

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

NEPR
Received:
Dec 15, 2025
6:06 PM

IN RE:

PUERTO RICO ELECTRIC POWER
AUTHORITY'S EMERGENCY
RESPONSE PLAN

CASE NO.: NEPR-MI-2019-0006

SUBJECT: Motion to Submit Genera's Draft 2026 Emergency Response Plan in compliance with Resolution and Order of June 20, 2025, And Memorandum of Law In Support of Confidential Treatment Of Genera's Draft Emergency Response Plan

**MOTION TO SUBMIT GENERA'S DRAFT 2026 EMERGENCY RESPONSE PLAN IN
COMPLIANCE WITH RESOLUTION AND ORDER OF JUNE 20, 2025
AND MEMORANDUM OF LAW IN SUPPORT OF CONFIDENTIAL TREATMENT OF
GENERA'S DRAFT EMERGENCY RESPONSE PLAN**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW GENERA PR LLC ("Genera"), as agent of the Puerto Rico Electric Power Authority ("PREPA"),¹ through its counsels of record, and respectfully submits and prays as follows:

I. INTRODUCTION

1. On January 24, 2023, Genera, the Puerto Rico Electric Power Authority ("PREPA"), and the Puerto Rico Public-Private Partnership Authority ("P3A") entered into the Legacy Generation Assets Operation and Maintenance Agreement ("LGA OMA").

2. Section 4.2(e) of the LGA OMA requires Genera to:

[D]evelop in consultation with the T&D Operator and submit to Administrator and PREB, for their information and approval, a plan of action that takes effect from

¹ Pursuant to the *Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement* ("LGA OMA"), dated January 24, 2023, executed by and among PREPA, the Puerto Rico Public-Private Partnerships Authority and Genera, Genera is the sole operator and administrator of the Legacy Generation Assets (defined in the LGA OMA), and the sole entity authorized to represent PREPA before the Energy Bureau with respect to any matter related to the performance of any of the O&M Services provided by Genera under the LGA OMA.

the Service Commencement Date and outlines the procedures and actions necessary for responding to any Emergency affecting or reasonably likely emergency that could affect the Legacy Generation Assets after the Service Commencement Date, including fire, weather, environmental, health, safety and other potential emergency conditions.” The Legacy Generation Emergency Response Plan shall (i) provide for appropriate notice of any such emergency to T&D Operator, Administrator, PREB and all other Governmental Bodies that Operator is notified in writing have jurisdiction of the Legacy Generation Assets, (ii) establish measures that facilitate coordinated emergency response actions by all appropriate Governmental Bodies, (iii) specifically include outage minimization and response measures and (iv) include measures designed to assure the timely availability of all personnel required to respond to any emergency in accordance with the Contract Standards.

3. Pursuant to Section 4.2(e) of the OMA, Genera must, in consultation with the T&D Operator, develop and submit a plan of action to P3A and the Energy Bureau for approval (the “Legacy Generation Emergency Response Plan” or “ERP”). This plan should outline the necessary procedures and actions to respond to emergencies that could affect the Legacy Generation Assets, including fire, weather, environment, health, safety, and other potential emergency conditions.

4. Section 4.2(e) of the OMA further outlines that the ERP should include a protocol for notifying relevant parties about an emergency; measures for facilitating coordinated emergency response actions; specific outage minimization and response measures; and provisions for ensuring the timely availability of all personnel required to respond to an emergency in line with the Contract Standards.

5. On August 16, 2023, the Puerto Rico Energy Bureau (“Energy Bureau”) issued a Resolution and Order titled *Filing of Emergency Response Plans (“ERP”) – LUMA, Genera, and PREPA* (“August 16th Resolution”) through which it acknowledged the proposed Emergency Response Plans (“ERP”) submitted by LUMA, Genera, and PREPA. Relevant to the instant motion, the August 16th Resolution established **December 15** as the annual deadline for filing

ERPs, allowing adequate time to review, evaluate, and approve the ERPs before the required annual report to the Governor and Legislature in accordance with Section 6(m) of Act No. 83 of May 2, 1941, as amended (“Act 83-1941”).

6. On December 16, 2024, Genera submitted its proposed ERP for year 2025 (“2025 ERP”) and requested its confidential designation.

7. On May 12, 2025, after several revisions and as a result of technical meetings held with PREB consultants, Genera filed a *Motion to Submit Genera PR LLC’s Updated Emergency Response Plan and Fuel Purchase Agreements* submitting an updated version of the 2025 ERP and requesting confidential designation.

8. On May 30, 2025, in compliance with the legal mandate established under Act 83-1941, Genera submitted its 2025 Annual Report pursuant to Section 6(m) of Act 83-1941, and that the 2025 Annual Report was presented to the Governor and both Houses of the Legislative Assembly, including the then effective ERP approved by the Energy Bureau.

9. Lastly, on June 20, 2025, the Energy Bureau issued a Resolution and Order (“June 20th Order”) through which it approved LUMA’s, Genera’s, and PREPA’s 2025 revision their respective ERPs.

10. Per the June 20th Order, the Energy Bureau ordered Genera, LUMA and PREPA to each provide draft 2026 ERPs by December 15, 2025, for commencement of the next interactive review process. Additionally, the June 20th Resolution directed Genera to address the following in its Draft 2026 ERP: **(1)** to explain with more specificity for the 2026 ERP revision each instance of coordination with the T&D System Operator that it references in Section 15.2 of its ERP and throughout, and **(2)** to refine and update its fuel-supply processes as experience grows, incorporating the improvements into the 2026 ERP revision.

11. In compliance with the June 20th Order, Genera hereby submits as **Exhibit A** its draft Emergency Response Plan for the 2026 revision— adhering to and in accordance with Section 4.2(e) of the LGA OMA and Act 83-1941— for the Energy Bureau’s consideration and review.

12. Further, Genera confirms it has addressed in the Draft 2026 ERP the Energy Bureau’s directives set forth in its June 20th Resolution, including emergency-related coordination efforts with the T&D Operator and updating, where applicable, its fuel supply processes during emergency situations.

13. Particularly, in compliance with the PREB orders, Genera, LUMA and PREPA have established monthly meetings to enhance communication and collaboration during emergencies, ensuring situational awareness and mutual support under Emergency Support Function 12 (ESF-12). Each entity, including Genera, appoints year-round emergency preparedness employees who serve as Interagency Coordinators (IACs), drawn from their respective Emergency Preparedness & Management departments. As such, during state-declared emergencies, these representatives become their organization’s IACs and part of the ESF-12 (Energy) work group, which focuses on maintaining interagency communication, situational awareness, and sharing best practices within the emergency management realm.

14. Moreover, Genera actively and continuously participates in interagency Emergency Response Plan coordination meetings alongside LUMA and PREPA to ensure a safe, integrated, and effective response during emergency events in alignment with the directives set forth in Resolution and Order of July 25, 2024 if the instance case².

² The July 25, 2025 Resolution directed LUMA to, among other things, report on a quarterly basis the results of the coordination meetings between LUMA, PREPA and Genera regarding the ERP and on the status of compliance with each of the following requirements:

15. With the above refinements to Genera’s draft ERP for the 2026 revision, Genera demonstrates its continued commitment to ensuring a safe and coordinated response to future emergency events, supported by well-established communication protocols designed to promptly address generation restoration, supply chain disruptions, and related contingencies, as well as to implement additional procedures during emergency situations to mitigate disruptions and maintain operational continuity.

16. Lastly, Genera informs it has submitted and marked the attached Draft 2026 ERP as confidential given that it includes critical infrastructure information. Pursuant to its *Policy on Management of Confidential Information*, CEPR-MI-2016-0009 (“PREB’s Policy on Confidential Information”), as amended, Genera respectfully requests confidential designation of the Draft 2026 ERP submitted herein, and submits the following Memorandum of Law.

II. IDENTIFICATION OF CONFIDENTIAL INFORMATION

17. Confidential Information table:

Document Name and File Date	Pages in which Confidential Information is Found, if applicable	Summary of Legal Basis for Confidential Designation, if applicable	Summary of why each claim or designation conforms to the applicable legal basis for confidentiality
------------------------------------	--	---	--

-
- i. make sure their ERPs clearly reflect their respective responsibilities;
 - ii. coordinate their efforts in development and implementation of their ERPs to make sure areas of overlap are comprehensively and clearly addressed. LUMA was directed to take the lead in this effort;
 - iii. coordinate, develop and include in their ERPs, decision-making protocols to ensure safe system operations during generation startup procedures. LUMA is to take the lead in this effort;
 - iv. delineate in their ERPs an established chain of command for decision making where responsibilities of each may be affected. LUMA is to take the lead in this effort;
 - v. provide certification attesting to all the personnel performing supervisory functions in the operating areas having been duly advised on the norms of the operating emergency plan in effect as required by item vi of Section 6 of Act No. 83; and
 - vi. establish a decision-making protocol to enforce the shutting down of the electric system.

See July 24, 2025 Order, at p.4.

<p>Exhibit A Draft Emergency Response Plan filed on December 15, 2025.</p>	<p>N/A</p>	<p>Critical Energy Infrastructure Information under Section D(2) of the Energy Bureau’s Policy on Confidential Information contained substantially and throughout the Draft Emergency Emergency Response Plan; and Critical Energy Infrastructure Information under 18 CFR § 388.113(c)(2) contained substantially and throughout the Updated 2025 ERP; Protection of sensitive personal information.</p>	<p>The importance of keeping sensitive national security protocols confidential is to prevent risks to employees, compromise of procedures, exploitation, or bypass by individuals with harmful intentions, unnecessary fear among the public, chaos, and strain on security resources. By maintaining confidentiality, real threats can be effectively responded to, potential misuse can be prevented, and public order can be maintained for the safety of the nation.</p> <p>The need for keeping sensitive critical energy infrastructure information is necessary for the orderly, effective and timely activation of the emergency response efforts by the relevant law enforcement and emergency response agencies and points of contact.</p> <p>The need to keep confidential certain telephone numbers in the presented documentation is necessary as a precautionary measure undertaken due to ambiguity regarding whether these numbers belong to private individuals or governmental agencies. Due diligence is actively being conducted to ascertain the nature and ownership of these numbers, in order to comply with legal and ethical standards concerning privacy and information disclosure.</p>
--	------------	---	--

III. MEMORANDUM OF LAW IN SUPPORT OF CONFIDENTIAL TREATMENT OF GENERA'S DRAFT EMERGENCY RESPONSE PLAN

18. The governing statute for the management of classified information submitted to the Energy Bureau is Section 6.15 of Act No. 57-2014, also known as the "Puerto Rico Energy Transformation and RELIEF Act." This section stipulates that "[i]f any person who is required to submit information to the Energy [Bureau] believes that the information to be submitted carries a confidentiality privilege, such person may request the [Bureau] to treat such information as confidential..." 22 L.P.R.A. § 1054n. If, after conducting a meticulous evaluation, the Energy Bureau determines that the information warrants protection, it is required to "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.* at Section 6.15(a). Consequently, such information must be withheld from the public domain by the Energy Bureau and "must be duly safeguarded and provided exclusively to the personnel of the Energy [Bureau] who need to know such information under nondisclosure agreements." *Id.* at Section 6.15(c). Therefore, "[t]he Energy [Bureau] must swiftly act on any privilege and confidentiality claim made by a person under its jurisdiction through a resolution for such purposes before any potentially confidential information is disclosed." *Id.* at Section 6.15(d).

19. Additionally, the Energy Bureau's Policy on Management of Confidential Information details the procedures a party should follow to request confidential treatment for a document or a portion of it. The Energy Bureau's Policy on Management of Confidential Information requires identifying confidential information and filing a memorandum of law explaining the legal basis and support for a request to file information confidentially. *See* Section A of the Energy Bureau's Policy on Management of Confidential Information. The memorandum

should also include a table that identifies the confidential information, a summary of the legal basis for the confidential designation, and an explanation of why each claim or designation conforms to the applicable legal basis for confidentiality. *Id.* The party seeking confidential treatment of information filed with the Energy Bureau must also file both a "redacted" (or "public") version and an "unredacted" (or "confidential") version of the document that contains the confidential information. *Id.*

20. In addition to the above, Genera's Draft Emergency Response Plan encompasses Critical Energy Infrastructure Information ("CEII"). Federal statutes define CEII as:

[S]pecific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (i) relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person in planning an attack on critical infrastructure; (iii) is exempt from mandatory disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. 552; and (iv) does not simply reveal the general location of the critical infrastructure."

18 CFR 388.113(c)(2).

21. Further, "critical electric infrastructure" is defined as "a system or asset of the bulk-power system, whether physical or virtual, the incapacity or destruction of which would negatively affect national security, economic security, public health or safety, or any combination of those matters." *Id.* §388.11(c)(4). As indicated, CEII is exempt from FOIA disclosure and must not be "made available by any Federal, State, political subdivision, or tribal authority under any Federal, State, political subdivision, or tribal law mandating public disclosure of information or records." *Id.* §388.113(c)(1).

22. The Critical Infrastructure Information Act of 2002, 6 U.S.C. §§ 131-134 ("CII Act"), a component of the Homeland Security Act of 2002, provides additional protection to critical infrastructure information ("CII"), which is defined by statute as "information not

customarily in the public domain and related to the security of critical infrastructure or protected systems.” *See*, 6 U.S.C. § 133. With regards to the disclosure of such information, the Act specifies: “Notwithstanding any other provision of law, critical infrastructure information (including the identity of the submitting person or entity) voluntarily submitted to a covered federal agency for its use regarding the security of critical infrastructure and protected systems [...] (A) shall be exempt from disclosure under ... the Freedom of Information Act[]” and “(E) shall not, if provided to a state or local government or government agency, ... [] ... be made available pursuant to any state or local law requiring disclosure of information or records[.]” *Id.*, § 133(a)(1)(A) & (E).

23. Regarding CEII, the Energy Bureau’s Policy on Management of Confidential Information stipulates that information designated by the Energy Bureau as validated Confidential Information on the grounds of being CEII may only be accessed by the parties’ authorized representatives after they have executed and delivered a Non-Disclosure Agreement. *See* Section D(2) of the Energy Bureau’s Policy on Management of Confidential Information.

24. In light of the above explained applicable law, Genera respectfully submits that the Draft Emergency Response Plan, included as Exhibit A of the instant are protected from disclosure due to containing CII and CEII throughout which warrant confidential designation and treatment.

25. In essence, Genera’s Draft ERP contains CEII, the confidentiality of which is crucial to ensuring both critical infrastructure security and public safety. While recognizing the Energy Bureau’s commitment to transparency and public interest, Genera urges the Energy Bureau to consider the delicate balance between these commitments and the need for

confidentiality in matters pertaining to critical infrastructure, all of which are cross-referenced, elaborated, and discussed substantially and throughout the Draft ERP submitted herein. Disclosing the classified information contained in this Draft ERP would not only expose sensitive infrastructure details but also jeopardize employee safety and compromise the integrity of specific operational procedures.

26. Additionally, there is a significant risk that individuals with malicious intent could access this sensitive infrastructure information, potentially exploiting or circumventing established protocols. Such inappropriate disclosures could incite public alarm and contribute to societal instability. Moreover, misuse or improper application of these procedures in non-emergency situations could provoke unnecessary disorder and strain Genera's security resources. Therefore, maintaining confidentiality is not only essential but wholly justified in the interests of national security and public welfare.

WHEREFORE, Genera respectfully requests that the Energy Bureau **take notice** of the above for all purposes; **ACCEPT** Genera's Draft 2026 Emergency Response submitted herein as Exhibit A; **GRANT confidential treatment** to Genera's Draft 2026 ERP submitted herein as Exhibit A pursuant to the Energy Bureau's *Policy on Management of Confidential Information*, CEPR-MI-2016-0009, as amended, and pursuant to the applicable law regarding confidentiality claims over Critical Infrastructure Information and Critical Energy Infrastructure Information; and grant any and all other relief that the Energy Bureau deems just and proper.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 15th day of December of 2025.

[Signature page follows]

ECIJA SBGB
PO Box 363068
San Juan, Puerto Rico 00920
Tel. (787) 300.3200
Fax (787) 300.3208

/s/ Jorge Fernández-Reboredo
Jorge Fernández-Reboredo
jfr@sbgblaw.com
RUA No. 9,669

/s/ Stephen David Romero Valle
Stephen David Romero Valle
sromero@sbgblaw.com
RUA No. 21,881

CERTIFICATE OF SERVICE

We hereby certify that a true and accurate copy of this motion was filed with the Office of the Clerk of the Energy Bureau using its Electronic Filing System and that we will send an electronic copy of this motion to arivera@prepa.pr.gov; mvalle@gmlex.net; margarita.mercado@us.dlapiper.com; laura.rozas@us.dlapiper.com; Yahaira.delarosa@us.dlapiper.com; emmanuel.porrogonzalez@us.dlapiper.com; and nzayas@gmlex.net .

In San Juan, Puerto Rico, this 15th day of December of 2025.

/s/ Jorge Fernández-Reboredo
Jorge Fernández-Reboredo

/s/ Stephen David Romero Valle
Stephen David Romero Valle

Exhibit A

Draft 2026 Emergency Response Plan filed December 15, 2025

[Exhibit filed under seal.]