

**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 26, 2026

11:44 AM

**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:

1. Reference is made to the Resolution and Order issued by the Puerto Rico Energy Bureau (the “Energy Bureau”) on June 25, 2026 (“June 25 Order”), which directed Proponent 3 to revise its Power Purchase and Operating Agreements (“PPOAs”) to incorporate certain language identified as the “Second Alternative” in the Energy Bureau’s Resolution and Order dated June 17, 2026, modified to reflect the revised Target Portfolio Weighted Average Levelized Cost of Energy set forth in the Confidential Annex A attached to the June 25 Order. The Energy Bureau further directed the Parties to file the revised documents no later than 1:00 p.m. on June 26, 2026.

2. The Parties hereby inform the Energy Bureau that on June 26, 2026, Proponent 3 submitted to PREPA the revised PPOAs, incorporating the revisions required by the June 25 Order, and resubmitted the Energy Storage Services Agreements (“ESSAs” and, together with the PPOAs, the “Agreements”) for Proponent 3’s eleven (11) project sites.

3. Accordingly, the Parties hereby jointly submit the Agreements attached hereto, reflecting the revisions made by Proponent 3 in the PPOAs for the purpose of complying with the June 25 Order and for the Energy Bureau’s consideration.

4. 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.

5. The Parties respectfully request confidential treatment of 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.

6. 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).

7. 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.

8. 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.

9. 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.

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

<b>File</b>	<b>Summary of Legal Basis for Confidential Treatment</b>
<b>Proponent 3's Agreements</b>	Deliberative material

11. 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 and 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 25 Order, (iv) **GRANT** confidential treatment to the Agreements included; and (v) **GRANT** any other relief deemed just and proper.

**RESPECTFULLY SUBMITTED**

In San Juan, Puerto Rico, on June 26, 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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