

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

NEPR

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IN RE: ACCELERATED EVALUATION OF
RENEWABLE ENERGY AND ENERGY
STORAGE PROJECT PROPOSALS TO
SECURE FEDERAL INVESTMENT TAX
CREDITS (ITCS)

CASE NO.: NEPR-MI-2025-0005

**MOTION IN COMPLIANCE WITH JANUARY 16 2025 RESOLUTION, AND
MEMORANDUM OF LAW IN SUPPORT OF REQUEST FOR CONFIDENTIAL TREATMENT**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW the Puerto Rico Electric Power Authority ("PREPA"), through its counsel of record, and respectfully submits and prays as follows:

I. **Procedural Background**

1. On December 30, 2025, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order approving the procurement of selected renewable energy and energy storage projects and directing PREPA to commence and complete negotiations with the selected proponents within ten (10) business days.

2. On December 31, 2025, one day after the issuance of the Resolution and Order, PREPA formally notified the selected proponents of the Energy Bureau's determination, including the Tranche 4 RFP model contract, thereby initiating the negotiation process ordered by the Energy Bureau.

3. In that correspondence, PREPA expressly:

- a. confirmed that negotiations were being initiated pursuant to the Energy Bureau's directive;
- b. established the Tranche 4 RFP model contract as the baseline framework;
- c. requested the proponents' availability and the submission of draft contracts; and
- d. reiterated that any proposed modifications should not materially depart from the approved model contract.

4. On January 16, 2026, the Energy Bureau issued a Resolution directing PREPA to promptly initiate contract negotiations with the selected proponents. The Resolution further requires PREPA to submit a report on the status of these negotiations within ten (10) days, followed by additional status updates every five (5) days thereafter until the conclusion of the negotiation process. The deadline for completing all negotiations is set for **February 15, 2026**.

5. On January 23, 2026, PREPA issued various follow-up letters reiterating its request for the materials necessary to advance negotiations in strict compliance with the Energy Bureau's directives. Consistent with the PREB's determination and Executive Order OE-2025-047, PREPA reiterated to all selected proponents that proposals submitted through this process must demonstrate competitive pricing and clear economic benefits for ratepayers.

6. PREPA continues to advance the negotiation process and remains

committed to complying fully with the Energy Bureau's directives, with the goal of submitting negotiated contracts on or before February 15, 2026, to the extent practicable.

II. **Request for Confidential Treatment**

1. PREPA respectfully requests confidential treatment of Exhibit I. The exhibit contains ongoing deliberative materials. Disclosure at this stage would undermine the integrity of the decision-making process and is, therefore, protected under the deliberative process privilege until the negotiation process concludes.

2. Although documents held by public corporations such as PREPA are generally presumed to be public, access to such documents is not absolute. The Puerto Rico Supreme Court has recognized that only documents that truly enjoy public status are subject to mandatory disclosure. Bhatia Gautier v. Gobernador, 199 D.P.R. 59, 82 (2017); Ortiz v. Director de la Administración de los Tribunales, 152 D.P.R. 161 (2000).

3. According to Bhatia Gautier v. Gobernador, the government may validly withhold information when (i) a law so authorizes; (ii) the information is protected by evidentiary privileges; (iii) its disclosure may harm third parties' fundamental rights; (iv) it identifies a confidential source; or (v) it qualifies as "official information" under Rule 514 of Evidence. *Id.* at 83.

4. The Puerto Rico Supreme Court has expressly held that "documents that pertain to pre-decisional and deliberative processes may be shielded from public

disclosure.” *Id.* at 86. This deliberative process privilege protects materials that are (i) pre-decisional—created before the agency’s final determination, and (ii) deliberative—reflecting internal opinions, assessments, and recommendations critical to policy formulation.

5. In addition, Article 4(iv) of the Puerto Rico Government Open Data Act, Act 122-2019, codified at 3 L.P.R.A. § 9894, explicitly exempts from disclosure “[i]nformation and official information related to decision-making in public policy-making processes, as recognized by case law,” including deliberative materials.

6. Below is a summary of the information for which PREPA seeks confidential treatment:

File	Summary of Legal Basis for Confidential Treatment
Exhibit I	Deliberative material

7. PREPA respectfully requests that the aforementioned exhibit remain confidential until the negotiation and approval process concludes.

WHEREFORE, for the reasons stated above, PREPA respectfully requests that the Energy Bureau take: (1) **NOTICE** of the present Motion; (2) **DEEM** PREPA in compliance with the January 16 Resolution and Order; and (3) **GRANT** confidential treatment to Exhibit I.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 26th day of January 2026.

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>.

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