

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

NEPR

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

SUBJECT: Resolution and Order Approving
the Procurement of Selected Energy
Storage Projects

Received:

Jan 27, 2026

6:14 PM

URGENT MOTION FOR RELIEF AND NOTICE

TO THE HONORABLE ENERGY BUREAU:

COMES NOW, the undersigned counsel, on behalf of an interested proponent (“Interested Proponent”) in the above-captioned proceeding, and hereby respectfully states, alleges, and prays, as follows:

1. On December 30, 2025, the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) issued a Resolution and Order approving certain renewable energy and storage projects under Request for Proposal Power Advocate Event 237366 (“RFP”) and directing the Puerto Rico Electric Power Authority (“PREPA”) to commence and complete negotiations with the proponents of the approved projects and to submit the corresponding negotiated draft contracts for final evaluation and approval by the Energy Bureau within ten (10) business days thereof (“December 30 Order”). The term granted expired January 15, 2026.
2. On January 14, 2026, the Interested Proponent filed a Motion for Clarification (“January 14 Motion”) notifying the Energy Bureau that, as of that date, PREPA had not acknowledged the Interested Proponent’s communications nor provided any guidance regarding scheduling or other information that would facilitate an initial negotiation session.
3. On January 16, 2026, the Energy Bureau issued a Resolution and Order (“January 16 Order”) ordering PREPA to immediately commence the contract negotiation process with the selected proponents and submit a report on the status of such negotiations within ten (10) days thereof and every five (5) days thereafter until negotiations are completed, on or prior to February 15, 2026.
4. The Interested Proponent hereby respectfully notifies that, following the filing of the January 14 Motion at 9:52 a.m., it received a communication from PREPA later that same day at 11:09 a.m., requesting that the Interested Proponent submit its redlines to the Tranche 4 model contracts by Friday, January 16, 2026. The Interested Proponent responded to PREPA’s request by submitting the requested redlines later that same day, at 9:09 p.m.¹ This was followed by a subsequent communication from the Interested Proponent following up on its submission on January 20, 2026, at 8:02 p.m.

¹ The Interested Proponent submitted redlines to the Tranche 4 model contracts, including the Energy Storage Services Agreement Interconnecting at Existing Point of Interconnection (“ESSA”), the Power Purchase and Operating Agreement Interconnecting at Existing Point of Interconnection (“PPOA”), as well as the most recently available Tranche 2 draft of the Interconnection Agreement IC Greenfield Interconnection Facilities.

5. On January 23, 2026 at 5:27 p.m., the Interested Proponent received a letter from PREPA (“January 23 Letter”) in which PREPA:

- (i) acknowledged receipt of the Interested Proponents redlines to the Tranche 4 model contracts;
- (ii) referred to the Interested Proponent as a different developer in the body of the letter (although the letter was correctly addressed to the Interested Proponent), suggesting that the correspondence was likely copied from another proponent’s letter;
- (iii) imposed a \$110/MWh price cap comparable to the lowest Levelized Cost of Energy (LCOE) awarded under the Tranche 1 RFP, while stating that no price escalators, indexation formulas, or any other form of price adjustment would be permitted;
- (iv) failed to provide any substantive reaction, comments, feedback, or identification of specific issues with respect to the Interested Proponent’s redlines to the Tranche 4 model contracts; and
- (v) failed to identify any proposed next steps, timelines, meeting schedules, or other indicia of the negotiation process PREPA intends to follow or that should be expected in the ordinary course of good-faith negotiations.

6. On January 26, 2026, at 2:56 p.m., the Interested Proponent submitted a response to PREPA in which it acknowledged receipt of the January 23 Letter and, among other things, noted that PREPA’s unwillingness to make itself available to engage in good-faith negotiations - as evidenced by the unequivocal tone and substance of PREPA’s January 23 letter and the absence of guidance regarding scheduling or other information that would facilitate an initial negotiation session - had forced the Interested Proponent to conclude that PREPA does not intend to engage in substantive negotiations.

7. Later that same day at 4:16 p.m., the Interested Proponent received another letter from PREPA (“January 26 Letter”) containing the same deficiencies identified in the January 23 Letter; provided, however, that PREPA replaced the pricing provision referenced therein regarding a \$110/MWh price cap for energy generation (which appears to have been directed to another proponent and mistakenly included in the January 23 Letter) with a provision stating that the price under the ESSA must be fixed for the full twenty (20)-year term commencing on the Commercial Operation Date and shall be as follows: (i) \$16,000.00 per MW-month if the Interested Proponent secures the applicable Investment Tax Credits (“ITCs”); or (ii) \$20,000.00 per MW-month if the Interested Proponent is unable to secure such ITCs, or if the ITCs are cancelled or otherwise terminated. In its transmittal, PREPA stated that the January 26 Letter cancels and supersedes the January 23 Letter. The January 26 Letter omitted any reference to the energy generation component of the Interested Proponent’s proposal.

8. On January 27, 2026, at 5:49 p.m., the Interested Proponent submitted a response to PREPA in which it reiterated its prior concerns and further noted that the January 26 Letter provided no comment or engagement with respect to the Interested Proponent’s proposed PPOA pricing. The Interested Proponent also emphasized that the absence of any response on PPOA pricing is particularly troubling given that the Interested Proponent’s proposal reflects a co-located storage-plus-solar configuration designed to reduce overall system costs, improve dispatch flexibility, and mitigate PREPA’s reliance on higher-cost thermal generation, particularly in light of

PREPA's publicly acknowledged generation shortfall and the resulting need for near-term, reliable energy resources. The Interested Proponent further stated that it expects this omission to be in error, given the Executive Order and the Energy Bureau's mandate to negotiate PPOAs, whether or not they included storage capacity. Alternatively, if the omission reflects a decision not to engage the Interested Proponent's competitive pricing proposal, the Interested Proponent posited that such an approach would be inconsistent with PREPA's obligation to pursue least-cost, reliable resources for Puerto Rico's electrical system.

9. The Interested Proponent respectfully submits that, as of this date, twenty-eight (28) days after the December 30 Order, it has not been engaged by PREPA to initiate any form of substantive negotiations. In fact, to date, the Interested Proponent still does not know the scope or extent of the Energy Bureau's approval of its proposal pursuant to Attachment A of the December 30 Order, nor of PREPA's intentions regarding the acceptance of its co-located offering.

10. Given PREPA's lack of guidance and failure to provide direction in this negotiation process, the unequivocal tone and substance of the January 23 Letter and the January 26 Letter, and the fact that ten (10) days have transpired since the January 16 Order without the initiation of negotiations, the Interested Proponent remains compelled to conclude that PREPA does not intend to engage in substantive negotiations. Moreover, PREPA appears to be imposing hard, arbitrary price caps - which were not included as requirements in the RFP - without any intention of negotiating projects that qualify for ITCs and that would ensure competitive pricing and meaningful economic benefits to the electric system and ratepayers, in contravention of the Governor's Executive Order OE-2025-047 ("Executive Order"), the Energy Bureau's corresponding Orders, and the longstanding legal principle requiring government agencies to clearly set forth in their RFPs all requirements, terms and conditions, and the factors that will be considered in evaluating and awarding a bid.

11. In view of the foregoing, and considering the urgency of this procurement process, including the applicable federal ITC deadlines and the limited timeframe for the completion of negotiations, **the undersigned respectfully and urgently submits this Motion to request the Energy Bureau's direct intervention in this negotiation process. Specifically, the Interested Proponent requests that negotiations be initiated, directed and conducted by the Energy Bureau with the selected proponents** to ensure compliance with the Executive Order's purpose of securing the benefits of ITCs for the development of a reliable and affordable energy system, and in furtherance of the Energy Bureau's mandate under Act No. 17-2019.²

WHEREFORE, the undersigned counsel, on behalf of the Interested Proponent, respectfully requests that the Energy Bureau take notice of the foregoing, grant the requested relief, and any other relief deemed just and proper.

RESPECTFULLY SUBMITTED

In San Juan, Puerto Rico, on January 27, 2026.

² The "Puerto Rico Energy Public Policy Act," Act No. 17 of April 11, 2019, as amended.

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 <http://radicacion.energia.pr.gov/login>. We also certify that a true and exact copy of this document was notified by electronic mail to: mary.zapata@prepa.pr.gov; alexis.rivera@prepa.pr.gov; nzayas@gmlex.net; mvalle@gmlex.net; rcruzfranqui@gmlex.net.

PICÓ ADVISORS

Counsel to an interested proponent
PO Box 270445
San Juan, Puerto Rico 00928
(787) 999-9001

f/ Yara Santiago-Durieux

Yara Santiago-Durieux
TSPR No.: 22106
ysantiago@picoadvisors.com