

**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:

Mar 6, 2026

7:46 PM

INFORMATIVE MOTION

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 March 3, 2026, the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) issued a Resolution and Order (“March 3 Order”) directing the Interested Proponent and the Puerto Rico Electric Power Authority (“PREPA”) to “*meet within three (3) days to address the proponent’s revisions and potentially resolve pending contractual matters*” and for PREPA to “*submit the resulting agreement for the Energy Bureau’s review immediately thereafter and/or within the referenced timeframe.*”

2. On March 5, 2026 the Interested Proponent filed an *Informative Motion and Request for Limited Extension of Time*, in which it informed the Energy Bureau that, on March 5, 2026, at 9:30 AM, it met with PREPA pursuant to the March 3 Order to discuss the Interested Proponent’s revisions to the Purchase and Operation Agreement (“PPOA”) and Energy Storage Services Agreement (“ESSA”) forms and the pending contractual matters.

3. The Interested Proponent further informed the Energy Bureau that, following such meeting, at 3:23 PM, PREPA notified the Interested Proponent of its response to the Interested Proponent’s revisions to the contract forms, and that, at 6:11 PM, the Interested Proponent requested that PREPA propose alternative language for a single, remaining open item, given its rejection of two previous suggestions by the Interested Proponent.

4. The Interested Proponent also respectfully requested that, in view of the foregoing, the Energy Bureau grant a limited additional period (until end of business on Tuesday, March 10, 2026) to allow the parties to resolve the remaining contractual matters, as may be agreed upon between them.

5. Having not received a response from PREPA and in order to advance contract negotiations toward approval and execution, at 3:20 PM, on March 6, 2026, the Interested Proponent submitted correspondence to PREPA indicating that it had decided to adopt PREPA’s rejection of the certain language proposed by the Interested Proponent in the ESSA and PPOA forms, without further clarification or additions, which constituted the single remaining outstanding item in the contract forms.

6. Accordingly, the Interested Proponent submitted to PREPA its package of revised ESSA and PPOA forms corresponding to each of its proposed projects, including the details of each of

its affiliated contracting entities, and reflecting the adoption of PREPA's rejection of the language proposed by the Interested Proponent. The Interested Proponent also resubmitted its pricing offer for the energy storage component, as submitted to PREPA with its original proposal, and its improved final offer for the solar PV component, as submitted to PREPA on February 7, 2026.

7. In this regard, the Interested Proponent hereby submits for the Energy Bureau's reference a copy of the correspondence delivered to PREPA on March 6, 2026 (see **Exhibit 1**), together with the attachments included therein, which consist of the package of revised ESSA and PPOA forms (see **Exhibits 2a – 2k** and **Exhibits 3a – 3k**, respectively),¹ as well as its pricing offer for the ESSA and its improved final offer for the Solar PV component (see **Exhibit 4** and **Exhibit 5**, respectively).²

Request for Confidential Treatment

8. The Interested Proponent respectfully requests that **Exhibits 1-5** be maintained under seal of confidentiality pursuant to Energy Bureau's Policy on Management of Confidential Information, CEPR-MI-2016-0009, issued on August 31, 2016, and partially amended on September 16, 2016 (the "Policy on Confidential Information"). The Interested Proponent submits the Memorandum of Law in support of this request below.

9. Section 6.15 of Act 57-2014 regulates the management of confidential information filed before this Energy Bureau. It provides, in pertinent part, that: "[i]f any person who is required to submit information to the [Energy Bureau] believes that the information to be submitted has any confidentiality privilege, such person may request the [Energy Bureau] to treat such information as such [...]." 22 LPRA §1054n. If the Energy Bureau determines, after appropriate evaluation, that the 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." Id. §1054n(a).

10. **Exhibits 1-5** contain information arising from documents generated as a result of the instant accelerated procurement process, which is subject to confidentiality and is still ongoing and the object of negotiations, strategies, and proposals. Consistent with the foregoing, this honorable Energy Bureau has maintained under seal the documents including confidential information of the Tranche 1 RFP process finding that such confidential treatment is required pursuant to Sections 4(g) and 10.2 of the Joint Regulations for the Procurement, Evaluation, Selection, Negotiation, and Award of Contracts for the Purchase of Energy and for the Procurement, Evaluation, Selection, Negotiation and Award Process for the Modernization of the Generation Fleet, Regulation 8815 of October 11, 2016 ("Regulation 8815"), and that only once the RFP is completed, shall it be made public.³ This Energy Bureau's action is consistent with the interest of maintaining the purity of the procurement process.

¹ Pursuant to instructions provided by PREPA during its meeting with the Interested Proponent on March 5, 2026, the Interested Proponent submitted separate ESSA and PPOA forms for each of its affiliated contracting entities. However, the modifications to the forms are identical across all submitted versions, except for entity-specific identifying information and related details.

² The Interested Proponent will submit a confidential file containing Exhibit 1 through Exhibit 5 with the Energy Bureau's Secretary simultaneously with this Motion.

³ See Resolution and Order, February 2, 2022, subject: Renewable Energy Generation and Energy Storage Resource Procurement Plan- First Tranche Projects for Phase III Contract Negotiation and Inal Interconnection Plan Approvals, p.5, footnote 28.

11. In compliance with the Energy Bureau’s Policy on Confidential Information, below is a table summarizing the hallmarks of this request for confidential treatment.

<u>Documents</u>	<u>Sections where there is Confidential Information</u>	<u>Legal Basis for Confidential Treatment</u>
Exhibit 1	Entire document	Confidential information of a competitive procurement Sections 4(g) and 10.2 of Regulation 8815
Exhibit 2	Entire document	Confidential information of a competitive procurement Sections 4(g) and 10.2 of Regulation 8815
Exhibit 3	Entire document	Confidential information of a competitive procurement Sections 4(g) and 10.2 of Regulation 8815
Exhibit 4	Entire document	Confidential information of a competitive procurement Sections 4(g) and 10.2 of Regulation 8815
Exhibit 5	Entire document	Confidential information of a competitive procurement Sections 4(g) and 10.2 of Regulation 8815

12. Considering the materials contained in **Exhibit 1** through **Exhibit 5**, the Interested Proponent respectfully requests confidential treatment thereof. Disclosure at this stage would undermine the integrity of the decision-making process and should therefore be protected by the deliberative process privilege until the negotiations conclude. Therefore, the Interested Proponent requests that such exhibits remain confidential until the negotiation and approval process concludes.

13. In view of the foregoing, the Interested Proponent respectfully requests that the Energy Bureau take notice of the contents of this Motion and of the ongoing efforts between the parties to resolve the pending contractual matters.

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

RESPECTFULLY SUBMITTED

In San Juan, Puerto Rico, on March 6, 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;
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