

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

NEPR

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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: PREPA's Informative Motion

MOTION IN COMPLIANCE WITH THE RESOLUTIONS AND ORDERS OF MAY 6 AND MAY 7, 2026, 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:

I. Procedural Background

1. On November 27, 2025, the Energy Bureau of the Puerto Rico Public Service Regulatory Board (Energy Bureau") issued a Resolution and Order ("November 27 Order") in which it ordered PREPA to submit all documentation generated, received, transmitted, or relied upon as part of the accelerated acquisition of renewable resources process conducted under the Executive Order and the Energy Bureau's Resolution and Order of September 26, 2025.

2. On December 5, 2025, PREPA complied with the November 27 Order and filed the proposal of eight (8) proponents ("December 5 Compliance Motion").

3. On December 30, 2025, the Energy Bureau issued a Resolution and Order ("December 30 Resolution") approving the procurement of certain selected renewable energy and energy storage projects and directing PREPA to commence and complete

negotiations with selected proponents.

4. Subsequently, the Energy Bureau issued other determinations which impacted the procedural schedule set forth in the December 30 Resolution.

5. Specifically, on February 6, 2026, the Energy Bureau issued a Resolution and Order (the "February 6 Resolution") ordering PREPA to, among other things, notify all proponents whose projects were not selected in the December 30 Resolution that they had three (3) days to submit final improved pricing offers for their previously proposed projects ("February 6 Resolution").

6. On February 9, 2026, PREPA filed a *Motion in Compliance with the January 16 and February 6, 2026, Resolutions, and Memorandum of Law in Support of Request for Confidential Treatment*, whereby it informed the Energy Bureau that, on February 6, 2026, PREPA notified the proponents whose projects were not selected under the December 30 Resolution accordingly and granted them three (3) days to submit final improved pricing offers for their previously proposed projects for PREPA's consideration.

7. On May 6, 2026, the Energy Bureau issued a Resolution and Order ("May 6 Resolution"), requesting PREPA to confirm that the eight (8) proposals filed with the December 5 Compliance Motion constitute the entirety of all proposals received in this proceeding and to the extent any additional proposals were received to submit such proposals within a seven (7)-day period.

8. In compliance with the May 6 Resolution, PREPA hereby notifies the Energy Bureau that the eight (8) proposals filed with the December 5 Compliance Motion do not constitute the entirety of all proposals received in this proceeding. Accordingly, as

ordered by the Energy Bureau, PREPA submits under **Confidential Exhibit 1** all additional proposals received by PREPA subsequent to the filing of the December 5 Compliance Motion, constituting the final improved pricing offers received from the proponents whose projects were not chosen in the December 30 Resolution.

9. On May 7, 2026, the Energy Bureau issued a Resolution and Order ("May 7 Resolution"), ordering PREPA to file within the same seven (7) days established on the May 6 Order, all documentation exchange between PREPA and the proponents since the opening of the RFP process through the present date, including but not limited to communications, price adjustments, contract amendment requests and any other related documentation, including the proposals filed with the December 5 Compliance Motion.

10. In compliance with the May 7 Resolution, PREPA hereby submits: (a) under **Confidential Exhibit 2**, all documentation exchange between PREPA and the proponents since the opening of the RFP process through the present date; and (b) under **Confidential Exhibit 3**, the proposals filed with the December 5 Compliance Motion.

II. Request for Confidential Treatment

11. Considering the deliberative materials contained in **Confidential Exhibits 1, 2 and 3**, PREPA respectfully requests confidential treatment of the same. 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 negotiation concludes.

12. 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).

13. Pursuant 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.

14. 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.

15. In addition, Article 4(iv) of the Puerto Rico Government Open Data Act, Act 122-2019, codified at 3 L.P.R.A. § 9894, explicitly exempts from disclosure "Official Information and Decision-making Official Information in Public Policy-making Procedures, as recognized by case law", including deliberative materials as stated in Bhatia Gautier v. Gobernador.

16. Below is a summary of the information for which PREPA seeks confidential treatment:

File	Summary of Legal Basis for Confidential Treatment
Confidential Exhibit 1	Deliberative material
Confidential Exhibit 2	Deliberative Material
Confidential Exhibit 3	Deliberative Material

17. PREPA requests that **Confidential Exhibits 1, 2 and 3** remain confidential until the negotiation and approval process concludes.

WHEREFORE, PREPA respectfully requests that the Energy Bureau: (1) take **NOTICE** of the present Motion; (2) **EVALUATE** the confidential documents submitted as **Confidential Exhibits 1, 2 and 3**; (3) **DETERMINE** what it deems as the appropriate course of action; and (4) **GRANT** confidential treatment for **Confidential Exhibits 1, 2 and 3**.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on the 13th day of May 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>.

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Confidential Exhibits 1, 2 and 3 – Confidential link submitted to the Clerk of the Energy
Bureau