

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

NEPR
Received:
Jun 25, 2026
8:37 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

**SUBMISSION OF THE PUERTO RICO ELECTRIC POWER AUTHORITY
PURSUANT TO THE JUNE 5, 2026 RESOLUTION AND ORDER**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COME NOW the Puerto Rico Electric Power Authority (“PREPA”), through its counsel, and respectfully informs and requests as follows:

1. On June 5, 2026, the Puerto Rico Energy Bureau (“Energy Bureau”) issued a Resolution and Order (the “June 5 Order”) to order PREPA and Proponent No. 3 to complete any remaining matters under negotiation within twenty (20) days of the notification of this Resolution and Order. Upon expiration of such period, PREPA and Proponent No. 3 were directed to jointly inform the Energy Bureau whether the negotiations had resulted in an agreement. If an agreement has been reached, the parties shall submit the proposed contract for the Energy Bureau’s final review and determination.
2. On June 8, 2026, PREPA formally initiated the negotiation process with Proponent No. 3 and transmitted the Tranche 4 RFP Model Contract for its review and consideration. Subsequently, on June 11, 2026 and June 23, 2026 PREPA sent a communication to Proponent No. 3 requesting confirmation as to whether it

accepted the terms and conditions reflected in the Tranche 4 RFP Model Contract and, upon such confirmation, requesting submission of a draft contract duly completed with the project-specific information for Proponent No. 3.

3. On June 25, 2026, Proponent No. 3 confirmed its acceptance of the terms and conditions set forth in the Tranche 4 RFP Model Contract and submitted a draft contract for PREPA's review.
4. Accordingly, PREPA hereby submits the negotiated contract to the Energy Bureau for its review, evaluation, and consideration. PREPA and Proponent No. 3 respectfully request confidential treatment for the draft contract submitted herewith. This draft agreement constitutes predecisional and deliberative materials generated in the course of ongoing negotiations and reflects 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 transaction. Accordingly, the draft contract is protected from disclosure under the deliberative process privilege and should remain confidential until the negotiation, approval, and execution processes have been completed.
5. 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).

6. 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.
7. 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.
8. 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.
9. Below is a summary of the information for which PREPA seeks confidential treatment:

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

10. 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 June 5 Resolution and Order, and (iii) **GRANT** confidential treatment to the draft contract included.

In San Juan, Puerto Rico, this 25 day of June 2026.

CERTIFICATE OF SERVICE

We hereby certify that this document was filed with the Office of the Clerk of the Energy Bureau through its Electronic Filing System at <https://radicacion.energia.pr.gov/login>.

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