

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

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IN RE: ACCELERATED EVALUATION OF RENEWABLE ENERGY AND ENERGY STORAGE PROJECTS PROPOSAL TO SECURE FEDERAL INVESTMENT TAX CREDITS (ITC)

CASE NO.: NEPR-MI-2025-0005

SUBJECT: Submit PREPA and Yabucoa Energy Join Motion for Clarification Regarding Property Rights in Compliance with Resolution and Order dated May 20, 2026.

JOIN MOTION TO TAKE NOTICE

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW YABUCOA ENERGY and the Puerto Rico Electric Power Authority through their undersigned counsel, and respectfully submits and prays as follows:

1. On May 20, 2026, the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) issued a Resolution and Order titled Resolution and Order Pertaining to Yabucoa Energy, LLC, Proponent No. 3, and Proponent No. 7 Site Control.
2. The Puerto Rico Electric Power Authority (“PREPA”) and Yabucoa Energy, LLC, respectfully informs the Energy Bureau that, subsequent to the filing of the Joint Motion on June 1, 2026, the Puerto Rico Land Administration has issued a letter setting forth the terms and conditions governing the proposed land lease agreement, and such terms and conditions have been duly accepted and executed by Yabucoa Energy.
3. Accordingly, the parties submit that the execution and acceptance of the Puerto Rico Land Administration’s terms and conditions further confirms and evidences Yabucoa Energy’s site control over the proposed project site. Specifically, the executed terms and conditions demonstrate that the Puerto Rico Land Administration has authorized Yabucoa Energy to proceed with the development, construction, and operation of the proposed Battery Energy

Storage System (“BESS”) project on the subject property and that the parties are advancing toward the finalization of the corresponding land lease agreement, subject to approval of the Governing Board of the Puerto Rico Land Administration and, if applicable, the Financial Oversight and Management Board for Puerto Rico.

4. In light of the foregoing, PREPA and Yabucoa Energy respectfully submit that the record now contains sufficient evidence demonstrating Yabucoa Energy’s requisite site control and legal authority to develop the proposed project. Consequently, PREPA and Yabucoa Energy respectfully request that the Energy Bureau proceed with the evaluation and processing of the proposal submitted under RFP No. 237366 and continue with the corresponding procurement proceedings.
5. The letter setting forth the terms and conditions issued by the Puerto Rico Land Administration, duly accepted and executed by Yabucoa Energy, is attached hereto as Exhibit A. Because the document contains commercially sensitive and confidential information, the parties respectfully request that the Energy Bureau afford confidential treatment to the Exhibit and maintain it under seal in accordance with the applicable rules and procedures governing confidential information.
6. PREPA and Yabucoa 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, Yabucoa Energy respectfully requests that this Energy Bureau **TAKE NOTICE** of the above for all purposes; and **DEEM** Yabucoa Energy and PREPA to be in compliance with the Resolution and Order issued on May 20, 2026.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 8 day of June 2026.

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