

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

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

CASE NO.: NEPR-MI-2020-0012

SUBJECT: Resolution and Order about Amendment of Convergent Ponce ESSA, Convergent Peñuelas ESSA, Convergent Caguas ESSA, Solaner PPOA, Salinas ESSA, Salinas PPOA, Jobos ESSA, Jobos PPOA and Tetris Power PPOA.

RESOLUTION AND ORDER

I. Relevant Background

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On February 13, 2024, the Puerto Rico Electric Power Authority ("PREPA") signed three (3) Energy Storage Agreements ("ESSAs") with Convergent Ponce Energy Storage 1, LLC ("Convergent Ponce ESSA"), Convergent Peñuelas Energy Storage 1, LLC ("Convergent Peñuelas ESSA") and Convergent Caguas Energy Storage 1, LLC ("Convergent Caguas ESSA"), for energy storage projects to be developed in Ponce,¹ Peñuelas² and Caguas,³ referred to as the "Convergent Ponce ESSA", "Convergent Peñuelas ESSA" and "Convergent Caguas ESSA". The three (3) ESSAs were subsequently amended on February 10, 2025.

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On June 30, 2022, PREPA entered into a Power Purchase and Operating Agreement ("PPOA") with Solaner Puerto Rico One, LLC, which was amended on February 24, 2023, April 26, 2023, and May 31, 2023 (as amended, the "Solaner PPOA").

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On August 26, 2022, PREPA and Clean Flexible Energy, LLC ("Clean Flexible") signed two ESSAs for 100 MW (four-hour duration, 400 MWh) energy storage projects to be developed in Salinas⁴ and Guayama⁵, referred to as the "Salinas ESSA" and the "Jobos ESSA." Both, the Salinas ESSA⁶ and the Jobos ESSA⁷ have been amended several times. On the same date, PREPA and Clean Flexible also signed two PPOAs for solar photovoltaic energy projects to be developed in Salinas⁸ and Guayama⁹, referred to as the "Salinas PPOA" and the "Jobos PPOA."

¹ Hereinafter the "Convergent Ponce BESS Project".

² Hereinafter the "Convergent Peñuelas BESS Project".

³ Hereinafter the "Convergent Caguas BESS Project".

⁴ Hereinafter the *Salinas BESS Project*.

⁵ Hereinafter the *Jobos BESS Project*.

⁶ The Salinas ESSA was amended on March 17, 2023 ("Salinas ESSA First Amendment"), June 15, 2023 ("Salinas ESSA Second Amendment"), June 30, 2023 ("Salinas ESSA Third Amendment"), July 10, 2023 ("Salinas ESSA Fourth Amendment"), November 30, 2023 ("Salinas ESSA Fifth Amendment"), November 4, 2024 ("Salinas ESSA Sixth Amendment") and December 18, 2024 ("Salinas ESSA Seventh Amendment"). Unless otherwise stated, the Salinas ESSA, as amended by the first to seventh amendments, is collectively referred to as the "Salinas ESSA".

⁷ The Jobos ESSA was amended on March 17, 2023 ("Jobos ESSA First Amendment"), June 15, 2023 ("Jobos ESSA Second Amendment"), June 30, 2023 ("Jobos ESSA Third Amendment"), July 10, 2023 ("Jobos ESSA Fourth Amendment"), November 4, 2024 ("Jobos ESSA Fifth Amendment") and December 18, 2024 ("Jobos ESSA Sixth Amendment"). Unless otherwise stated, the Jobos ESSA, as amended by the first to sixth amendments, is collectively referred to as the "Jobos ESSA".

⁸ Hereinafter the *Salinas Solar PV Project*.

⁹ Hereinafter the *Jobos Solar PV Project*.



Both agreements also have been amended several times. The Salinas PPOA¹⁰ includes a capacity of 80 MW, while the Jobos PPOA¹¹ includes a capacity of 120 MW.

On June 30, 2022, PREPA entered into a PPOA with Tetris Power, LLC ("Tetris Power") which was subsequently amended on February 24, 2023, April 26, 2023, May 31, 2023, June 30, 2023, and July 10, 2023 (the "Tetris Power PPOA").

II. PREPA's April 10 Motion

On April 10, 2026, PREPA filed a motion requesting approval of amendments to the following ESSAs and PPOAs: Convergent Ponce ESSA, Convergent Caguas ESSA, Convergent Peñuelas ESSA, Solaner PPOA, Salinas PPOA, Salinas ESSA, Jobos PPOA, Jobos ESSA, and Tetris Power PPOA (the "April 10 Motion"). Collectively, these amendments are referred to as the "Proposed Amendments."¹² PREPA included the following exhibits as part of the April 10 Motion and requested confidential treatment thereof:

Exhibit I-	Resolution 5234 issued by PREPA Governing Board
Exhibit II-	ESSA Amendment Convergent Ponce
Exhibit III-	ESSA Amendment Convergent Caguas
Exhibit IV-	ESSA Amendment Convergent Peñuelas
Exhibit V-	Amendment No. 5 Solaner PPOA
Exhibit VI-	Amendment No. 8 to Clean Flexible Salinas PPOA
Exhibit VII-	Amendment No. 8 to Clean Flexible Salinas ESSA
Exhibit VIII-	Amendment No. 7 to Clean Flexible Jobos PPOA
Exhibit IX-	Amendment No. 7 to Clean Flexible Jobos ESSA
Exhibit X-	Amendment No. 6 to Tetris Power PPOA

In the April 10 Motion, PREPA alleges the Resource Providers requested amendments to extend the Guaranteed Commercial Operating Dates ("GCODs") due to delays from permitting, regulatory reviews, legal changes, supply chain issues, financing conditions, and other factors beyond their control, and provided supporting documentation and mitigation measures in accordance with their agreements.¹³ PREPA further states that it has review the proposed amendments and determined that their scope is limited "solely" to the "extension of the GCOD" and "related scheduled milestones", without modifying pricing, compensation, performance security requirements, capacity obligations, or any other material commercial, technical, or financial terms of the agreements.¹⁴

On April 21, 2026, the Energy Bureau issued a Resolution and Order directing PREPA to produce additional information in support of its request for approval of the proposed amendments ("ROI-#1"). Specifically, PREPA must provide: (i) copies of the formal requests submitted by the contractors seeking to amend the ESSAs and PPOAs to extend the GCOD; (ii) all supporting documentation related to such requests, including evidence of the alleged delays (such as permitting processes, regulatory reviews, changes in law, supply chain constraints, financing conditions, and other circumstances beyond the contractors' reasonable

¹⁰ The Salinas PPOA was amended on March 17, 2023 ("Salinas PPOA First Amendment"), June 15, 2023 ("Salinas PPOA Second Amendment"), June 30, 2023 ("Salinas PPOA Third Amendment"), July 10, 2023 ("Salinas PPOA Fourth Amendment"), November 30, 2023 ("Salinas PPOA Fifth Amendment"), November 4, 2024 ("Salinas PPOA Sixth Amendment") and December 13, 2024 ("Salinas PPOA Seventh Amendment"). Unless otherwise stated, the Salinas PPOA, as amended by the first to seventh amendments, is collectively referred to as the "Salinas PPOA".

¹¹ The Jobos PPOA was amended on March 17, 2023 ("Jobos PPOA First Amendment"), June 15, 2023 ("Jobos PPOA Second Amendment"), June 30, 2023 ("Jobos PPOA Third Amendment"), July 10, 2023 ("Jobos PPOA Fourth Amendment"), November 4, 2024 ("Jobos PPOA Fifth Amendment") and December 13, 2024 ("Jobos PPOA Sixth Amendment"). Unless otherwise stated, the Jobos PPOA, as amended by the first to sixth amendments, is collectively referred to as the "Jobos PPOA".

¹² See *Motion Submitting Proposed Draft Amendments to Several ESSAs and PPOAs and Memorandum of Law in Support of Request for Confidential Treatment* dated April 10, 2026.

¹³ See April 10 Motion, p. 2-3.

¹⁴ See April 10 Motion, p. 3.



control), as well as any mitigation measures undertaken; (iii) a table illustrating the original GCOD and the proposed GCOD for each affected project; and (iv) any internal documents or analyses prepared by PREPA or its consultants in connection with the evaluation and justification of the requested amendments, including assessments, memoranda, reports, models, communications, or other supporting work product.

On April 27, 2026, PREPA filed a motion in response to ROI #1.¹⁵ As part of its filing, PREPA submitted the following documents and requested confidential treatment for them:

- Exhibit I Solaner Request for Extension of GCOD – January 20, 2026
 - Exhibit I (a) PREPA letter to Solaner regarding Request for Extension of Time – February 18, 2026
 - Exhibit I(b) Solaner GCOD Extension Package
- Exhibit II Clean Flexible Energy Update to Notice of Permitting Delays; Extension of Time-December 18, 2025
 - Exhibit II(a) PREPA letter to Clean Flexible Energy regarding Extension of Time-November 25, 2025
- Exhibit III Yarotek’s (Tetris Power) Request for PPOA Amendment-February 18, 2026
- Exhibit IV Convergent Request of Amendment of GCOD Dates-February 26, 2026
 - Exhibit IV(a) Convergent-Extension Request Presentation
- Exhibit V Comparison Table Original GCOD v. Proposed GCOD
- Exhibit VI PREPA Legal Evaluation-Amendments to Tranche 1 ESSA & PPOAs to Extend Guaranteed Commercial Operation Date (CODs)
- Exhibit VII PREPA Internal Communication Request for Approval of Amendments to ESSA and PPOAs, March 19, 2026

III. Evaluation and Analysis

A. Amendment to GCOD

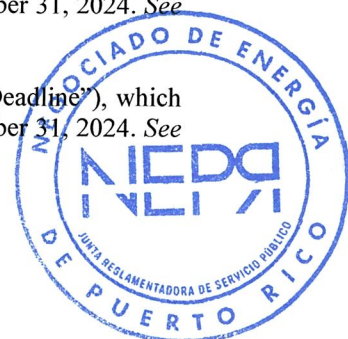
The table below presents a summary of the GCODs for each contract, including the original date, the proposed amended (extended) date, the corresponding number of days of delay associated with each contract.

	Project	Capacity	Guaranteed Commercial Operational Dates		Delay (days)
			Actual	Proposed	
1	Convergent Ponce ESSA	25 MW	December 31, 2026 ¹⁶	April 30, 2028	486
2	Convergent Caguas ESSA	25 MW	December 31, 2026 ¹⁷	April 30, 2028	486

¹⁵ See Motion in Compliance with the April 21, 2026, Resolution and Order and Memorandum of Law in Support of Request for Confidential Treatment (“April 27 Motion”).

¹⁶ 2nd Anniversary of the Material Permit Receipt Date deadline (“Material Permit Receipt Date Deadline”), which shall be the earlier of (i) the second anniversary of the Material Permit Receipt Date or (ii) December 31, 2024. See Convergent Ponce ESSA dated February 10, 2025, pp. 12 and 14.

¹⁷ 2nd Anniversary of the Material Permit Receipt Date deadline (“Material Permit Receipt Date Deadline”), which shall be the earlier of (i) the second anniversary of the Material Permit Receipt Date or (ii) December 31, 2024. See Convergent Caguas ESSA dated February 10, 2025, pp. 12 and 14.



	Project	Capacity	Guaranteed Commercial Operational Dates		Delay (days)
			Actual	Proposed	
3	Convergent Peñuelas ESSA	100 MW	December 31, 2026 ¹⁸	April 30, 2028	486
4	Clean Flexible Jobos ESSA	110 MW	November 30, 2025	May 29, 2026	180
5	Clean Flexible Jobos PPOA	80 MW	November 30, 2025	May 29, 2026	180
6	Clean Flexible Salinas ESSA	100 MW	November 30, 2025 (Phase One)	May 29, 2026	180
		75 MW	August 30, 2026 (Phase Two)	February 26, 2027	180
7	Clean Flexible Salinas PPOA	120 MW	November 30, 2025	May 29, 2026	180
8	Solaner PPOA ¹⁹	35 MW	September 30, 2025 ²⁰	December 20, 2027	811
9	Tetris Power PPOA ²¹	20 MW	September 30, 2025 ²²	December 31, 2027	822

The Energy Bureau underscores the importance of a thorough and well-documented review by PREPA of the delays associated with each contract. PREPA bears the responsibility of closely monitoring the performance of the Resource Providers and ensuring that sufficient information is available to determine whether any delays are attributable to the Resource Providers, and, if so, whether the imposition of delay liquidated damages is warranted, for the protection of ratepayer interests. At the same time, PREPA must remain prepared, to the extent contemplated under the applicable contracts, to cooperate with the Resource Providers in order to mitigate or avoid delays, recognizing that such delays ultimately have adverse economic consequences for all parties, including ratepayers, and further delay the transformation of Puerto Rico's electric system.

In this instance, PREPA has submitted certain information it received from the Resource Providers in connection with their respective requests to modify the GCOD. The documents reviewed reflect that certain materials were submitted into the record and, in general terms, support the considerations described herein regarding permitting, financing, and supply chain constraints affecting the procurement and delivery of critical materials, which have contributed to delays in the implementation of the projects. The communications examined further indicate that additional, more detailed and voluminous information addressing these matters was made available by the Resource Providers to PREPA, which PREPA evaluated but did not include as part of the record filed before the Puerto Rico Energy Bureau as part of the April 27 Motion.

As set forth in Sections 3.4 and 3.5 of the relevant contracts (ESSAs and PPOAs), requests for extensions are subject to specific procedural and substantive requirements, including the obligation to submit a timely claim within ten (10) Business Days and to establish a valid basis for such extension. At this stage, the Energy Bureau relies on PREPA's assessment that each such claim was timely submitted by the proponents in accordance with the contractual provisions, and that PREPA has reviewed and validated the supporting information, thereby recommending approval of the requested extensions. Notwithstanding the foregoing, a review of the record, and the breadth and duration of several of the requested extensions,

¹⁸ 2nd Anniversary of the Material Permit Receipt Date deadline ("Material Permit Receipt Date Deadline"), which shall be the earlier of (i) the second anniversary of the Material Permit Receipt Date or (ii) December 31, 2024. See Convergent Peñuelas ESSA dated February 10, 2025, pp. 18 and 20.

¹⁹ The dates presented in this table correspond to those set forth in the Tetris Power PPOA and Solaner PPOA contracts and their respective amendments currently available in the record. However, in the Exhibit V of the April 27 Motion, PREPA identifies different dates for these same projects, for Tetris Power PPOA, November 30, 2025, and for Solaner PPOA, October 24, 2026. Notwithstanding these differences, such discrepancies are immaterial for purposes of this Resolution and Order, as the Energy Bureau extends the GCOD to the specific dates requested by PREPA in its April 10 Motion for each one of the contracts.

²⁰ 2nd Anniversary of the Satisfaction of Conditions Subsequent deadline (the "Satisfaction of Conditions Subsequent Deadline"), which shall be the earlier of (i) the second anniversary of the Satisfaction of Conditions Subsequent or (ii) September 30, 2023. See Amendment No. 3 to the Solaner PPOA dated May 31, 2023.

²¹ See footnote #19.

²² 2nd Anniversary of the Satisfaction of Conditions Subsequent deadline (the "Satisfaction of Conditions Subsequent Deadline"), which shall be the earlier of (i) the second anniversary of the Satisfaction of Conditions Subsequent or (ii) September 30, 2023. See Amendment No. 5 to the Tetris PPOA dated July 10, 2023.



indicates that PREPA should have sought the Energy Bureau's determination earlier, particularly given that most of the requested extensions exceed the ten percent (10%) threshold established in Section 3.4, which requires prior regulatory approval. While the Energy Bureau, for purposes of this determination, accepts PREPA's analysis and has conducted a general review of the materials submitted, it nevertheless urges both PREPA and the Resource Providers to exercise greater diligence in the future, including ensuring that extension claims are submitted to PREPA in a timely manner and, in turn, promptly presented by PREPA to the Energy Bureau.

Based on the information currently available, the Energy Bureau finds that the reasons presented for the delays reasonably justify the requested extensions of the GCODs. However, in light of the experience gained from these circumstances, the Energy Bureau underscores that similar delays arising in the future may not be deemed reasonable or excusable, particularly where such experience should result in a higher degree of diligence by the Resource Providers. This approach will ensure not only compliance with the contractual framework, but also enable the Energy Bureau to intervene, where appropriate, to facilitate and potentially expedite the implementation of the projects.

The Energy Bureau further encourages PREPA and the Resource Providers to work collaboratively to minimize the occurrence of similar delays in the future, given their potential impact on the timely implementation of the projects. Accordingly, the Energy Bureau **APPROVES** the proposed amendments extending the GCODs. This determination applies to all proposed amended contracts under consideration. However, as discussed below, there remain additional contractual aspects that warrant further evaluation by the Energy Bureau.

B. Operating Characteristics Modifications (Appendix J)

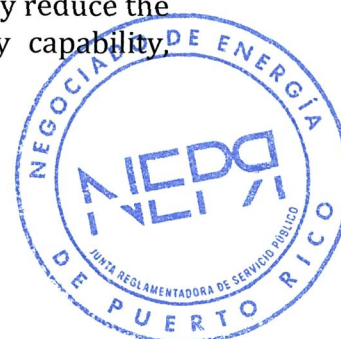
(i) BESS Discharge Degradation Profile

With respect to the Convergent Ponce ESSA, Convergent Peñuelas ESSA, and Convergent Caguas ESSA, the Energy Bureau notes that, in addition to the requested extension of the GCOD, amendments are also sought to modify the Operating Characteristics set forth in Appendix J of each of such contracts. The record shows that, as originally executed, these contracts did not contemplate any degradation in the storage capacity of the facilities.²³ In particular, Appendix J established that storage degradation, i.e., the reduction in the maximum energy available for discharge (MWh), would be zero for each year of the contract term, thereby requiring the Resource Provider to maintain the contracted energy capability throughout the duration of the agreements. The Energy Bureau further notes that the pricing and commercial terms approved for these contracts were evaluated based on the Operational Characteristics as originally defined, including the absence of degradation in storage capacity over the contract term.

Under the proposed amendments, however, Appendix J is revised to incorporate a degradation profile applicable to storage capacity, pursuant to which the available energy would progressively decline over time. Specifically, the proposed profile reflects no degradation during the initial years of operation, followed by incremental increases beginning at approximately two percent (2%) in the early years, continuing in staged increments over successive periods, and ultimately reaching approximately twenty-two percent (22%) degradation by year twenty. This profile effectively permits a progressive material reduction in the usable energy capacity of the facilities over the term of the agreements.

The Energy Bureau observes that such modification pertains to the storage component of the facilities, that is, the energy capacity (MWh) available for discharge, which constitutes a central element of the contracted service. As a result, the introduction of a degradation profile alters the performance characteristics of the resource over time and may reduce the Resource Provider's obligation to sustain the originally contracted energy capability.

²³ Battery Energy Storage Systems, or "BESS".



including by diminishing or deferring the need for augmentation or replacement of battery components.

The Energy Bureau further notes that the April 10 Motion is directed "solely" to the extension of the GCOD and related milestones and does not expressly request approval of a revised storage degradation profile, nor does it include supporting information addressing the technical basis, operational implications, or economic impact of introducing such degradation. Accordingly, the Energy Bureau **DETERMINES** that Appendix J shall remain as originally approved, and that the degradation provisions shall remain as set forth in the original version of the contracts.

(ii) *Liquidated Damages*

As previously stated, the April 10 Motion is directed "solely" to the extension of the GCOD, as reflected in the motion itself. However, the Energy Bureau notes that, in certain instances, the GCOD is incorporated within the milestone tables set forth in Appendix D. In this regard, the Energy Bureau further observes that, under the Convergent Ponce ESSA, the *Resource Provider Delay Liquidated Damages*, which are likewise included in the milestone table, were reduced from \$13,141/day to \$12,969/day. Similarly, under the Convergent Peñuelas ESSA, such amount was reduced from \$51,740/day to \$12,969/day. The April 10 Motion does not provide any explanation or justification for these reductions. A review of the record suggests that such revisions may be attributable to a clerical or typographical error, whereby the amount corresponding to the Convergent Caguas ESSA (\$12,969) appears to have been inadvertently carried over and replicated in the milestone tables of the other contracts. Accordingly, such amounts shall remain as originally set forth in the approved contracts. The proposed modifications to the Resource Provider Delay Liquidated Damages are therefore **REJECTED**.

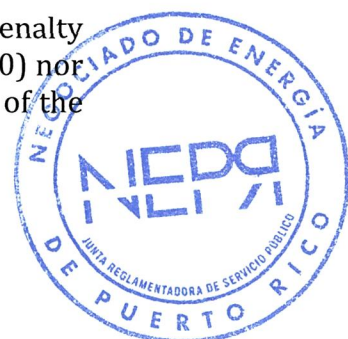
IV. Conclusion

Based on the foregoing analysis and evaluation, the Energy Bureau hereby **APPROVES** the proposed modifications to the GCOD for Convergent Ponce ESSA, Convergent Caguas ESSA, Convergent Peñuelas ESSA, Solaner PPOA, Salinas PPOA, Salinas ESSA, Jobos PPOA, Jobos ESSA, and Tetris Power PPOA. With respect to the Convergent Ponce ESSA, Convergent Peñuelas ESSA, and Convergent Caguas ESSA, the proposed modifications to the Operating Characteristics set forth in Appendix J are **DENIED**, as discussed in Part III(B)(i) of this Resolution and Order. Furthermore, with respect to the Convergent Ponce ESSA and the Convergent Peñuelas ESSA, the Resource Provider Delay Liquidated Damages shall remain as established in the contracts as originally approved, and the proposed modifications are hereby **REJECTED**, as set forth in Part III(B)(ii) of this Resolution and Order.


The Energy Bureau **ORDERS** PREPA to submit the updated contracts within **ten (10) business days** from the date of notification of this Resolution and Order. As part of its submittal, PREPA **SHALL** include clean and redline versions of the updated contracts. The modifications herein required **do not** require a subsequent determination by Resolution from the Energy Bureau. The required filing is for the purpose to assure it is part of the administrative file. Additionally, the Energy Bureau **ORDERS** PREPA to submit to the Energy Bureau, within **five (5) business days** of the execution of the contracts, such executed contracts and evidence that they have been filed with the Office of the Comptroller of Puerto Rico.

The Energy Bureau **WARNS** PREPA that, in accordance Art. 6.36 of Act 57-2014:

- (i) noncompliance with this Resolution and Order, regulations and/or applicable laws may carry the imposition of fines and administrative sanctions of up to \$125,000 per day; and
- (ii) for any recurrence of non-compliance or violation, the established penalty shall increase to a fine of not less than ten thousand dollars (\$15,000) nor greater than twenty thousand dollars (\$250,000), at the discretion of the Energy Bureau.




Be it notified and published.



Edison Avilés Deliz
Chairman



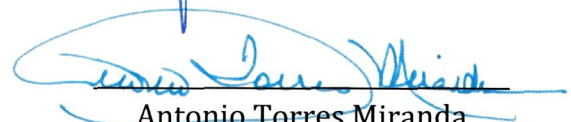
Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner



Sylvia B. Ugarte Araujo
Associate Commissioner




Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on May 5, 2026. I also certify that on May 5, 2026 a copy of this Resolution and Order was notified by electronic mail to the following: nzayas@gmlex.net; mvalle@gmlex.net; alexis.rivera@prepa.pr.gov; rcruzfranqui@gmlex.net; katuska.bolanos-lugo@us.dlapiper.com; yahaira.delarosa@us.dlapiper.com; laura.rozas@us.dlapiper.com; RegulatoryPREBorders@lumapr.com; jfernandez@ecija.com, legal@genera-pr.com, regulatory@genera-pr.com. I also certify that on May 5, 2026, I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, on May 5, 2026.



Wanda I. Cordero Morales
Interim Clerk

