operator’s information systems and email servers, posing a direct threat of divulging information that could compromise operations and physical security of Critical Energy Infrastructure.	Public disclosure of internal email addresses poses a direct risk of phishing, spoofing, or other cybersecurity breaches that could compromise the operations and maintenance services of Critical Energy Infrastructure, as well as expose the individuals, organization and national power grid to cybersecurity threats. Section 13.3 of the LGA OMA (“Data Security”) requires Operator comply and

² See “Informative Motion on Compliance with the Hearing Examiner’s Orders Dated July 7 and July 10, 2025”, ¶ 4.

³ Id., at p. 2.

		<p>Disclosure would expose nonpublic information, commercially sensitive information, proprietary information, documents and emails that contain privileged attorney-client communications, trade secrets, personally identifiable information, and Facility Information, Owner Personal Information, and Owner Intellectual Property (the last three as defined in Section 1.1 of the LGA OMA).</p>	<p>implement reasonable safeguards regarding data security, cybersecurity and information security with regards to Facility Information and Information Systems.</p> <p>The need to mitigate and prevent cyberattacks directed towards the listed officers email addresses that could hack into the Operator's information systems and emails, and retrieve and disclose Facility Information, Owner Personal Information, and Owner Intellectual Property, as defined in Section 1.1 of the LGA OMA.</p> <p>Also, the risk of—and need to prevent—disclosure of nonpublic, critical energy infrastructure information, commercially sensitive information, proprietary information, or documents and emails that contain privileged attorney-client communications, trade secrets, and personally identifiable information.</p>
--	--	--	--

III. Memorandum of Law in Support of Confidential Treatment

A. Applicable Law

The governing statute for the management of classified information submitted to the Energy Bureau is Section 6.15 of Act No. 57-2014, also known as the “Puerto Rico Energy Transformation and RELIEF Act.” This section stipulates that “[i]f any person who is required to submit information to the Energy [Bureau] believes that the information to be submitted carries a

confidentiality privilege, such person may request the [Bureau] to treat such information as confidential..." 22 L.P.R.A. § 1054n.

If, after conducting a meticulous evaluation, the Energy Bureau determines that the information warrants protection, it is required to "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 Section 6.15(a). Consequently, such information must be withheld from the public domain by the Energy Bureau and "must be duly safeguarded and provided exclusively to the personnel of the Energy [Bureau] who need to know such information under nondisclosure agreements." *Id.* at Section 6.15(c). Therefore, "[t]he Energy [Bureau] must swiftly act on any privilege and confidentiality claim made by a person under its jurisdiction through a resolution for such purposes before any potentially confidential information is disclosed." *Id.* at Section 6.15(d).

Additionally, the Energy Bureau's *Policy on Management of Confidential Information* details the procedures a party should follow to request confidential treatment for a document or a portion of it. The Energy Bureau's Policy on Management of Confidential Information requires identifying confidential information and filing a memorandum of law explaining the legal basis and support for a request to file information confidentially. *See* Section A of the Energy Bureau's Policy on Management of Confidential Information. The memorandum should also include a table that identifies the confidential information, a summary of the legal basis for the confidential designation, and an explanation of why each claim or designation conforms to the applicable legal basis for confidentiality. *Id.* The party seeking confidential treatment of information filed with the Energy Bureau must also file both a "redacted" (or "public") version and an "unredacted" (or "confidential") version of the document that contains the confidential information. *Id.*

In addition to the above, under the LGA Operation and Maintenance Agreement (LGA OMA) dated January 24, 2023 (the “LGA OMA”), Genera is contractually bound to protect sensitive and confidential information from unauthorized disclosure. Section 13.3 (“Data Security”) of the LGA OMA expressly requires Genera to comply and implement reasonable safeguards regarding data security, cyber security and information security in respect to the Facility Information and Information Systems, as defined in the LGA OMA.

Disclosure of internal Operator email addresses, particularly of high-level personnel, directly contravenes this obligation. Email addresses constitute points of access to the Operator’s Information Systems, a term defined under Section 1.1 to include: “a discrete set of electronic information resources organized for the collection, processing, maintenance, use, sharing, dissemination or disposition of electronic information...”.

Related to the above, Section 1.1 LGA OMA also defines “Cybersecurity Breach” means any successful act to gain unauthorized access to, disrupt or misuse an Information System or information stored on such Information System”.

The potential for a cybersecurity breach of the Operator’s email addresses would have immediate consequences regarding nonpublic information, commercially sensitive information, personally identifiable information, and overall Facility Information, Owner Personal Information, and Owner Intellectual Property, as defined in Section 1.1 of the LGA OMA. Additionally, it would compromise the confidentiality of Critical Energy Infrastructure Information (“CEII”), which federal statutes define CEII as:

[S]pecific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (i) relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person in planning an attack on critical infrastructure; (iii) is exempt from mandatory disclosure under the Freedom of Information Act (“FOIA”), 5

U.S.C. 552; and (iv) does not simply reveal the general location of the critical infrastructure."

18 CFR 388.113(c)(2).

Further, "critical electric infrastructure" is defined as "a system or asset of the bulk-power system, whether physical or virtual, the incapacity or destruction of which would negatively affect national security, economic security, public health or safety, or any combination of those matters." *Id.* §388.11(c)(4). As indicated, CEII is exempt from FOIA disclosure and must not be "made available by any Federal, State, political subdivision, or tribal authority under any Federal, State, political subdivision, or tribal law mandating public disclosure of information or records." *Id.* §388.113(c)(1).

B. Grounds for Confidentiality

Genera respectfully submits and requests that the Motion filed on July 11, titled "Informative Motion on Compliance with the Hearing Examiner's Orders Dated July 7 and July 10, 2025", which is non-substantive in scope and lists the email addresses of Genera's witnesses in the instant Rate Case, be deemed and kept as a confidential entry in the instant docket.

Making this motion public would mean releasing the email addresses to the public eye which would expose the Operator's protected information systems to phishing, spoofing, and similar cybersecurity breaches⁴, undermining the Operator's ability to meet its security obligations under the LGA OMA and applicable law. These duties are further heightened given the nature of the assets for which Genera provides its services—Critical Energy Infrastructure—which are uniquely sensitive to operational and power grid security.

As noted, Section 13.3 of the LGA OMA requires the Operator to protect data systems. Public disclosure of the very information contained in the referenced Motion can serve as an entry

⁴ As defined in Section 1.1 of the LGA OMA and cited in a previous paragraph in the instant motion.

point into those systems and exposes Genera to violate the relevant statutes and the LGA OMA regarding its duty to protect and keep confidential any personally identifiable information, Facility Information, Owner Personal Information, Owner Intellectual Property, and nonpublic information such as Critical Energy Infrastructure Information.

The significant risk that individuals with malicious intent could access this sensitive critical infrastructure information and the operator's systems, potentially exploiting or circumventing established protocols, could incite public alarm and national security threats to Puerto Rico's electric grid and its providers of operations and maintenance services. Therefore, maintaining confidentiality of the reference Motion and the email addresses contained therein is not only essential but wholly justified in the interests of national security and public welfare.

WHEREFORE, Genera respectfully requests the Energy Bureau **take notice** of the above and further **GRANT** this request for confidential treatment of the *“Informative Motion on Compliance with the Hearing Examiner's Orders Dated July 7 and July 10, 2025”* filed by Genera on July 11, 2025, which contains nonpublic email addresses.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 21st day of July of 2025.

ECIJA SBGB
PO Box 363068
San Juan, Puerto Rico 00920
Tel. (787) 300.3200
Fax (787) 300.3208

/s/ Jorge Fernández-Reboredo
Jorge Fernández-Reboredo
jfr@sbgbllaw.com
TSPR 9,669

/s/ Stephen David Romero Valle
Stephen David Romero Valle
sromero@sbgblaw.com
RUA No. 21,881

/s/ Gabriela Alejandra Castrodad García
Gabriela Alejandra Castrodad García
gcastrodad@sbgblaw.com
RUA No. 23,584

/s/ José Javier Díaz Alonso
José Javier Díaz Alonso
jdiaz@sbgblaw.com
RUA No. 21,718

CERTIFICATE OF SERVICE

We hereby certify that a true and accurate copy of this motion was filed with the Office of the Clerk of the Energy Bureau using its Electronic Filing System and that we will send an electronic copy of this motion to:

mvalle@gmlex.net; arivera@gmlex.net; jmartinez@gmlex.net; jgonzalez@gmlex.net;
katiuska.bolanos-lugo@us.dlapiper.com; Yahaira.delarosa@us.dlapiper.com;
margarita.mercado@us.dlapiper.com; carolyn.clarkin@us.dlapiper.com;
andrea.chambers@us.dlapiper.com; sromero@sbgblaw.com; gcastrodad@sbgblaw.com;
jfr@sbgblaw.com; regulatory@genera-pr.com; legal@genera-pr.com; hriviera@jrsp.pr.gov;
contratistas@jrsp.pr.gov; victorluisgonzalez@yahoo.com; Cfl@mcvpr.com;
nancy@emmanuelli.law; jrinconlopez@guidehouse.com; Josh.Llamas@fticonsulting.com;
Anu.Sen@fticonsulting.com; Ellen.Smith@fticonsulting.com; Intisarul.Islam@weil.com;
kara.smith@weil.com; rafael.ortiz.mendoza@gmail.com; rolando@emmanuelli.law;
jan.albinolopez@us.dlapiper.com; Rachel.Albanese@us.dlapiper.com;
varoon.sachdev@whitecase.com; jdiaz@sbgblaw.com; javrua@sesapr.org;
Brett.ingerman@us.dlapiper.com; agraitfe@agraitlawpr.com; jpouroman@outlook.com;
epo@amgprlaw.com; loliver@amgprlaw.com; acasellas@amgprlaw.com; matt.barr@weil.com;
Robert.berezin@weil.com; Gabriel.morgan@weil.com; corey.brady@weil.com;
lramos@ramoscruzlegal.com; tlauria@whitecase.com; gkurtz@whitecase.com;
ccolumbres@whitecase.com; isaac.glassman@whitecase.com; tmacwright@whitecase.com;
jcunningham@whitecase.com; mshepherd@whitecase.com; jgreen@whitecase.com;
hburgos@cabprlaw.com; dperez@cabprlaw.com; howard.hawkins@cwt.com;
mark.ellenberg@cwt.com; casey.servais@cwt.com; bill.natbony@cwt.com;
thomas.curtin@cwt.com; escalera@reichardescalera.com; riverac@reichardescalera.com;
susheelkirpalani@quinnemanuel.com; erickay@quinnemanuel.com;
dmonserrate@msglawpr.com; fgierbolini@msglawpr.com; rschell@msglawpr.com;
eric.brunstad@dechert.com; Stephen.zide@dechert.com; David.herman@dechert.com;
Julia@londoneconomics.com; Brian@londoneconomics.com; luke@londoneconomics.com;
juan@londoneconomics.com; mmcgill@gibsondunn.com; LShelfer@gibsondunn.com;
jnieves@cstlawpr.com; arrivera@nuenergypr.com; apc@mcvpr.com;
shempling@scotthemplinglaw.com; rsmithla@aol.com; guy@maxetaenergy.com;
jorge@maxetaenergy.com; rafael@maxetaenergy.com; dawn.bisdorf@gmail.com;
msdady@gmail.com; mcranston29@gmail.com; ahopkins@synapse-energy.com;
clane@synapse-energy.com; kbailey@acciongroup.com; hjudd@acciongroup.com;
zachary.ming@ethree.com; PREBconsultants@acciongroup.com; carl.pechman@keylogic.com;
bernard.neenan@keylogic.com; tara.hamilton@ethree.com; aryeh.goldparker@ethree.com;
roger@maxetaenergy.com; Shadi@acciongroup.com

In San Juan, Puerto Rico, this 21st of July of 2025.

/s/ Stephen D. Romero Valle
Stephen D. Romero Valle