

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

NEPR

Received:

Sep 30, 2025

5:10 PM

IN RE: PUERTO RICO ELECTRIC
POWER AUTHORITY RATE REVIEW

CASE NO.: NEPR-AP-2023-0003

SUBJECT: Memorandum of Law in Support of
Confidential Treatment of Portions of Genera's
Response to PC-of-GENERA-NONPHYS_OPS-35

**MEMORANDUM OF LAW IN SUPPORT OF CONFIDENTIAL TREATMENT OF
PORTIONS OF GENERA'S RESPONSES TO REQUEST FOR INFORMATION
PC-of-GENERA-NONPHYS_OPS-35**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW, Genera PR LLC ("Genera"), as agent of the Puerto Rico Electric Power Authority ("PREPA"), through its undersigned counsels, and respectfully states and requests the following:

I. Introduction

1. On August 10, 2025, the Puerto Rico Energy Bureau ("Energy Bureau") Consultants ("PREB Consultants") issued a Request for Information ("ROI") to Genera under the Nonphysical Operations category. The ROI ID assigned by the Accion Platform is PC-of-GENERA-NONPHYS_OPS-35 ("OPS-35"). The ROI stated as follows:

Refer to Exhibit Genera 30 at 15-18 which discusses the Company insurance budget

- a. Provide a list of all insurance coverages currently held by Genera
 - b. For each coverage provide the premium cost, term of coverage, and the last time the Company shopped for additional coverage options from different carriers
 - c. Provide the minimum insurance requirements contained in the OMA
2. On August 27, 2025, following an extension, Genera submitted its initial response to OPS-35.

3. On September 11, 2025, the PREB Consultants issued follow-up questions to OPS-35, requesting Genera's insurance coverage limits, deductibles, and waivers justifications under the *Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement* ("LG-OMA"). The follow-up questions read as follows:

Refer to the response to Genera-NonPhys Ops-35:

1. For each insurance coverage provide the coverage limits and deductible.
 2. Please detail are (sic) insurance requirements that have been waived in whole or in part pursuant to Section 10.2 of the OMA. For each coverage waived in whole or in part detail why it was wa[i]ved. If the waiver is due to coverage not being available on commercially reasonable terms, provide the terms available and why the Company considered them "not reasonable"[]
 3. Provide any approvals or documentation the Company has related to waiving certain insurance requirements from PREB or any other entity.
4. On September 23, 2025, Genera informed PREB Consultant Kate Bailey that, in preparing its responses to the follow-up questions, it had identified an issue with answer (b) to the ROI submitted on August 27, 2025. Specifically, an attachment was filed that inadvertently included a column reflecting Genera's cost/allocation, which should have been treated as confidential and redacted. Genera advised that it would correct this by substituting response (b) and the corresponding attachment with both (i) a redacted public version and (ii) a confidential, unredacted version.
5. On September 24, 2025, the Hearing Examiner issued an *Interim Protective Order on Inadvertent Disclosure*. The Order noted that Genera's August 27 submission to OPS-35 included an attachment containing unredacted confidential insurance cost information and, accordingly, established corrective procedures. Specifically, the Order: (i) directed the platform administrator to certify deletion of the document and

- provide an access log; (ii) required Genera to file its memorandum of law and upload corrected redacted and confidential versions; (iii) ordered all parties to cease reviewing and to sequester or destroy the unredacted attachment; and (iv) limited access to the corrected confidential version to PREB consultants and individuals bound by a nondisclosure agreement.
6. On September 24, 2025, Genera filed a revised response to the initial ROI OPS-35, resubmitting the attachment to response (b) in both a redacted public version and a confidential unredacted version. That attachment contains Genera's cost or allocation for the insurance program.
 7. On the same date, Genera also filed its responses to the follow-up questions issued by the PREB Consultants regarding OPS-35, including correspondence to the Puerto Rico Public-Private Partnerships Authority ("P3A") submitted with its answer to follow-up question 3, which addresses Genera's waiver justifications under Section 10.2 of the LG-OMA, policy coverage limits, and deductibles.

II. Basis for Confidential Treatment and Applicable Law

8. Both of these submissions contain proprietary and commercially sensitive information constituting trade secrets, for which Genera respectfully seeks protection pursuant to the Energy Bureau's *Policy on Management of Confidential Information* (Case No. CEPR-MI-2016-0009), as amended (the "Policy on Confidential Information"), and the *Puerto Rico Trade Secrets Act*, Act 80-2011, 10 L.P.R.A. §4131 *et seq.* ("Trade Secrets Act").
9. Genera submits the instant Memorandum of Law to respectfully request the Energy Bureau to keep restricted and confidential the portions of Genera's responses to ROI

OPS-35, including the revised attachment to response (b) and the correspondence submitted with the answer to follow-up question 3, for the reasons that follow.

10. Specific portions of these filings fall squarely within the scope of information protected from public disclosure. They include confidential cost allocations, premium structures, waiver justifications, coverage limits, and other critical insurance program details. The disclosure of this data would provide third parties with unfair commercial insight into Genera's contractual arrangements, financial exposures, and risk management strategies. Public release of this information would severely compromise Genera's ability to negotiate competitive insurance terms, undermine its position in future procurement processes, and expose sensitive internal assessments that are not otherwise obtainable by lawful means. Accordingly, these materials qualify for protection under the Policy on Confidential Information and the Trade Secrets Act.
11. The Policy on Confidential Information requires parties seeking confidential designation to file both an unredacted confidential version and a redacted public version of the materials at issue. It further establishes that trade secrets and proprietary business information constitute "Valid Confidential Information."
12. The Trade Secrets Act protects from disclosure information that: (i) derives independent economic value, actual or potential, from not being generally known; (ii) is not readily ascertainable by proper means; and (iii) is subject to reasonable efforts to maintain its secrecy. Act 80-2011, 10 L.P.R.A. §4131 *et seq.* The information contained in OPS-35 meets each of these statutory elements.
13. Section 6.15 of Act 57-2014, the *Puerto Rico Energy Transformation and RELIEF Act*, likewise authorizes any party required to submit information to the Energy Bureau to

request confidential treatment when disclosure would compromise privileged, commercially sensitive, or critical information. 22 L.P.R.A. §1054n. The statute obligates the Energy Bureau to protect such information in a manner that safeguards confidentiality while balancing transparency and the rights of participants in the proceeding.

14. Genera's revised attachment to response (b) of OPS-35 contains cost allocation data that directly reveals Genera's insurance expenses and internal budgeting. Disclosure would prejudice Genera in negotiations with insurers and counterparties by revealing proprietary financial information not otherwise available by lawful means. This data derives independent economic value from its secrecy and is maintained under strict confidentiality measures, qualifying as a trade secret under Act 80-2011.
15. The correspondence to the P3A submitted with Genera's response to follow-up question 3 includes detailed waiver justifications under Section 10.2 of the LG-OMA, along with policy coverage limits, deductibles, renewal premiums, assessment fees, estimated total costs, and fiscal year deltas. Disclosure would provide counterparties with direct insights into Genera's negotiating positions and internal risk analyses—information that plainly constitutes a trade secret and proprietary business information under Puerto Rico law.
16. Both filings thus qualify as "Valid Confidential Information" under the Bureau's Policy on Confidential Information and as trade secrets under Act 80-2011. Consistent with the Policy, Genera has filed both confidential unredacted versions and public redacted versions of these materials, ensuring that the Energy Bureau and intervenors retain full access to the necessary information while protecting Genera's proprietary and

commercially sensitive data from public disclosure.

17. Protecting this confidential information will not impair the Energy Bureau's or intervenors' ability to review Genera's discovery responses, nor will it interfere with the adjudicative process in this proceeding. On balance, the public interest in safeguarding commercially sensitive insurance and risk-management data outweighs any interest in unrestricted disclosure.

III. Identification of Confidential Information

18. In compliance with the Energy Bureau's Policy on Confidential Information, below is a table identifying the confidential information and summarizing the basis for this request for confidential treatment:

Document Name and Filing Date	Confidential Portions	Legal Basis for Confidentiality	Summary for Justification
PC-of-GENERA-NONPHYS_OPS-35 – INSURANCE (B) (Attachment to Response (b)). Filed on Sept. 24, 2025	Premium data and cost allocations for Genera's insurance program	Policy on Confidential Information; Puerto Rico Trade Secrets Act; Act 57-2014 §6.15	Premium and cost allocation data are proprietary and commercially sensitive. Disclosure would provide insurers and third parties undue economic advantage, undermine Genera's negotiating position, and compromise its ability to secure competitive insurance terms.
PC-of-GENERA-NONPHYS_OPS-35 FUP (3) – Certificate of Insurance (Attachment to Response to Follow-Up Q.3). Filed on Sept. 24, 2025.	Renewal premium costs, assessment fees, estimated total costs, annual changes for FY2025 and FY2026, and the identification of coverages waived in whole or in part under LG-OMA Sec. 10.2	Policy on Confidential Information; Puerto Rico Trade Secrets Act; Act 57-2014 §6.15; LG-OMA Annex XIII & Sec. 10.2	Disclosure would provide counterparties unfair insight into Genera's waiver justifications, coverage strategies, and financial exposures, undermining future procurement and compliance with contractual obligations.

WHEREFORE, Genera respectfully requests that the Puerto Rico Energy Bureau: (a) take notice of the foregoing; (b) accept this Memorandum of Law in support of the confidential treatment of portions of Genera's responses to ROI OPS-35; (c) grant Genera's request to maintain

the above-identified portions in redacted public and unredacted confidential versions, consistent with the Energy Bureau's Policy on Confidential Information and applicable law, and (d) grant such other and further relief as the Energy Bureau deems appropriate.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 30th day of September 2025.

WE HEREBY CERTIFY that this Motion was filed using the electronic filing system of this Energy Bureau and that electronic copies of this motion will be notified to the Hearing Examiner, Scott Hempling, shempling@scotthemplinglaw.com; and to the attorneys of the parties of record.

A courtesy copy of the present Motion will also be notified to the following:

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