

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

<b>NEPR</b>  Received:  May 29, 2026  4:13 PM
---

**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

**MOTION IN COMPLIANCE WITH RESOLUTION AND ORDER  
TO THE HONORABLE PUERTO RICO ENERGY BUREAU:**

**COMES NOW** the Puerto Rico Electric Power Authority (“PREPA”), through its counsel, and respectfully submits and prays as follows:

1. On May 22, 2026, the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) issued a Resolution and Order addressing certain proposed modifications to the Energy Storage Services Agreements (“ESSAs”) and Power Purchase and Operating Agreements (“PPOAs”) for Proponent No. 3. In said Resolution and Order, the Energy Bureau provided guidance and determinations regarding specific contractual provisions. The Energy Bureau directed PREPA and Proponent No. 3 to consider and implement revisions consistent with such guidance and to submit any revised contractual language to the Energy Bureau for its record.

2. In compliance with the Resolution and Order, representatives of PREPA and Proponent No. 3 met on May 28, 2026, to discuss the Energy Bureau’s determinations and recommendations.

3. Accordingly, PREPA hereby submits the revised ESSAs and PPOAs, attached hereto, reflecting the modifications agreed upon by the parties following the May 28, 2026 meeting and in accordance with the Energy Bureau’s Resolution and Order.

4. PREPA respectfully informs the Energy Bureau that on May 29, 2026, the revised agreements were submitted to PREPA’s Governing Board for its consideration.

The Governing Board's meeting to vote on the approval of the agreements is scheduled for May 30, 2026. Upon obtaining Governing Board approval, PREPA intends to submit the agreements to the Financial Oversight and Management Board for Puerto Rico ("FOMB") for its review and approval required under applicable law.

5. PREPA submits this filing solely for the purpose of complying with the Energy Bureau's directive and completing the administrative record in this proceeding.

6. PREPA respectfully requests confidential treatment for the draft contracts submitted herewith. These draft agreements constitute predecisional and deliberative materials generated in the course of ongoing negotiations and reflect internal analyses, assessments, recommendations, and proposed contractual positions that remain subject to review and modification. Public disclosure at this stage would impair the integrity of the deliberative and decision-making process, undermine the parties' ability to negotiate effectively and in good faith, and potentially prejudice the successful completion of the transactions. Accordingly, the draft contracts are protected from disclosure under the deliberative process privilege and should remain confidential until the negotiation, approval, and execution processes have been completed.

7. 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).

8. 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.

9. 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.

10. 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 “[i]nformation and official information related to decision-making in public policy-making processes, as recognized by case law,” including deliberative materials.

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

File	Summary of Legal Basis for Confidential Treatment
Draft contracts	Deliberative material

12. PREPA respectfully requests that the Energy Bureau take notice of the abovementioned and approve the request for confidential treatment of the information submitted with this Motion.

**WHEREFORE**, PREPA respectfully requests the Energy Bureau to: (i) take **NOTICE** of the foregoing; (ii) **DEEMS** PREPA in compliance with the May 22 Resolution and Order, and (iii) **GRANT** confidential treatment to the draft contracts included.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, on the 29<sup>th</sup> 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>. We also certify that a true and exact copy of this document was notified by electronic mail to: [ysantiago@picoadvisors.com](mailto:ysantiago@picoadvisors.com).

**f/ Alexis G. Rivera Medina**  
RUA No. 18747  
Legal Affairs Director  
Puerto Rico Electric Power Authority  
[alexis.rivera@prepa.pr.gov](mailto:alexis.rivera@prepa.pr.gov)  
P.O. Box 363928  
San Juan, PR 00936  
Tel. (787) 521-4643