

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

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

NEPR

Received:

Feb 23, 2026

10:16 PM

INFORMATIVE MOTION AND URGENT REQUEST FOR RELIEF

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 September 22, 2025, the Governor of Puerto Rico, Honorable Jennifer González Colón, issued Executive Order OE-2025-047 ("Executive Order"), which amended and expanded the Puerto Rico energy emergency and authorized extraordinary measures to accelerate the evaluation and approval of renewable energy and storage projects qualifying for federal investment tax credits ("ITCs") under Public Law 119-21, also known as the "One Big Beautiful Bill Act."

2. On September 26, 2025, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("September 26 Order"), through which it provided the Puerto Rico Electric Power Authority ("PREPA") with guidelines for the implementation of the accelerated acquisition of renewable resources under the Executive Order.

3. Both the Executive Order and the September 26 Order established an accelerated thirty (30)-day period within which negotiations between PREPA and interested proponents were to be concluded, *including the adoption and use of revised versions of contracts for the purchase of energy and the operation of energy generation and/or storage facilities that are financeable, contain terms and conditions generally accepted in the market for such projects, and recognize the impacts of the restructuring process under Title III of PROMESA in which PREPA is currently engaged*,¹ so that the Energy Bureau may proceed with its evaluation and, if appropriate, prompt approval.

4. Following PREPA's initial rejection of the proposal submitted by the Interested Proponent under the accelerated RFP process,² on December 30, 2025, the Energy Bureau issued a Resolution and Order ("December 30 Order") directing PREPA to commence and complete negotiations with certain selected proponents and to submit the corresponding negotiated draft contracts for final evaluation and approval by the Energy Bureau within ten (10) business days

¹ See Section 2(3) of the Executive Order and Article 4 of the September 26 Order.

² Request for Proposals, Renewable Energy Generation and Energy Storage Resources, Power Advocate Event 237366 ("RFP").

thereof. The Interested Proponent was among the selected proponents pursuant to the December 30 Order.

5. Throughout the RFP process, including since the issuance of the December 30 Order, the Interested Proponent has acted diligently and proactively to engage in good-faith negotiations and to facilitate the timely execution of technically feasible and financeable forms of offtake agreements that, if approved, will allow its projects to benefit from available ITCs, reduce overall project costs, and ultimately benefit Puerto Rico ratepayers.

6. The Interested Proponent's good faith efforts, include, but are not limited to, (i) correspondence to PREPA on January 2, January 9, and January 12, 2026 expressing its availability to meet and commence negotiations; (ii) the submission of its summary of issues and comments on the Power Purchase and Operation Agreement ("PPOA") and Energy Storage Services Agreement ("ESSA") forms on January 14, 2026; (iii) the submission of comprehensive markups to the PPOA and ESSA forms on January 16, 2026; (iv) the submission of an improved PPOA pricing offer on February 7, 2026, as required by the Energy Bureau in a Resolution and Order dated February 6, 2026 ("February 6 Order"); (v) the resubmission of comprehensive markups to the PPOA and the ESSA forms, with detailed explanations of the need for each requested revision on February 9, 2026.

7. Following such efforts, and subsequent resolutions and orders of the Energy Bureau reiterating the initial mandates for the parties to continue to pursue negotiations and secure agreements on an expedited basis, the Interested Proponent received its first invitation from PREPA on February 12, 2026, to meet the next day to discuss the revisions and comments it had submitted, explore areas of alignment, and address proposed pricing and contractual modifications.

8. The Interested Proponent attended a meeting with PREPA via TEAMS on February 13, 2026 ("February 13 Meeting"). During the February 13 Meeting, PREPA seemed not to have reviewed, and offered no substantive comments on the ESSA markup submitted by the Interested Proponent on January 16 and on February 9. PREPA also offered no comments on the Interested Proponent's ESSA pricing offer, nor on the revised and improved PPOA pricing offer submitted on February 7, 2026. It bears noting that February 13, 2026 was the last business day before the February 15, 2025 deadline fixed by the Energy Bureau for completion of negotiations and delivery thereto of the offtake agreements for approval.

9. Furthermore, during the February 13 Meeting, PREPA elected not to discuss the markup of the form of PPOA submitted by the Interested Proponent simultaneously with the ESSA. Upon the Interested Proponent's mention of the PPOA matter, PREPA asserted its view that, in light of the Energy Bureau's determination in its December 30 Order, which initially did not contemplate the Solar PV components of the Interested Proponent's proposal, it had no authority to act with respect to the PPOA.³

³ This is despite the February 6 Order, which ORDERS "that, as part of the ongoing negotiation process, PREPA shall notify Proponent A that it shall have a period of three (3) days to submit, for PREPA's consideration, improved pricing offers with respect to the Solar PV components of the proposed projects. Upon submission of such offers, Proponent A shall continue negotiations with PREPA in order to determine

10. Following the February 13 Meeting, on even date, PREPA proposed an additional two-week extension of the negotiation period, through February 27, 2026. However, considering the urgency of this procurement process, the significant deviation from the original schedule established by the Executive Order and the September 26 Order, and the applicable federal ITC deadlines, the Interested Proponent suggested a shorter extension, through February 20, 2026, to conclude and submit the negotiated contracts to the Energy Bureau.^{4 5}

11. At 3:46 PM on February 17, 2026, the Interested Proponent received PREPA's responses to its comments and proposed revisions on the ESSA.⁶ At 3:21 PM on February 19, 2026, the Interested Proponent submitted its reply to each of PREPA's responses, further explaining and describing the rationale for the requested modifications and the benefits that would result from their inclusion. The Interested Proponent also proposed that the parties convene a negotiation meeting later that day, or the morning of February 20, 2026, to resolve remaining commercial, technical, and contractual matters, and that PREPA submit the negotiated contracts to the Energy Bureau on or before end of business day on such day.

12. To this date, the Interested Proponent has not received any further communication from PREPA, including regarding its reply to PREPA's responses to the ESSA or concerning the additional negotiation meeting. Pursuant to the Interested Proponent's proposed schedule, and consistent with PREPA's February 17 Motion requesting a limited extension through February 20, 2026, negotiations with PREPA have concluded.

13. In view of the foregoing, the Interested Proponent respectfully requests that the Energy Bureau, diligently and expeditiously (i) review the instant record and case documents; (ii) resolve the disputed provisions in the ESSA form necessary to finalize and achieve a financeable and technically feasible agreement; (iii) review and approve the Interested Proponent's proposed revisions to the PPOA form necessary to finalize and achieve a financeable and technically feasible agreement; (iv) evaluate and approve the Interested Proponent's improved pricing offer under the PPOA; and (v) grant such further adjudication and relief as may be appropriate.

14. In the alternative, should the Energy Bureau determine that further clarification is required, the Interested Proponent respectfully requests that the Energy Bureau convene a hearing to address the outstanding commercial, technical, and contractual matters. The Interested Proponent stands ready to provide any additional information the Energy Bureau may deem necessary to facilitate the prompt resolution of this matter.

whether more reasonable pricing may be achieved, not only for the Solar PV projects but also for the BESS components."

⁴ Specifically, the Interested Proponent proposed that: (i) PREPA submit its written position with respect to the requested modifications to the contract no later than close of business on February 17, 2026; (ii) the parties convene a negotiation meeting on Wednesday afternoon, February 18, 2026, to resolve remaining commercial, technical, and contractual matters; and (iii) PREPA submit the negotiated contracts to the Energy Bureau on or before end of business on Friday, February 20, 2026.

⁵ PREPA notified the Energy Bureau of the Interested Proponent's proposed schedule by motion submitted on February 17, 2026 ("February 17 Motion").

⁶ The Interested Proponent's suggested revisions were limited to those strictly necessary to ensure technically and financially feasible forms of offtake agreements, with terms and conditions generally accepted in the market for such projects, in accordance with the Executive Order and the September 26 Order. However, substantially all of the proposed changes were rejected by PREPA on the basis that they deviated from the Tranche 4 RFP model contracts.

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 February 23, 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 <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.

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