

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

NEPR

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IN RE:

REQUEST FOR APPROVAL OF THE
ASSET PURCHASE AGREEMENT
BETWEEN NFE POWER PR LLC AND
THE PUERTO RICO ELECTRIC POWER
AUTHORITY

CASE NO.: NEPR-AP-2024-0001

SUBJECT: Motion to Consolidate Cases
NEPR-AP-2024-0001 and NEPR-IN-2025-0004

MOTION TO CONSOLIDATE CASES

TO THE PUERTO RICO ENERGY BUREAU:

COMES NOW, GENERA PR, LLC (“Genera”), through its undersigned counsel and, very respectfully, states and prays as follows:

I. INTRODUCTION

On March 13, 2020, the Puerto Rico Energy Bureau (“PREB”) opened docket number NEPR-MI-2020-001 to address and handle procedures related to the Puerto Rico Electric Power Authority’s (“PREPA”) Permanent Rate. This docket is often referred to as the “tariff docket.” Several matters and continuing reports have been filed, and are being filed, under this docket for the past five years related to the implementation of reasonable energy rates.

Thereafter, the PREB opened these additional two dockets: NEPR-AP-2024-0001, concerning the “Request for Approval of the Asset Purchase Agreement between NFE Power PR LLC and PREPA”; and NEPR-IN-2025-0004, concerning the “Investigation into Dual-Fuel Capability (diesel and natural gas) of the TM2500 Units at San Juan and Palo Seco.”

As will be discussed below, each of these proceedings, in their current procedural posture, addresses common questions of law and fact surrounding the dual-fuel capability of PREPA’s temporary and permanent generation assets, the infrastructure for fuel-switching, and the

allocation of related costs between PREPA, Genera and ratepayers. Accordingly, consolidation is proper as a matter of law, and it is desirable as a means to advance procedural economy and efficiency.

II. RELEVANT BACKGROUND

On July 16, 2025, the PREB issued a *Resolution and Order* in case NEPR-AP-2024-0001, wherein it noted, based on a press report, the alleged lack of infrastructure to enable fuel switching from natural gas to diesel in the temporary units in the Palo and San Juan Power Plants. These temporary units were installed by the Federal Emergency Management Agency (“FEMA”) and the U.S. Army Corps of Engineers (“USACE”) after a generation shortfall related to the impact of Hurricane Fiona.

In light of the foregoing, the PREB required Genera to clarify, within ten (10) days, the origin of the situation referenced in the cited press article. In particular, Genera was asked to explain why the necessary infrastructure to effectuate the fuel switch was not available, “in light of the repeated assertions” that the units in question “were dual-fuel capable.”

In addition, the PREB ordered Genera and PREPA to submit, beginning on August 15, 2025, and on the 15th day of each subsequent month, **a monthly report in docket NEPR-MI-2020-0001**. Said report must describe in detail any incidents and limitations arising from the inability to switch between natural gas and diesel, as well as the operational impact of such situation (including unmet generation or downtime hours). The report must also include all supporting documentation—technical evaluations, internal and external communications, and corrective or mitigation measures implemented or planned—and provide a full breakdown of contractual claims filed with the natural gas supplier, identifying the cause of each event, the actions taken to resolve them, and the results obtained. Finally, the report must be accompanied by

copies of letters, memoranda, emails, and any other supporting documentation, particularly those covering all communications regarding natural gas nominations since the start of the contract.

On July 22, 2025, Genera filed its *Escrito en Cumplimiento de Orden* in docket NEPR-AP-2024-0001, presenting answers to the questions relating to the press article and raising additional technical, logistical, and budgetary considerations. After reviewing Genera's filing, the PREB issued a *Resolution* on July 24, 2025, opening docket NEPR-IN-2025-0004 to commence an investigative proceeding to evaluate the alleged issues related to fuel logistics, operational readiness, infrastructure adequacy, among others.

On August 7, 2025, the PREB issued a *Resolution and Order* in docket docket NEPR-IN-2025-0004, in which it stated that "clarification is necessary to ensure the reliability of emergency generation resources vital to the public interest." Accordingly, Genera was required to submit, within ten days, the additional information set forth in Attachment A of that *Resolution and Order*. The aforesaid Attachment A to the August 7 *Resolution* requires Genera to produce information about the following topics:

- (i) On-site Diesel Storage San Juan;
- (ii) Integration of Control Systems with Fuel Management;
- (iii) Mitigation of Supply-Chain Vulnerability;
- (iv) Constraints Affecting the Gas-to-ULSD Change-Over;
- (v) ULSD Infrastructure at San Juan and Palo Seco;
- (vi) Status and Cost of Palo Seco Reserve Tank 3 Conversion;
- (vii) ULSD Readiness for San Juan Units 5-6 and TM2500s;
- (viii) Original Funding of Tank R3 Conversion;
- (ix) Pursuit of Additional External Funding.

A review of the foregoing shows that, collectively, these matters all concern (i) the dual-fuel capacity of PREPA's generation units; (ii) the sufficiency of infrastructure for fuel switching; (iii) related operational costs; and (iv) the regulatory treatment of such costs. Therefore, Genera posits that consolidation is proper as a matter of law.

III. ARGUMENT

Section 2.01 of PREB Regulation 8543 authorizes the PREB to use the Puerto Rico Rules of Civil Procedure and Rules of Evidence as supplemental authority to analyze and resolve cases before it. Accordingly, Genera hereby invokes the provisions of Rule 38 of the Puerto Rico Rules of Civil Procedure, 32 LPRA Ap. V R. 38, which provides as follows:

When cases involving common questions of fact or law are pending before the court, the court may order a single hearing or trial of any or all of the disputed issues covered by such disputes, may order that all disputes be consolidated, and may make such orders in this respect as avoid unnecessary expense or delay. (Translation ours).

The purpose of consolidation is “to avoid the proliferation of actions, to achieve procedural economy and to avoid the undesirable probability of incompatible judgments arising from the same incident.” *Vives Vázquez v. E.L.A.*, 142 DPR 117, 125 (1996); *Granados v. Rodríguez Estrada II*, 124 DPR 593, 608 (1989). In our jurisdiction, consolidation is an additional mechanism available to courts to ensure that the cases before it produce a “fair, prompt and economical solution, as established by Rule 1 of Civil Procedure.” *Vives Vázquez*, 142 DPR at p. 125.

Here, all three relevant dockets—NEPR-AP-2024-0001, NEPR-IN-2025-0004, and NEPR-MI-2020-0001—turn on the same underlying factual and legal issues: the nature and scope of dual-fuel capability, PREPA and Genera’s compliance with statutory obligations (Act 17-2019, Act 57-2014), and the costs associated with it, which in turn, relate eventually to energy rates. In view of the fact that all three dockets have common issues of fact and law, and in order to simplify the processes and avoid inconsistent results, it is very respectfully requested that an order be issued consolidating case NEPR-AP-2024-0001 into NEPR-IN-2025-0004. Since the PREB’s requests for information are investigative in nature, Genera proposes that the cases be consolidated into the Investigation Docket, namely, NEPR-IN-2025-0004. Accordingly, Genera also requests that the order to present monthly reports be fulfilled in docket NEPR-IN-2025-0004 instead of docket

NEPR-MI-2020-0001. Genera also requests that the PREB stays all three cases pending a ruling on the motion to consolidate.

WHEREFORE, Genera respectfully requests the PREB to take notice of the foregoing and consolidate dockets NEPR-AP-2024-0001 and NEPR-IN-2025-0004. In addition, that the PREB direct that all future filings, reports, compliance submissions, and monthly reports related to the dual-fuel capability of PREPA's units and related cost issues be made under NEPR-IN-2025-0004, instead of NEPR-MI-2020-0001. Finally, Genera requests that the PREB stay all three cases pending a ruling on the motion to consolidate.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 22th day of August, 2025.

It is hereby certified that this motion was filed using the electronic filing system of the PREB, and that electronic copies of this Motion will be notified to the following arivera@gmlex.net; mvalle@gmlex.net; margarita.mercado@us.dlapiper.com; laura.rozas@us.dlapiper.com, and yahaira.delarosa@us.dlapiper.com

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