

**GOVERNMENT OF PUERTO RICO  
PUERTO RICO PUBLIC SERVICE REGULATORY  
BOARD 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 pertaining Yabucoa Energy, LLC, Proponent No. 3, and Proponent No. 7 site control.

**RESOLUTION AND ORDER**

**I. Relevant Background**

M On September 22, 2025 the Governor of Puerto Rico, Hon. Jennifer A. González Colón, issued Executive Order OE-2025-047 ("Executive Order") which amended and expanded the Puerto Rico energy emergency and authorized extraordinary measures to accelerate the evaluation and approval of renewable energy and storage projects qualifying for federal investment tax credits ("ITCs") under Public Law 119-21, also known as the One Big Beautiful Bill Act ("OBBA"). On September 26, 2025, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("September 26 Resolution") through which it provided the Puerto Rico Electric Power Authority ("PREPA") with guidelines for the implementation of the accelerated acquisition of renewable resources in accordance with Executive Order.

Jm On October 1, 2025, PREPA filed a motion ("October 1 Motion") notifying the initiation of a process to carry out the procurements ordered pursuant to the procedure instituted by the Executive Order and the September 26 Resolution. To that end, PREPA issued a notice to prospective proponents inviting them to participate in the accelerated procurement process. Such notice laid down the applicable instructions and evaluation criteria and incorporated by reference the RFP model and model contracts used in the Tranche 4 RFP process, which had previously been included with the Energy Bureau's September 26 Resolution.<sup>1</sup>

JAB On December 5, 2025, PREPA submitted a document titled *Moción Aclaratoria y en Cumplimiento con las Resoluciones y Órdenes de 21 y 27 de Noviembre de 2025 y Memorando en Apoyo a Solicitud de Confidencialidad* ("December 5 Motion"), in which PREPA explains that it has complied with the requirements established in the November 21 and 27 Resolution and Order, respectively.

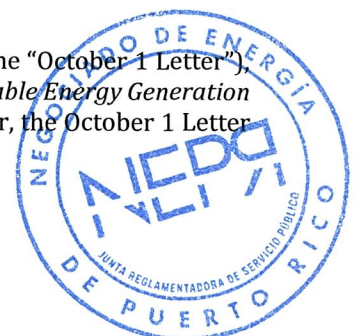
ASB On December 30, 2025, the Energy Bureau issued a Resolution and Order preliminary approving certain renewable energy and storage projects totaling approximately 659 MW of Battery Energy Storage Systems ("BESS") and 25 MW of solar photovoltaic projects ("Solar PV"). The Resolution and Order also directed PREPA to complete negotiations with the selected proponents<sup>2</sup> and to submit the negotiated draft contracts for the Energy Bureau's final evaluation and approval (the "December 30 Order").

On January 16, 2026, the Energy Bureau issued a Resolution and Order that, among others, established February 15, 2026, as the deadline for completing contract negotiations and ordered PREPA to submit updated status reports on the contract negotiations every five (5) days thereafter until the conclusion of the negotiation process ("January 16 Resolution").

Thereafter, on February 6, 2026, with respect to the remaining proponents whose projects were not selected as part of the December 30 Resolution, the Energy Bureau ordered PREPA

<sup>1</sup> See Annex to the October 1 Motion, which includes the letter dated October 1, 2025 (the "October 1 Letter"), and Addendum 1 to the September 26 Resolution, titled *Request for Proposals for Renewable Energy Generation and Energy Storage Resources, Executive Order EO-2025-047* (the "Model RFP"). Together, the October 1 Letter and the Model RFP are referred to herein as the "Accelerated Process RFP".

<sup>2</sup> Individually referred to as Proponent 1, Proponent 2, and Proponent 3.



to notify such proponents that they shall have a period of three (3) days to submit, for PREPA's consideration, final improved pricing offers with respect to the projects they previously proposed ("February 6 Order"). The Energy Bureau further clarified that considering the January 16 Resolution, it was expecting the contracts to be submitted on or before February 15, 2026, unless the parties jointly determined that additional time was necessary and submitted a joint request to the Energy Bureau seeking an extension of such term.

On February 18, 2026, Yabucoa Energy, LLC ("Yabucoa Energy") filed a document titled *Motion for Notice, Docketing, and Provisional Confidential Treatment* ("February 18 Motion"), whereby it informed that despite not having received written status determination regarding its proposal, it was notified on February 6, 2026, via the Power Advocate platform, an invitation to submit improved pricing pursuant to the Energy Bureau's February 6 Motion. Yabucoa Energy stated that on February 9, 2026, it requested PREPA clarification regarding the status of its proposal and provided revised and improved pricing. Yabucoa Energy further indicated that it had submitted the February 18 Motion solely to ensure that the Energy Bureau was fully informed of the status of a financeable, shovel-ready BESS project that responded constructively to the February 6 Resolution and remains prepared to proceed. Yabucoa Energy attached its February 9, 2026, correspondence to PREPA to the February 18 Motion, which it argued contains commercially sensitive information, and requested provisional confidential treatment and a ten (10) day term to submit a confidentiality memorandum specifying the legal and factual basis for protection.

On February 24, 2026, the Energy Bureau took notice of the information contained in the February 18 Motion and granted Yabucoa Energy the requested ten (10) day term to submit the confidentiality legal memorandum. The Energy Bureau further granted provisional confidential treatment to the correspondence attached to the February 18 Motion pending submission of the legal memorandum.

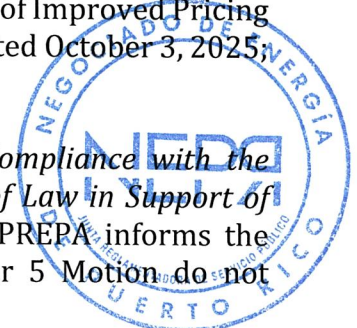
On March 2, 2026, Yabucoa Energy filed a document titled *Memorandum of Law in Support of Confidential Treatment of Appendix and Exhibit I Included in Yabucoa Energy's Motion for Notice, Docketing, and Provisional Confidential Treatment of February 9, 2026* ("March 2 Motion").

Through Resolution and Order dated March 3, 2026, the Energy Bureau, among other determinations, granted confidential designation and treatment to Exhibit 1 to the February 18 Motion.

Following several procedural steps, on May 6, 2026, the Energy Bureau issued a Resolution and Order requiring PREPA to certify, within the following seven (7) days, that the eight (8) proposals filed with the December 5 Motion constitute the entirety of all proposals received in this proceeding. Additionally, on May 7, 2026, the Energy Bureau issued a Resolution and Order requiring PREPA to submit 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.

On May 8, 2026, Yabucoa Energy filed a document titled *Motion Requesting that the Puerto Rico Energy Bureau Take Notice* ("May 8 Motion"). Through the May 8 Motion, Yabucoa Energy informs about the status of a financeable BESS project that remains prepared to proceed and that responded constructively to the PREB's February 6 Resolution. Yabucoa Energy included the following exhibits with the May 8 Motion and requested confidential treatment for each of them: Exhibit 1: Request for Status and Submission of Improved Pricing dated February 9, 2026; Exhibit 2: [Land Lease Option Grantor] letter dated October 3, 2025; Exhibit 3: Form of Bid Bond; and Exhibit 4: Premium Endorsement.

On May 13, 2026, PREPA submitted a document titled *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*, ("May 13 Motion"). Through it, PREPA informs the Energy Bureau that the eight (8) proposals filed with the December 5 Motion do not



constitute the entirety of all proposals received in this proceeding and submits, under Confidential Exhibit 1, all additional proposals received by PREPA subsequent to the filing of the December 5 Compliance Motion. In addition, PREPA submits all documentation exchange between PREPA and the proponents since the opening of the RFP process under Confidential Exhibit 2; and under Confidential Exhibit 3, the proposals filed with the December 5 Compliance Motion.

## II. Discussion and Findings

The purpose of this process has been to facilitate agreements that promote the public interest and enable the timely execution of these contracts, one of whose principal objectives is to allow Puerto Rico to benefit from available Investment Tax Credits (“ITCs”). ITCs are federal tax incentives established under United States law for qualifying renewable energy and energy storage projects and are intended to reduce overall project costs, ultimately benefiting ratepayers. The Energy Bureau recognizes that the accelerated nature of this procurement and negotiation process is, in part, intended to ensure the projects may qualify for such incentives, which are subject to forthcoming eligibility deadlines. Accordingly, the timely completion of these negotiations is necessary to maximize the opportunity to capture these benefits, which may translate into more favorable rates for ratepayers in Puerto Rico.

Yabucoa Energy states that its proposal for a BESS project in the Municipality of Yabucoa is going to be located in a property for which Yabucoa Energy holds valid land control pursuant to a Lease Option Agreement.

The Energy Bureau **TAKES NOTICE** of the May 8 Motion filed by Yabucoa Energy. However, upon review of all documentation submitted, it is not clear that Yabucoa Energy complied with the requirement that demonstrate effective control over the land where the project will be developed. Specifically, letters dated October 3, 2025, and December 19, 2025, signed by the landowner representative do not include the referenced active Lease Option Agreement nor does it mention the proposed project to be developed in such land. It actually mentions a different project.

Upon examination of the administrative record, the Energy Bureau notes the existence of conflicting information regarding the property rights and control associated with the site proposed for the development of the project. Specifically, Exhibit No. 2 to the May 8 Motion consists of a letter dated October 3, 2025, from the purported grantor of the lease option agreement, concerning the alleged assignment in favor of Yabucoa Energy of a purported lease option agreement for the proposed project site. However, the referenced communication identifies a contract number registered with the Office of the Comptroller which the Energy Bureau has had the opportunity to examine, and which pertains to a different property than the one allegedly intended for the proposed project, reflects a smaller land area than that contemplated for the proposed development, and which, by its own terms, had already expired prior to the date of the purported assignment referenced in said communication.

Furthermore, the administrative record includes a communication dated December 19, 2025,<sup>3</sup> from the purported grantor of the lease option agreement, which does not establish with sufficient legal specificity that Yabucoa Energy presently possesses the requisite control over the property upon which the project is proposed to be developed. Said communication further reflects that the referenced lease option agreement pertains to a project involving a natural gas-fired electric generation facility, rather than a battery energy storage system of the nature proposed by Yabucoa Energy in the present proceeding. Finally, it is necessary to clarify that none of the documents contained in the administrative record establish, or otherwise tend to demonstrate, that Yabucoa Energy possesses property rights or control over the relevant site for the duration of the proposed contractual term associated with the installation and operation of the proposed facility, which is contemplated to extend for a period of twenty (20) years.

<sup>3</sup> See May 13 Motion, Exhibit 2, Land Control Yabucoa Energy Dec. 19 2025.



Under such circumstances, the Energy Bureau hereby **ORDERS** PREPA and Yabucoa Energy to meet and confer within a term of ten (10) days from the notification of this Resolution and Order in to clarify the foregoing issues and determine whether the necessary property rights and control exist to permit the continued negotiation and evaluation of the proposed contract. Within said term, PREPA and Yabucoa Energy shall jointly file a submission before the Energy Bureau informing whether an agreement or clarification sufficient to allow the continuation of the contract evaluation process has been reached.

The Energy Bureau has also examined the administrative record with respect to the proposals submitted by Proponent No. 3 and Proponent No. 7 and notes the existence of discrepancies regarding the property rights and control associated with the site proposed for the construction of the projects.<sup>4</sup> Likewise, the Energy Bureau notes unresolved issues concerning the status and progress of the permits and authorizations required for the proposed projects. The record further reflects that, by communication dated January 9, 2026, Proponent No. 7 submitted<sup>5</sup> information regarding site control. Likewise, the record reflects that Proponent No. 3 submitted certain documentation concerning control over the proposed project site, as well as matters related to the permitting process. Under such circumstances, the Energy Bureau also **ORDERS** PREPA and Proponent No. 7, as well as PREPA and Proponent No. 3, to separately meet and confer within a term of ten (10) days from the notification of this Resolution and Order to evaluate and clarify the foregoing matters and determine whether the identified discrepancies and issues concerning property rights, control over the proposed site, and the status of the required permits and authorizations may be satisfactorily resolved so as to permit the continuation of the contract negotiation and evaluation process. Within said term, PREPA and Proponent No. 7, and separately PREPA and Proponent No. 3, shall jointly file a status submission before the Energy Bureau informing whether sufficient clarification or agreement has been reached to permit the continuation of the contract evaluation and negotiation process.

The Energy Bureau **WARNS** PREPA that, in accordance with Art. 6.36 of Act 57-2014, non-compliance with this Resolution and Order may carry the imposition of fines.

Be it notified and published.




<sup>4</sup> The numbering of these proponents (Proponent No. 3 and Proponent No. 7) corresponds to the section titled *Overview of the Proponents* included in the Evaluation Report, which was attached as an exhibit to the *Moción en Cumplimiento de Resolución y Orden de 26 de septiembre de 2025 y Memorando en Apoyo a Solicitud de Confidencialidad*, filed by PREPA on November 13, 2025. For the avoidance of doubt, Proponent No. 3 referred to herein is not the same entity referenced in Footnote No. 2 ("Proponent 3"), as such footnote corresponds to a different numbering designation for proponents utilized by PREPA in other filings before the Puerto Rico Energy Bureau.

<sup>5</sup> Although the referenced communication bears the date of January 9, 2026, Proponent No. 7 subsequently clarified, through an electronic mail communication sent to PREPA on February 17, 2026, that such date resulted from a typographical error and that the communication had in fact been submitted on February 9, 2026. See May 13 Motion, Exhibit 2, [Proponent 7] Letter in Response to PREPA Notification and PREB Order of 02-09-26.



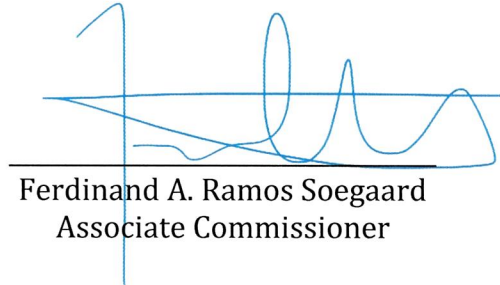
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Edison Avilés Deliz  
Chairman



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Lillian Mateo Santos  
Associate Commissioner



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Ferdinand A. Ramos Soegaard  
Associate Commissioner



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Sylvia B. Ugarte Araujo  
Associate Commissioner



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Antonio Torres Miranda  
Associate Commissioner

**CERTIFICATION**

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on May 20, 2026. did not intervene. I also certify that on May 20, 2026, I have proceeded with the filing of the Resolution and Order and a copy of this Resolution and Order was notified by electronic mail to alexis.rivera@prepa.pr.gov; nzayas@gmlex.net; mvalle@gmlex.net; rcruzfranqui@gmlex.net; molinilawoffices@gmail.com; ysantiago@picoadvisors.com.

For the record, I sign this in San Juan, Puerto Rico, today May 20, 2026.



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Sonia Seda Gaztambide  
Clerk