

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

NEPR

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IN RE: IMPLEMENTATION OF THE PUERTO RICO ELECTRIC POWER AUTHORITY INTEGRATED RESOURCE PLAN AND MODIFIED ACTION PLAN

CASE NO.: NEPR-MI-2020-0012

MOTION IN COMPLIANCE WITH RESOLUTION AND ORDER DATED AUGUST 1, 2025

TO THE HONORABLE ENERGY BUREAU,

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

1. On June 30, 2025, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order directing PREPA to engage in negotiations with Pattern Puerto Rico Holdings, LLC ("Pattern") regarding Pattern's proposal to expand the battery storage capacities at the Barceloneta and Santa Isabel sites under their Tranche 1 Energy Storage Service Agreements ("ESSAs"). PREPA was also ordered to submit, within seven days, a proposed amended contract reflecting the negotiated terms, together with all communications among PREPA, LUMA, and Pattern, and any evaluations prepared by consultants.

2. Following a request for an extension, PREPA submitted a motion in compliance on July 22, 2025, including LUMA's technical assessments. The Energy Bureau subsequently issued a Resolution and Order on August 1, 2025 ("August 1

Order")), instructing PREPA to complete the negotiation process and submit any resulting agreement by August 10, 2025, together with all relevant communications and evaluations.

3. In compliance with the August 1 Order, PREPA reassessed Pattern's proposed capacity increase—from 50 MW to 120 MW at Barceloneta, and from 50 MW to 100 MW at Santa Isabel (both at 4-hour duration). On August 6, 2025, PREPA submitted a written communication to Pattern outlining revised terms and conditions under which it would be willing to support the proposed expansions. These conditions included, among others: (1) adoption of a pricing level comparable to the LUMA ASAP program, (2) that the increased capacity not be subject to the escalator clause, similar to the conditions in Tranche 2 and Tranche 4 contracts, and (3) a 20-year contract term.

4. On August 7, 2025, the parties held a virtual meeting, and Pattern responded to PREPA's proposal on the same date. Pattern disagreed with the use of the ASAP as relevant comparators, arguing that such agreements are either not finalized or are market outliers. Pattern emphasized that its Tranche 1 contracts do not contain pass-throughs or other sponsor-favorable terms seen in ASAP agreements and highlighted that its revised pricing already reflects substantial reductions based on project-specific cost savings and interconnection efficiencies. Pattern insisted that the pricing offered is final and cannot be further reduced, though it offered a concession to forego price escalation after year 20, maintaining the same price through its 25-year proposal.

5. Also on August 7, 2025, LUMA submitted a letter clarifying its role under the Transmission and Distribution Operation and Maintenance Agreement ("T&D OMA"). LUMA stated that while PREPA retains full discretion in determining whether to proceed with contract amendments, LUMA remains ready to support interconnection agreements and any required interconnection work once directed by PREPA.

6. PREPA states that it has engaged in good faith negotiations with Pattern, in compliance with the Energy Bureau's directives. As reflected in the exchange of correspondence included in the Exhibits, PREPA and Pattern have held discussions and exchanged proposals to evaluate the feasibility of the proposed capacity expansion. However, to date, the parties have not been able to reach an agreement.

7. It is PREPA's position that the terms proposed by Pattern do not represent the best interests of ratepayers. There are other developers offering pricing lower than PREPA's counterproposal, and alternatives providing significantly lower pricing than the one proposed by Pattern. The ASAP program, reviewed and approved by the Energy Bureau, is among the alternatives that offer better pricing conditions than those proposed by Pattern.

8. In addition, the contractual terms in the ESSAs approved as part of Tranches 2 and 4 are more favorable to PREPA and the public interest than those proposed by Pattern. These agreements include better pricing structures that Pattern has not agreed to incorporate. Pattern did not accept any of the conditions proposed by PREPA and indicated that "Pattern's economics for its

combined Tranche 1 portfolio do not hurdle our investment requirements without the ESSA capacity increases." Based on the foregoing, PREPA cannot accept the terms as offered by Pattern, as they do not represent the best interest of ratepayers.

9. On August 8, 2025, Pattern sent draft amendments to the agreements, which are included as part of the communications between the parties, as ordered by the Energy Bureau in the August 1, 2025 Resolution. Since the parties have not been able to reach an agreement, PREPA cannot validate the submitted drafts.

10. Given that the information contained in the Exhibits attached hereto is part of an evaluation process, incorporates trade or business secrets deemed confidential under applicable law, and has been requested to be maintained in a confidential manner, PREPA hereby requests that the Exhibits be kept confidential.

11. Article 6.15 of the *Puerto Rico Energy Transformation and RELIEF Act* provides 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[.]" Act 57 at Art. 6.15 states that "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).

12. In the exercise of its powers, the PREB and PREPA approved Regulation 8815, which has force of law. *Id.* at Art. 6.3 (b). Regulation 8815 includes language in Art. 10.2 which protects confidential information in those competitive bidding processes contemplated in the regulation. In its pertinent part, it states that “[o]nce the Contract has been executed, the Authority shall make public the report of the Project Committee which shall contain the information related to the procurement, evaluation, scoring, selection and negotiation process, and the information contained in the Proposal as required by law, except trade secrets, proprietary or privileged information of the Proponent clearly identified as such by the Proponent, or information that must otherwise be protected from publication according to law, unless otherwise ordered by a court order, in each case, if the Authority determines that the protection of such information is appropriate.”

13. As previously stated, the exhibits include information that is part of an ongoing negotiation process and incorporates trade or business secrets that Proponents have specifically requested be maintained in a confidential manner.

Accordingly, PREPA respectfully requests that the Energy Bureau find that these documents and information are confidential and thus order that they be maintained under seal.

WHEREFORE, PREPA respectfully requests that the Energy Bureau: (1) take NOTICE of the present Motion; (2) deem PREPA in compliance with the Resolution and Order dated August 1, 2025, and (3) grant confidential treatment to the Exhibits.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 11th day of August 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, laura.rozas@dlapiper.com, yahaira.delarosa@us.dlapiper.com and to Genera PR, LLC through its counsels of record at jfr@sbgblaw.com.

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