

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

**NEPR**

**Received:**

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**IN RE:** REVIEW OF THE PUERTO RICO  
ELECTRIC POWER AUTHORITY'S 10-YEAR  
INFRASTRUCTURE PLAN – DECEMBER 2020

**CASE NO.:** NEPR-MI-2021-0002

**MOTION IN COMPLIANCE WITH  
RESOLUTION AND ORDER OF FEBRUARY 5, 2026**

**TO THE HONORABLE ENERGY BUREAU,**

**COMES NOW** the Puerto Rico Electric Power Authority ("PREPA") through its undersigned legal representation and, very respectfully, informs and requests as follows:

**I. Procedural Background**

1. On February 5, 2026, the Puerto Rico Energy Bureau of the Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("February 5 Resolution") related to the Federal Emergency Management Agency ("FEMA") Consolidated Project Plan and FEMA Accelerated Award Strategy ("FAAST"). In the February 5 Resolution, the Energy Bureau determined:

- (i) The current allocation framework materially deviated from the original FEMA disaster funding allocation.
- (ii) An initial reallocation of reserve funds should be directed to transmission and distribution ("T&D") projects, and it identified a subset of inactive projects, listed in Attachment A to the February 5 Resolution, that must be resubmitted to FEMA for reactivation using such reserve funds identified in the Consolidated Project List.
- (iii) Established an *Updated Allocation Framework* intended to increase funding availability for inactive priority projects and contemplated reconciliation actions, including reclassification

of mitigation costs between Sections 406 and 428 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, known as the Stafford Act.

2. Based on its determination in the February 5 Resolution, the Energy Bureau ordered several actions from PREPA, Genera PR, LLC, and LUMA Energy, LLC. With respect to PREPA, the Energy Bureau ordered: (i) to submit within fifteen (15) calendar days of the notification of the February 5 Resolution an implementation plan identifying the estimated project timeline (design and construction) for each project; (ii) confirmation that the estimated mitigation costs remain as submitted in the Consolidated Project Plan; and (iii) amend the Consolidated Project List to include projects identified in Attachment A.

3. On February 11, 2025, the Energy Bureau issued a Resolution and Order (“February 11 Resolution”) partially modifying its February 5 Resolution. The Energy Bureau determined that further refinement of the project selection was warranted and replaced the Attachment A project list from the February 5 Resolution, which prioritized projects with higher incurred costs, purportedly to reduce potential exposure to ratepayers associated with delayed implementation. Accordingly, the Energy Bureau ordered PREPA to amend the Consolidated Project List to incorporate the projects identified in the revised Attachment A within ten (10) calendar days, due February 23, 2026.

4. On February 20, 2025, PREPA filed its *Motion for Reconsideration of the Resolutions and Orders of February 5 and 11, 2026, and Request for Extension of Time* (“Motion for Reconsideration”) arguing that the directives contained

therein - particularly those requiring the reactivation of certain projects and the amendment of the FEMA FAASt Consolidated Project List - were issued prematurely and without the completion of necessary funding reconciliation, technical validation, scope confirmation, and FEMA eligibility determinations.

5. PREPA further asserted in its Motion for Reconsideration that, as FEMA's designated Subrecipient, it bears the legal and financial responsibility for ensuring compliance with federal requirements and could face unreimbursed costs, disallowances, or recoupment if projects are advanced based on incomplete or inaccurate information, especially given unresolved discrepancies in project costs, funding availability, and prioritization criteria. Accordingly, PREPA requested that the Energy Bureau reconsider both resolutions to provide that any project activation or inclusion in the Consolidated Project List occur only after completion of the required reconciliation processes and FEMA confirmations, and further requested a brief extension of time until February 27, 2026, to submit an accurate and complete implementation plan in compliance with the February 5 Resolution.

6. Therefore, in compliance with the requested extension of time, PREPA hereby submits its implementation plan regarding each project as included in the Consolidated Project List, as **Attachment A**.

II. **Analysis of PREPA's Projects**

7. PREPA's projects ("Water Asset Projects" or "projects") included in *Attachment A* include dams, reservoirs, intakes, penstocks, canals, spillways, and

associated control structures, which constitute highly specialized engineering undertakings that differ materially from conventional civil or linear utility projects. These assets directly support generation facilities and involve critical public safety, environmental protection, and system reliability considerations. As such, their planning, design, and execution require advanced hydraulic and hydrologic analyses, geotechnical and seismic investigations, structural and dam-safety evaluations, environmental and ecological impact assessments, and continuous operational coordination with active generation facilities. The technical rigor inherent to these projects necessarily results in extended development timelines that are reasonable, unavoidable, and fully consistent with industry standards for water control and dam infrastructure.

8. The design timelines for the projects - generally ranging from eighteen (18) to thirty-six (36) months - are driven by mandatory technical, environmental, and regulatory requirements. In addition to complex hydraulic modeling, flood routing, and spillway adequacy analyses, these projects require bathymetric surveys to characterize reservoir geometry; granulometric analyses and soil contamination assessments to evaluate sediment stability and environmental risk; and comprehensive geotechnical investigations, including subsurface borings, foundation assessments, slope stability analyses, and seismic evaluations. These studies are indispensable for ensuring constructability, structural integrity, and long-term operational safety and cannot be accelerated without compromising technical soundness and regulatory compliance.

9. The design phase also includes extensive environmental and historic preservation compliance processes, including preparation and submission of National Environmental Policy Act (“NEPA”) documentation to FEMA, coordination of Section 106 consultations, Environmental and Historic Preservation (“EHP”) reviews, and resolution of agency comments and concurrence requirements. These processes are sequential, funding-dependent, and subject to review timelines imposed by federal agencies that are outside PREPA’s direct control. Consequently, they materially influence project schedules and further substantiate the extended duration of the design phase.

10. PREPA likewise confirms that construction timelines for its projects - generally ranging from twenty-four (24) to sixty (60) months - are driven by execution constraints inherent to the nature of dam and hydro infrastructure work, as well as by applicable regulatory and operational requirements. Such constraints include restricted site access, environmentally sensitive locations, seasonal and hydrologic limitations, and the need for specialized construction techniques, including in-water work, staged dewatering, and cofferdam installation. Construction activities must also be carefully sequenced to maintain the safety and uninterrupted operation of active generation facilities. Moreover, project schedules are affected by the limited availability of contractors possessing the specialized qualifications required for dam and hydroelectric infrastructure construction.

11. Furthermore, construction timelines are influenced by permitting processes and the issuance of final Construction Permit Approvals, which are subject to statutory review periods and interagency coordination outside PREPA's control. Procurement and contracting milestones—including preparation and issuance of Requests for Proposals (“RFPs”), contractor pre-qualification, formal bidding procedures, and technical and cost evaluations—must be conducted in accordance with applicable procurement laws, federal funding requirements, and oversight obligations. These processes are necessary to ensure regulatory compliance, contractor capability, and cost reasonableness, and may result in unavoidable schedule impacts before construction mobilization.

12. Additionally, pursuant to a duly executed Memorandum of Agreement (“MOA”) with the U.S. Army Corps of Engineers (“USACE”) on March 12, 2025, and under executed Order No. 2 for Technical and Management Support, USACE is currently providing specialized assistance in the development of a comprehensive Master Construction Schedule for all these projects. This effort is intended to produce a coordinated, integrated, and task-level timeline for each project, encompassing all required activities from completion of final design and permitting through construction and ultimate project completion. Given the highly technical nature and interdependencies of these assets, the preparation of a program-wide schedule by USACE ensures that project sequencing and implementation are grounded in industry best practices and supported by appropriate technical rigor.

13. Moreover, the Master Construction Schedule will establish a defined and executable framework for project sequencing, including the identification of key milestones, critical dependencies, resource constraints, and anticipated durations across the Water Assets portfolio. This schedule will function as a program-level management and control tool to facilitate effective oversight, coordination, and execution of these projects, many of which involve complex engineering, environmental, safety, and operational considerations. By integrating these elements into a single, comprehensive planning instrument, PREPA will be better positioned to manage risks, avoid conflicts among parallel activities, and ensure orderly project delivery.

14. Upon completion of USACE's technical and scheduling activities, PREPA will promptly submit the finalized Master Construction Schedule to the Energy Bureau. PREPA anticipates that this schedule will serve as the principal framework to guide project execution, inform regulatory oversight, and support the implementation of appropriate controls, monitoring mechanisms, and reporting provisions necessary to advance these projects through completion in an efficient and accountable manner.

15. Finally, PREPA emphasizes that this coordinated scheduling approach is designed to promote disciplined execution, regulatory compliance, and transparency throughout the lifecycle of the Water Assets program. The development and implementation of the Master Construction Schedule will materially support the timely completion of these critical infrastructure projects,

which are essential to public safety, water management, generation support, and the long-term reliability and resilience of Puerto Rico's electric system for the benefit of the people of Puerto Rico.

16. With respect to FEMA Section 406 Hazard Mitigation, PREPA confirms that the mitigation costs currently reflected in the FAAst Consolidated Project Plan remain unchanged for the projects presently included in this plan and remain valid as previously submitted to the Energy Bureau. PREPA has maintained continuous coordination with FEMA's Hazard Mitigation staff and project designers to identify and integrate additional eligible mitigation measures during the ongoing design and technical development phases.

17. PREPA further states that all mitigation measures are being evaluated in strict accordance with FEMA Section 406 eligibility requirements, including that such measures be cost-effective, technically feasible, directly related to the damaged elements, and consistent with FEMA Public Assistance Hazard Mitigation policy. For informational purposes, please refer to *Attachment A*, which reflects newly developed Section 406 mitigation estimates based on the analyses described herein.

18. PREPA is also actively evaluating all available mechanisms to maximize the use of eligible Section 406 mitigation funding, including the potential realignment of scope and funding previously allocated under Section 428 (Alternative Procedures / FAAst), where permissible under FEMA regulations. This effort seeks to optimize federal funding utilization while ensuring compliance with

applicable FEMA requirements. No mitigation scope is being implemented absent FEMA approval, and any newly identified mitigation costs will be advanced exclusively through FEMA-approved formulation processes.

**WHEREFORE**, PREPA respectfully requests this Energy Bureau to take notice of the information provided regarding PREPA's projects in this motion and **DEEM** PREPA in compliance with the February 5 Resolution.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 27<sup>th</sup> day of February 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>, and copies were sent via email to [regulatory@genera-pr.com](mailto:regulatory@genera-pr.com); [legal@genera-pr.com](mailto:legal@genera-pr.com); [jfr@sbgblaw.com](mailto:jfr@sbgblaw.com); [jdiaz@ecija.com](mailto:jdiaz@ecija.com); [sromero@ecija.com](mailto:sromero@ecija.com); [yahaira.delarosa@us.dlapiper.com](mailto:yahaira.delarosa@us.dlapiper.com); [Emmanuel.porrogonzalez@us.dlapiper.com](mailto:Emmanuel.porrogonzalez@us.dlapiper.com).

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*(Attachment A submitted via email)*