

**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

NEPR

Received:

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**MOTION IN COMPLIANCE WITH RESOLUTION AND ORDER REGARDING  
PROPONENT NO. 3**

**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 20, 2026, the Puerto Rico Energy Bureau (“Energy Bureau”) issued a Resolution and Order directing, among other things, PREPA and Proponent No. 3 to meet and confer within ten (10) days to evaluate and clarify matters concerning property rights, control over the proposed project site, and the status of the permits and authorizations required for the proposed project.

2. The Resolution and Order further directed PREPA and Proponent No. 3 to inform the Energy Bureau whether sufficient clarification or agreement had been reached to permit the continuation of the contract evaluation and negotiation process.

3. In compliance with the Resolution and Order, representatives of PREPA and Proponent No. 3 held a meeting and discussed the matters identified by the Energy Bureau, including issues related to site control, property rights, permitting status, and other supporting information relevant to the proposed project.

4. During and following such discussions, Proponent No. 3 provided PREPA with documentation and supporting materials addressing the issues identified in the Resolution and Order.

5. In compliance with the Resolution and Order, PREPA hereby submits all documentation provided by Proponent No. 3 in connection with the issues identified by the Energy Bureau.

6. PREPA respectfully requests confidential treatment for the documents submitted herewith. These documents 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 documents 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. 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 that the Energy Bureau take notice of this filing, grant confidential treatment to the documents submitted herewith, as they contain commercially sensitive and proprietary information provided by Proponent No. 3

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, on the 1<sup>st</sup> of June 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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