

COMMONWEALTH OF PUERTO RICO
PUERTO RICO PUBLIC SERVICE REGULATORY BOARD
PUERTO RICO ENERGY BUREAU

NEPR

Received:

Dec 29, 2025

4:14 PM

IN RE: ELECTRIC SYSTEM PRIORITY
STABILIZATION PLAN

CASE NO.: NEPR-MI-2024-0005

SUBJECT: Directives regarding PREPA's
Proposed Contract Resulting from Temporary
Emergency Power Generation.

**MEMORANDUM OF LAW IN SUPPORT OF CONFIDENTIAL TREATMENT
OF REDACTED LANGUAGE AND EXHIBITS 7 TO 9 OF JAVELIN'S MOTION TO VACATE
RESOLUTION AND ORDER OF DECEMBER 11, 2025**

TO THE HONORABLE ENERGY BUREAU:

COMES NOW, Javelin Global Commodities US Holdings Inc. and its wholly owned subsidiary Global Power Solutions (PR) LLC (collectively, "Javelin"), through the undersigned counsel, and very respectfully submits the following:

I. INTRODUCTION

On December 29, 2025, Javelin filed its *Motion to Vacate Resolution and Order of December 11, 2025* (the "Motion to Vacate") in the above captioned case. Therein, Javelin redacted certain language and requested that its exhibits 7 through 9 be given confidential treatment pursuant to the Energy Bureau's Policy on Management of Confidential Information, CEPR-MI-2016-0009, issued on August 31, 2016, 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).

Javelin respectfully submits this Memorandum of Law in support of its request for confidential treatment of the redacted language in the Motion to Vacate and its Exhibits 7 through 9. As explained below, the Honorable Energy Bureau should grant confidential treatment to these

materials because they pertain to an ongoing competitive procurement process, and contain sensitive non-public, technical, operational, and economic information provided under a Non-Disclosure Agreement (“NDA”) executed by and between the Public-Private Partnerships Authority (“3PPO”), on behalf of the Puerto Rico Electric Power Authority (“PREPA”), and Javelin in connection with the Request for Proposal for Emergency Temporary Power Generation (RFP 3PPO-0314-20-TPG2). Public disclosure of these materials at this juncture would foreseeably and materially affect those negotiations, distort bargaining dynamics, and risk competitive harm, to the detriment of Javelin, the 3PPO’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

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.

privilege. The Bureau, after evaluating the request, “shall grant such protection in a manner that 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.

III. REQUEST FOR CONFIDENTIAL TREATMENT

Javelin respectfully submits this memorandum in support of confidential treatment for the narrowly redacted portions of the Motion to Vacate and its Exhibits 7 through 9. The redactions cover active negotiation communications between Javelin and the 3PPO that are governed by an NDA. Public disclosure at this juncture would inevitably affect the course of these evolving negotiations.

Under the NDA, the 3PPO and Javelin agreed to treat as confidential any information (written, oral, or otherwise) related to the Request for Proposal. The parties structured their negotiations in reliance on the NDA’s confidentiality commitments. Compelled public disclosure

would defeat those bargained-for expectations, risk contractual exposure, and undermine the procurement process. These are not speculative harms; they are inherent in publishing in-flight negotiating positions during an active procurement process. Once the information is public, confidentiality cannot be restored. The harm to negotiating leverage and competitive position is immediate and non-remediable, which is precisely why the NDA exists and why procurement-stage materials are commonly protected. The statutory solution is to protect the materials from public disclosure now, while allowing NDA-limited access pursuant to the Policy on Management of Confidential Information 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>Motion to Vacate</i>	Pages 10-14.	Section 6.3 of Act 57-2014 (22 LPRA § 1054b). Energy Bureau's Policy of Management Confidential Information, CEPR-MI-2016-0009, issued on August 31, 2016, as amended	December 29, 2025
<i>Exhibit 7 of the Motion to Vacate</i>	Totality of the exhibit.	Section 6.3 of Act 57-2014 (22 LPRA § 1054b). Energy Bureau's Policy of Management Confidential Information, CEPR-MI-2016-0009,	December 29, 2025.

		issued on August 31, 2016, as amended	
<i>Exhibit 8 of the Motion to Vacate</i>	Totality of the exhibit	Section 6.3 of Act 57-2014 (22 LPRA § 1054b). Energy Bureau's Policy of Management Confidential Information, CEPR-MI-2016-0009, issued on August 31, 2016, as amended	December 29, 2025
<i>Exhibit 9 of the Motion to Vacate</i>	Totality of the exhibit	Section 6.3 of Act 57-2014 (22 LPRA § 1054b). Energy Bureau's Policy of Management Confidential Information, CEPR-MI-2016-0009, issued on August 31, 2016, as amended	December 29, 2025

WHEREFORE, Javelin 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 18 Motion and its attachments.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 29th day of December, 2025.

WE HEREBY CERTIFY that this motion was filed using the Energy Bureau's electronic filing system and that electronic copies of this motion will be notified to the following via email:

alexis.rivera@prepa.pr.gov; lrn@romannegron.com; legal@genera-pr.com;
RegulatoryPREBorders@lumapr.com; regulatory@genera-pr.com;
emmanuel.porrogonzalez@us.dlapiper.com; laura.rozas@us.dlapiper.com; and
margarita.mercado@us.dlapiper.com.

McCONNELL VALDÉS LLC
Attorneys for Petitioner
Javelin Global Commodities US Holdings Inc.
PO Box 364225
San Juan, Puerto Rico 00936-4225
270 Avenida Muñoz Rivera
Hato Rey, Puerto Rico 00918
Teléfono: (787) 759-9292
Telefax: (787) 759-8282

f/ Juan A. Marqués Díaz
Juan A. Marqués Díaz
RUA 9977
jam@mcvpr.com

s/Javier A. Aquino-Vidal
Javier A. Aquino-Vidal
RUA 22,154
jav@mcvpr.com

f/André J. Palerm Colón
André J. Palerm
apc@mcvpr.com
RUA 21196