

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

NEPR

Received:

Jul 30, 2026

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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

**SECOND MOTION IN COMPLIANCE WITH THE JULY 20, 2026, RESOLUTION
AND ORDER**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

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

1. On July 20, 2026, the Puerto Rico Energy Bureau (“Energy Bureau”) issued a Resolution and Order (the “July 20 Order”) approving the Proposed Contract, subject to the modifications set forth in Part III(E) of the July 20 Order, recognizing its contribution to the Island’s sustainability, resilience, and affordability objectives. The July 20 Order further provides that the parties shall have a period of ten (10) days from the filing of the notice of the Resolution and Order in the record to submit to the Energy Bureau the contract modifications identified in Part III(E) of the July 20 Order.
2. On July 21, 2026, PREPA requested that Proponent No. 3 revise the draft contract to incorporate the modifications and information required by the Energy Bureau in

Part III (E) of the July 20 Order. On July 30, 2026, Proponent No. 3 submitted the revised contract incorporating the requested modifications and information.

3. Accordingly, PREPA hereby submits the negotiated contract to the Energy Bureau for its review, evaluation, and consideration. PREPA and Proponent No. 3 respectfully requests confidential treatment for the draft contract submitted herewith. This draft agreement 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 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.
4. 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).
5. 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.

6. 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.
7. 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.
8. 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

9. 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 July 20 Resolution and Order, and (iii) **GRANT** confidential treatment to the draft contract included.

In San Juan, Puerto Rico, this 30 day of July 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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