

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

NEPR

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IN RE: IMPLEMENTATION OF THE PUERTO RICO ELECTRIC POWER AUTHORITY INTEGRATED RESOURCE PLAN AND MODIFIED ACTION PLAN

CASE NO.: NEPR-MI-2020-0012

MOTION SUBMITTING PROPOSED DRAFT ESSAs AND AMENDMENT TO PPOA FOR GO GREEN USA AMERICA CORP. AND JORD, LLC, 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:

A. Introduction

1. On August 24, 2020, the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) issued a Final Resolution and Order related to PREPA’s Integrated Resource Plan (“IRP”) under Case No. CEPR-AP-2018-0001, through which it approved in part and rejected in part PREPA’s proposed IRP (“IRP Final Order”). As part of the IRP Final Order, the Energy Bureau ordered the adoption and implementation of a Modified Action Plan, which contained specific directives and requirements, including the formulation of a Renewable Energy and Battery Energy Storage Resource Procurement Plan.

2. On February 22, 2021, PREPA launched its Tranche 1 RFP 112648 for the procurement of 1,000 MW of renewable generation resources and at least 500 MW of battery energy storage resources, consistent with the Energy Bureau’s

and the Financial Oversight and Management Board of Puerto Rico's ("FOMB") guidance.

3. Under Tranche 1, PREPA awarded Go Green USA America Corp ("Go Green"), a *Power Purchase and Operating Agreement* ("PPOA") for a solar generation project in Humacao/Yabucoa, and awarded *Energy Storage Services Agreements* ("ESSAs") for battery energy storage system ("BESS") projects proposed by Go Green for Humacao/Yabucoa BESS, and Jord, LLC ("Jord") for Naguabo BESS.

4. Both BESS projects were originally structured with a capacity of 20 MW. However, at the time when Go Green and Jord were submitting the documentation required to proceed with the execution of the corresponding agreements, both informed PREPA that they would like to increase the proposed project capacity to 80 MW/ 320 MWh for each project. As a result of this material modification, the execution of the agreements did not proceed at that time.

5. In 2023, Go Green and Jord formally requested LUMA Energy, LLC ("LUMA"), the required interconnection and system impact studies to evaluate the expanded capacity. These studies were completed by LUMA approximately in August 2025, at which time Go Green and Jord notified PREPA that the studies were finalized.

6. Moreover, the interconnection and system impact studies determined that the proposed 80 MW BESS capacities did not result in adverse system impacts nor trigger additional interconnection or network costs to PREPA.

7. Following the completion of these studies, PREPA began working on the draft ESSAs with Go Green and Jord.

8. Separately, also under Tranche 1, the PPOA between PREPA and Go Breen contemplated an increase in generation capacity up to 100 MW AC, and the applicable technical studies validated that the system could support such an increase without adverse impact or additional costs to PREPA.

9. On August 4, 2022, PREPA and Go Green executed the PPOA, which provided two hundred forty (240) days to reach the Closing Date. Thereafter, the parties executed four amendments to extend the deadline to reach the Closing Date: the First Amendment on March 17, 2023; the Second Amendment on May 31, 2023; the Third Amendment on June 30, 2023; and the Fourth Amendment on July 10, 2023. **These amendments were requested by Go Green in order to comply with the terms and conditions of the PPOA and, therefore, were not requested, proposed, or initiated by PREPA.**

B. Submission of Proposed Draft ESSAS and Amendment to PPOA for Go Green USA America Corp. and Jord, LLC.

10. On February 19, 2026, PREPA's Governing Board issued a Resolution No. 5220 ("Resolution No. 5220"), titled *Approval of Tranche 1 Energy Storage Services Agreements with Go Green USA America Corp. and Jord, LLC, and Approval of Amendment to the Tranche 1 Power Purchase and Operating Agreement with Go Green USA America Corp.* See Exhibit I. In Resolution No. 5220, PREPA's Governing Board resolved and approved the following:

- i. The execution of new Tranche 1 ESSAs for the following BESS projects:
 - a. Go Green- Yabucoa/ Humacao BESS Project (80 MW/ 320 MWh).
 - b. Jord- Naguabo BESS Project (80 MW/ 320 MWh).
- ii. The increase in capacity under the Tranche 1 PPOA with Go Green to a maximum of 100 MW AC through a fifth amendment to the agreement ("Fifth Amendment").
- iii. The submission of the ESSAs and the Fifth Amendment to the PPOA with Go Green to the Energy Bureau, the FOMB, and other stakeholders as required by law for their respective approvals.
- iv. Upon receipt of all required approvals, the execution of the corresponding ESSAs and the amendment to the PPOA by PREPA's Executive Director.

11. Accordingly, PREPA submits for the Energy Bureau's review and approval the ESSAs of Go Green and Jord, and the Fifth Amendment to Go Green's PPOA. See Exhibit II, III, and IV, respectively.

C. Request for Confidential Treatment

12. PREPA respectfully requests confidential treatment of Exhibits II-IV¹. The exhibits contain ongoing deliberative materials as the parties are still in the

¹ PREPA respectfully informs the Energy Bureau that Exhibit I does not require confidential treatment and, therefore, is not included in the confidentiality request submitted herein.

negotiation process. Disclosure at this stage of these exhibits would undermine the integrity of the decision-making process and is, therefore, protected under the deliberative process privilege until the negotiation process concludes.

13. 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).

14. 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.

15. 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.

16. In addition, Article 4(iv) of Act 122-2019, known as the *Puerto Rico Government Open Data Act*, 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.

17. The Energy Bureau's *Policy on Confidential Information* (“Policy”), CEPR-MI-2016-0009, originally issued on August 31, 2016, and later amended on September 21, 2016, sets forth the procedural requirements governing requests for confidential treatment of documents submitted before the Energy Bureau. Under this framework, a party seeking confidentiality must expressly designate the information claimed to be confidential and submit a legal memorandum articulating the statutory or regulatory grounds supporting such a request, together with the evidentiary basis justifying confidential treatment. See CEPR-MI-2016-0009, Section A, as amended by Resolution dated September 16, 2016.

18. The Policy further requires that the legal memorandum include a detailed table identifying the specific information for which confidentiality is sought, along with a summary explaining how each item satisfies the applicable legal standard. See *Id.* ¶ 3. Below is a summary of the information for which PREPA seeks confidential treatment:

File	Summary of Legal Basis for Confidential Treatment
Exhibit II-ESSA (<i>Standalone</i>) - <i>Go Green USA - Yabucoa Energy Park</i>	Deliberative material
Exhibit III-ESSA (<i>Standalone</i>)- <i>Jord-Naguabo Energy Park</i>	Deliberative material

Exhibit IV-Fifth Amendment to the PPOA - Go Green USA	Deliberative material
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19. PREPA respectfully requests that the aforementioned exhibits remain confidential until the ongoing evaluation process concludes and the final agreements and amendment are executed. At this stage, the proposed agreements and amendment are still drafts, subject to the Energy Bureau's review and approval.

20. PREPA further emphasizes that once the ESSAs and the amendment to the PPOA are finalized and executed, the documents will be made publicly available in full compliance with applicable legal requirements. Thus, PREPA's request is narrowly tailored and temporary, ensuring both protection of sensitive draft information and eventual public access to the final, binding agreements.

21. In light of the aforementioned, PREPA hereby submits *Exhibits II to IV*, the ESSAs for Go Green and Jord, and the fifth amendment to the PPOA, for the Energy Bureau's consideration and approval.

WHEREFORE, for the reasons stated above, PREPA respectfully requests that the Energy Bureau take: (1) **NOTICE** of the present Motion; (2) **GRANT** confidential treatment to *Exhibits II-IV*; and (3) **APPROVE** the ESSAs for Go Green and Jord and the Fifth Amendment to Go Green's PPOA.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 10th day of March 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 courtesy copies were sent via electronic mail to counsels of record at margarita.mercado@us.dlapiper.com, laura.rozas@dlapiper.com, yahaira.delarosa@us.dlapiper.com, and jfr@sbgblaw.com.

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PUERTO RICO
ELECTRIC POWER AUTHORITY

PREPA

GOVERNMENT OF PUERTO RICO

RESOLUTION 5220

APPROVAL OF TRANCHE 1 ENERGY STORAGE SERVICES AGREEMENTS WITH GO GREEN USA AMERICA CORP. AND JORD, LLC AND APPROVAL OF AMENDMENT TO THE TRANCHE 1 POWER PURCHASE AND OPERATING AGREEMENT WITH GO GREEN USA AMERICA CORP.

WHEREAS: The Puerto Rico Electric Power Authority (hereinafter "PREPA") is a public corporation and an instrumentality of the Government of Puerto Rico created by Act No. 83 of May 2, 1941, as amended (hereinafter "Act No. 83"). PREPA was created to provide electrical energy in a reliable way contributing to the general welfare and sustainable future of the people of Puerto Rico, maximizing benefits and minimizing social, environmental, and economic impacts. In addition, it provides a service based on affordable, fair, reasonable, and non-discriminatory costs consistent with environmental protection, non-profit, focused on citizen participation, and its clients.

WHEREAS: Act No. 83 authorizes PREPA to grant contracts and formalize all instruments that are necessary or convenient in the exercise of any of its powers and to properly manage its purpose.

WHEREAS: Act 17-2019, titled "Puerto Rico Energy Public Policy Act," as amended by Act 1-2025, establishes Puerto Rico's long-term goal of achieving 100% renewable energy by 2050. *msy*

WHEREAS: Act 82-2010, titled "Public Policy on Energy Diversification by Means of Sustainable and Alternative Renewable Energy in Puerto Rico Act," as amended by Act 1-2025, establishes the Renewable Energy Portfolio with the binding goal of achieving 100% renewable energy by 2050.

WHEREAS: On August 24, 2020, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Final Resolution and Order related to PREPA's Integrated Resource Plan ("IRP") under Case No. CEPR-AP-2018-0001, through which it approved in part and rejected in part PREPA's proposed IRP. As part of the IRP Final Resolution and Order, the Energy Bureau ordered the adoption and implementation of a Modified Action Plan, which contains specific directives and requirements, including the formulation of a Renewable Generation Resource and Battery Energy Storage Resource Procurement Plan.



WHEREAS: On February 22, 2021, PREPA launched its Tranche 1 RFP 112648, for the procurement of 1,000 MW of renewable generation resources and at least 500 MW of battery energy storage resources, consistent with the Energy Bureau's and the Financial Oversight and Management Board for Puerto Rico (hereinafter "FOMB") guidance.

WHEREAS: Under Tranche 1, PREPA awarded Go Green USA America Corp. a Power Purchase and Operating Agreement ("PPOA") for a solar generation project in Humacao/Yabucoa, and awarded Energy Storage Services Agreements ("ESSAs") for battery energy storage system ("BESS") projects proposed by Go Green USA America Corp. (Yabucoa/Humacao BESS) and JORD, LLC (Naguabo BESS).

WHEREAS: Both BESS projects were originally structured with a capacity of 20 MW. Following additional technical evaluations, PREPA proposes that the ESSAs be executed at a revised capacity of 80 MW / 320 MWh for each project.

WHEREAS: Interconnection and system impact studies completed by the proponents and confirmed through the LUMA evaluation process determined that the proposed 80 MW BESS capacities do not result in adverse system impacts nor trigger additional interconnection or network costs to PREPA.

WHEREAS: Separately, also under Tranche 1, the PPOA between PREPA and Go Green USA America Corp. contemplates an increase in generation capacity up to 100 MW AC, and the applicable technical studies validated that the system could support such increase without adverse impacts or additional costs to PREPA.

WHEREAS: The Legal Affairs Directorate has conducted a legal evaluation of the proposed ESSAs and the amendment to the PPOA and determined that they are subject to approval by the Governing Board, the Energy Bureau, and the FOMB.

THEREFORE: In accordance with Act 83, PREPA's Governing Board resolves to:

1. Approve the execution of the Tranche 1 ESSAs for the following BESS projects:
 - Go Green USA America Corp. – Yabucoa/Humacao BESS Project (80 MW / 320 MWh)
 - JORD, LLC – Naguabo BESS Project (80 MW / 320 MWh)



2. Approve the increase in capacity under the Tranche 1 PPOA with Go Green USA America Corp. to a maximum of 100 MWAC.
3. Authorize the submission of the ESSAs and the amendment to the PPOA to the Puerto Rico Energy Bureau, the Financial Oversight and Management Board for Puerto Rico, and other stakeholders as required by law for their respective approvals.
4. Authorize, upon receipt of all required approvals, the execution of the corresponding ESSAs and the amendment to the PPOA by PREPA's Executive Director.

Approved in San Juan, Puerto Rico, on the 19th day of February two thousand twenty-six.


Maricarmen Boria- Goitia
Corporate Secretary

