

**GOVERNMENT OF PUERTO RICO
PUBLIC SERVICE REGULATORY BOARD
PUERTO RICO 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 Approving the Procurement of Selected Energy Storage Projects

NEPR

Received:

Jun 1, 2026

12:43 PM

JOINT INFORMATIVE MOTION

TO THE HONORABLE ENERGY BUREAU:

COMES NOW, the Puerto Rico Electric Power Authority ("PREPA") and an interested proponent in the above-captioned proceeding ("Proponent 3," and collectively with PREPA, the "Parties"), through the undersigned counsel, and jointly respectfully state, allege, and pray as follows:

1. Reference is hereby made to the Resolution and Order issued by the Puerto Rico Energy Bureau (the "Energy Bureau") on May 22, 2026 ("May 22 Order") recommending revised contractual language for the Energy Storage Services Agreements ("ESSAs") and Power Purchase and Operating Agreements ("PPOAs" and collectively with the ESSAs, the "Agreements") for Proponent 3's eleven (11) project sites, directing the Parties to consider and implement such revisions within ten (10) days thereof, and to submit any revised contractual language resulting from such efforts to the Energy Bureau within fifteen (15) days after completion, for the sole purpose of completing the Energy Bureau's files.

2. Reference is also made to the Motion in Compliance with Resolution and Order filed by PREPA on May 29, 2026, submitting to the Energy Bureau the revised Agreements reflecting the modifications agreed upon by the Parties and in accordance with the May 22 Order. PREPA further indicated that the revised Agreements had been submitted to its Governing Board for consideration and a vote on their approval at a meeting scheduled for May 30, 2026.

3. The Parties hereby inform that, later on May 29, 2026 (after PREPA's filing of the Motion in Compliance with Resolution and Order), Proponent 3 submitted to PREPA updated Agreements including input in one additional blank that had mistakenly been omitted in Section 10.1(d) of both the PPOA and ESSA. The Parties hereby jointly submit to the Energy Bureau the latest forms of the Agreements containing the additional input, for the purpose of completing the Energy Bureau's files.

4. Additionally, the Parties notify the Energy Bureau that, on May 30, 2026, PREPA's Governing Board held a meeting to consider and vote on the approval of the Agreements and approved them. PREPA will now proceed to submit copies of the Agreements to the Financial Oversight and Management Board for Puerto Rico ("FOMB") for its review and consideration. If approved by the FOMB, the Parties will proceed with the execution of the Agreements upon satisfaction of all conditions precedent applicable at such time. Thereafter, the Parties will continue engaging diligently and in good-faith discussions to address issues and implement such

modifications where necessary to facilitate financing and project development, in accordance with the May 22 Order.

5. The Parties submit this filing solely for the purpose of informing the Energy Bureau of their efforts and completing the administrative record in this proceeding.

6. The Parties respectfully requests confidential treatment for the Agreements submitted herewith. The 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 Agreements 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 the Parties seek confidential treatment:

File	Summary of Legal Basis for Confidential Treatment
Proponent 3's PPOAs and ESSAs	Deliberative material

12. The Parties respectfully request that the Energy Bureau take notice of the above and approve the request for confidential treatment of the information submitted with this Motion.

WHEREFORE, the Parties respectfully request the Energy Bureau to: (i) take **NOTICE** of the foregoing; (ii) **GRANT** confidential treatment to the Agreements included; and (iii) **GRANT** any other relief deemed just and proper.

RESPECTFULLY SUBMITTED

In San Juan, Puerto Rico, on June 1, 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 <http://radicacion.energia.pr.gov/login>.

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