

**COMMONWEALTH OF 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

**MEMORANDUM OF LAW IN SUPPORT OF CONFIDENTIAL TREATMENT
OF PATTERN'S URGENT MOTION TO REQUEST CONFIDENTIAL ACCESS TO EXHIBIT A
OF JULY 22 MOTION**

TO THE HONORABLE ENERGY BUREAU:

COMES NOW, Pattern Puerto Rico Holdings LLC ("Pattern") through the undersigned counsel, and very respectfully submits the following:

I. Introduction

On August 5, 2025, Pattern filed an *Urgent Motion to Request Confidential Access to Exhibit A of July 22 Motion* (the "August 5 Motion"). Therein, Pattern respectfully requested a brief ten (10) day term to submit a Memorandum of Law in support of its request for confidential treatment of this motion and its annexes pursuant to the Energy Bureau's Policy of Management Confidential Information, CEPR-MI-2016-0009, issued on August 31, 2016, as amended by the Resolution dated September 21, 2016 ("Policy on Management of Confidential Information") and Section 6.15 of Act No. 57 of May 17, 2014, known as the "Puerto Rico Energy Transformation and Relief Act" (22 LPRA § 1054n).

Pattern hereby respectfully submits the corresponding Memorandum of Law in support of its request for confidential treatment of the August 5 Motion and its annexes. As explained below,

the Honorable Energy Bureau should grant confidential treatment to the August 5 Motion because these materials are the subject of ongoing Bureau-directed negotiations and that contain non-public technical, operational, and economic information. Disclosure of this material at this stage would predictably and materially affect those negotiations, distort bargaining dynamics, and risk competitive harm, to the detriment of Pattern, the Bureau's process and the public interest.

II. Governing framework

The foundational provision on the management of confidential information filed before this Energy Bureau is Section 6.15 of Act No. 57 of May 17, 2014, known as the "Puerto Rico Energy Transformation and Relief Act" (22 LPRA § 1054n).¹ It authorizes any person required to submit information to request confidential treatment whenever the information carries a confidentiality privilege. The Bureau, after evaluating the request, "shall grant such protection in a manner that

¹ Section 6.15 of Act 57-2014, as amended, provides:

If any person who is required to submit information to the Energy Commission believes that the information to be submitted has any confidentiality privilege, such person may request the [Bureau] to treat such information as such, subject to the following:

(a) 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.

(b) To such purposes, the Energy [Bureau] shall provide access to the document or the privileged portion of the document only to the lawyers and external consultants involved in the administrative process after the execution of a confidentiality agreement.

(c) The Energy [Bureau] shall keep the documents submitted for its consideration out of public reach only in exceptional cases. In these cases, 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. However, the Energy [Bureau] shall direct that a non-confidential copy be furnished for public review.

(d) 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.

least affects the public interest, transparency, and the rights of the parties” and “provide access... only to the lawyers and external consultants... after the execution of a confidentiality agreement.” The statute also directs the Bureau to act swiftly on confidentiality claims before disclosure.

The Bureau has implemented this statutory scheme through its Policy on Management of Confidential Information, which details the procedures a party should follow to request that a document or portion thereof be afforded confidential treatment. In essence, the referenced 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, Section A, as amended by the Resolution of September 21, 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. The party seeking confidential treatment of information filed with the Energy Bureau must also file both “redacted” or “public version” and an “unredacted” or “confidential” version of the document that contains confidential information. *Id.* at ¶ 6.

The Policy further provides that, upon validation, materials are treated as “Validated Confidential Information,” and access is conditioned on execution of the Bureau’s Non-Disclosure Agreement (NDA). The NDA sets specific handling, use-restriction, and return/destruction obligations, and authorizes the Bureau to audit compliance—tools that allow the Bureau to protect sensitive negotiations without impairing party access or its own review.

III. Request for Confidential Treatment

Pattern hereby respectfully submits this memorandum in support of confidential treatment for the narrowly redacted portions of the August 5 motion and annexes; materials that consist principally of active negotiation communications among Pattern, PREPA, and LUMA. The Bureau has directed the parties to continue negotiations and to provide “relevant information exchanges” arising in that process. Pattern’s redactions cover exactly that: contemporaneous negotiation communications. Public disclosure now could inevitably affect the course of these evolving negotiations. These are not speculative harms; they are inherent in publishing in-flight negotiating positions during an active, regulator-supervised bargaining process. The statutory solution is to protect the materials from public disclosure now, while allowing NDA-limited access so the proceeding can move forward on a complete record.

IV. Identification of Confidential Information

In compliance with the Energy Bureau’s Policy on Management of Confidential Information, CEPR-MI-2016-0009, below is a table summarizing the hallmarks of this request for confidential treatment.

Document	Pages in which Confidential Information is Found	Summary of Legal Basis for Confidentiality Protection	Date Filed
<i>Urgent Motion to Request Confidential Access to Exhibit A of July 22 Motion</i>	Pages 1-4 of the August 5 Motion and Annexes 1 and 2 of the August 5 Motion.	Section 6.3 of Act 57-2014 (22 LPRA § 1054b). Energy Bureau’s Policy of Management Confidential Information, CEPR-MI-2016-0009,	August 5, 2025

		issued on August 31, 2016, as amended	
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WHEREFORE, Pattern respectfully requests that the Honorable Energy Bureau take notice of the aforementioned and grant this request to grant confidential treatment to the above referenced portions of the August 5 Motion and its annexes.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 15th day of August 2025.

We hereby certify that this document was filed with the Office of the Clerk of the Energy Bureau using the electronic filing system and that we will send an electronic copy of this document to PREPA through its counsel of record at arivera@gmlex.net, and 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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