

**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 24, 2026

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JOINT MOTION IN COMPLIANCE WITH RESOLUTION AND ORDER

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:

- Reference is made to the Resolution and Order issued by the Puerto Rico Energy Bureau (the “Energy Bureau”) on June 17, 2026 (“June 17 Order”), which directed Proponent 3 to revise the compensation provisions applicable to all of its Solar PV projects in accordance with either of the two approaches set forth therein and ordered PREPA and Proponent 3 to submit revised agreements within two (2) days of the issuance of the June 17 Order.
- The Energy Bureau further directed Proponent 3 to submit a revised agreement for Naguabo Solar Farm LLC reflecting a single Solar PV facility with a capacity of forty-five (45) MW, together with the corresponding compensation structure, consistent with the determinations and directives set forth in the Energy Bureau’s Resolution and Order dated March 26, 2026 (the “March 26 Order”).¹
- On June 22, 2026, PREPA filed a Motion Requesting Brief Extension of Time to Comply with Resolution and Order informing the Energy Bureau that the Parties had been actively engaged in discussions and drafting efforts to implement the modifications to Proponent 3’s Power Purchase and Operating Agreements (“PPOAs”) and Energy Storage Services Agreement (“ESSAs,” and collectively with the PPOAs, the “Agreements”) required by the Energy Bureau in the June 17 Order. PREPA further requested that the Energy Bureau grant a brief extension of time to submit the revised Agreements reflecting such modifications.
- The Parties hereby inform that on June 23, 2026, Proponent 3 submitted to PREPA the revised Agreements for Proponent 3’s eleven (11) project sites.
- Regarding the PPOAs, Proponent 3 submitted a revised PPOA for the project identified as Naguabo Solar Farm LLC, reflecting a single Solar PV facility, as mandated by the Energy Bureau. Proponent 3 also circulated updated forms that include a new paragraph (b) in Section 3

¹ Following the March 26 Order, Proponent 3 submitted a total of twenty-four (24) agreements, namely one ESSA and one PPOA for each of ten (10) sites and two ESSAs and two PPOAs for one (1) site, identified as Naguabo Solar Farm LLC, to reflect two interconnection points required to address current LUMA interconnection limitations at such site.

(Base Rate) of Appendix F (Compensation) of the PPOA, incorporating the Energy Bureau's recommended alternative allowing the use of differing First-Year Base Rates and a portfolio-based pricing structure, with certain revisions described and explained in the confidential Exhibit A attached to this Motion.

6. Regarding the ESSAs, Proponent 3 submitted a revised ESSA for the project identified as Naguabo Solar Farm LLC, reflecting a single energy storage facility. Proponent 3 also corrected a blank space that had mistakenly been omitted in the definition of "Facilities" in the prior draft of ESSAs for the projects identified as Caracol Solar Farm LLC, Esmeralda Solar Farm LLC, La Tuna Solar Farm LLC, and Sierra Solar Farm LLC.

7. Accordingly, the Parties hereby jointly submit the Agreements attached hereto, reflecting the revisions made by Proponent 3 in response to the June 17 Order, for the purpose of complying with such Order and for the Energy Bureau's consideration.

8. Following the Energy Bureau's review of the Agreements, and unless otherwise directed by the Energy Bureau, PREPA intends to submit the revised documents to the Financial Oversight and Management Board for Puerto Rico ("FOMB") in connection with its ongoing review and approval process, as required under applicable law.

9. The Parties respectfully request confidential treatment of Exhibit A and the Agreements submitted herewith. Exhibit A and 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.

10. 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).

11. 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.

12. 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.

13. 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.

14. Below is a summary of the information for which the Parties seek confidential treatment:

File	Summary of Legal Basis for Confidential Treatment
Exhibit A	Deliberative material
Proponent 3’s Agreements	Deliberative material

15. 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, consider the Agreements attached hereto; (ii) **ISSUE** its determination regarding the approval of the revised Agreements (iii) **DEEM** the Parties in compliance with the June 17 Order, (iv) **GRANT** confidential treatment to Exhibit A and the Agreements included; and (v) **GRANT** any other relief deemed just and proper.

RESPECTFULLY SUBMITTED

In San Juan, Puerto Rico, on June 24, 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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