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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: URGENT MOTION FOR CLARIFICATION AND AUTHORIZATION OF 80 MW BESS CAPACITY IN ESSA FOR PROPONENT NO. 7 (MONTALVA)**

URGENT MOTION FOR CLARIFICATION AND AUTHORIZATION OF 80 MW BESS CAPACITY IN THE ENERGY STORAGE SERVICES AGREEMENT (ESSA)

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW Proponent No. 7 (Greenbriar Sustainable Living Inc. and PBJL Energy Corporation, collectively "Proponent No. 7" or "Proponent"), through its legal counsel of record, and respectfully states and prays as follows:

I. PROCEDURAL BACKGROUND

1. On February 9, 2026, Proponent No. 7 submitted its Best and Final Offer ("BAFO") in response to the Puerto Rico Electric Power Authority's ("PREPA") Notification of February 6, 2026, and this Energy Bureau's directives in Case No. NEPR-MI-2025-0005.

2. On June 12, 2026, the Energy Bureau issued a Resolution and Order ("June 12 Order") directing PREPA and Proponent No. 7 to proceed with and conclude contract negotiations under two separate agreements: a Power Purchase and Operating Agreement ("PPOA") for the Solar PV generation facility and an Energy Storage Services Agreement ("ESSA") for the Battery Energy Storage System ("BESS").

3. In describing the proposal on Page 2 of the June 12 Order, the Energy Bureau summarized the BAFO as contemplating an approximately 80 MW Solar PV facility and an approximately 40 MW BESS with 4 to 6 hours of storage duration.

4. During subsequent contract conformance negotiations, PREPA submitted formal comments to the ESSA draft on August 27, 2026 (Entry #1), asserting that the proposed 80 MW BESS capacity was inconsistent with the June 12 Order and that the ESSA capacity must be restricted to approximately 40 MW *"unless otherwise expressly authorized by the Energy Bureau."*

5. On August 31, 2026, and in compliance with the Energy Bureau's August 21 Order deadline, Proponent No. 7 and PREPA jointly submitted draft contract documents for the Energy Bureau's review. The present Motion is filed to seek the Energy Bureau's authoritative clarification on that discrete issue before the final contracts are evaluated, executed, and approved by the PREPA Governing Board, the Energy Bureau, and the Financial Oversight and Management Board for Puerto Rico.

6. On September 4, 2026, counsel for Proponent No. 7 conferred with PREPA's representatives to request PREPA's position on submitting a joint motion to seek this clarification. PREPA was put on notice that absent confirmation by close of business Monday, September 7, 2026,

Proponent No. 7 would directly move this Bureau for relief to request clarification from the Energy Bureau regarding the 80 MW BESS capacity. PREPA has not yet provided comments related to the requested clarification.

II. PROVENANCE OF THE 80 MW BESS CAPACITY (FEBRUARY 9, 2026, BAFO)

7. Sizing the BESS at 80 MW was established in the February 9, 2026, BAFO, which forms an integral part of the administrative record in this docket and represented the conclusive and binding offer upon which PREPA and Proponent No. 7 predicated their subsequent negotiations. Sizing the BESS at 80 MW is not an eleventh-hour modification or an unvetted commercial departure; its provenance is expressly established within the four corners of Proponent No. 7's February 9, 2026, BAFO and reaffirmed in its letters of June 14th and June 18th.

8. Specifically, Section IV of the February 9, 2026, BAFO provides in clear and unambiguous terms:

"To this end, and in order to minimize the risk of investing significant effort, costs and capital in meeting the July 4, 2026, deadline, Greenbriar offers an option to bifurcate the solar and BESS in order to have the option to move forward solely with a Standalone BESS facility without the solar PV generation in the event that the solar tax credits are not extended and the task of meeting the deadline proves problematic. In this manner, Greenbriar has the fallback strategy to pursue the necessary activities and efforts to move forward the entire project, but in the event the solar tax credits are not extended if needed, the comfort that it can nonetheless move forward with the Standalone BESS and recover its costs. To this end, and for this option,

Greenbriar would enter into an ESSA agreement available for Standalone BESS as a fallback option. In this instance, the capacity of the BESS would be 80 MW ac based on available transmission capacity and initially installed for five hours of storage as previously discussed.”.

III. CONFIRMATION IN POST-ORDER ACCORD (JUNE 12 AND JUNE 18, 2026)

9. Promptly following the June 12 Order, Proponent No. 7 submitted written correspondence to PREPA dated June 14, 2026 , pointing out that while the pricing ranges were accepted by the Bureau, the Order had omitted reference to the full 80 MW BESS capacity expressly offered in the February 9 BAFO:

“Regarding the above, it appears the commercial terms are not in dispute. However, the Order failed to reference the option to provide a BESS at the full interconnection capacity of 80 MW... For the BESS we are requesting an ESSA based on providing 80 MW of storage.”

10. The Critical June 18, 2026, Accord: By letter dated June 17, 2026, PREPA proposed to utilize the July 20, 2020, Legacy PPOA draft as the baseline for negotiations, provided all commercial terms conformed to the parties' October 3, 2023, Settlement Agreement. In formal response on June 18, 2026, Proponent No. 7 expressly accepted PREPA's framework and agreed to the conditions imposed by PREPA, specifically memorializing the agreed commercial terms for the dual-contract structure:

- Solar PPOA Baseline: Use of the July 20, 2020, Legacy PPOA incorporating the October 3, 2023, Settlement terms, with an energy price of 9.85 cents/kWh (escalating at 0.50 cents/kWh annually, capped at 11.50 cents/kWh) and an interconnection cap of $15,740,000.

- Available Transmission & Interconnection Allocation: Out of the 115 MW available on Line 37100, the interconnection capacity allocated to Montalva is 80 MW AC as established in the Sargent & Lundy Interconnection Study and the Settlement.
- BESS Sizing & Term in ESSA: BESS capacity firmly established at 80 MW with a five (5) hours duration, directly implementing the February 9, 2026, BAFO provenance.

11. Having agreed on June 18, 2026, to PREPA's explicit condition to anchor the solar contract to the Settlement PPOA while executing a separate ESSA for the BESS, PREPA's subsequent refusal during the August redline exchange to incorporate the 80 MW / 5-hour BESS capacity—solely because the June 12 Order recited the 40 MW figure—runs contrary to the parties' documented negotiations and penalizes Proponent No. 7 for a mere descriptive omission in the June 12 Order.

IV. SUBSTANTIAL RATEPAYER, GRID, AND FINANCING BENEFITS

12. Expressly authorizing the 80 MW / 5-hour (400 MWh) BESS configuration in the ESSA provides vital operational, technical, and ratepayer benefits:

- Full Utilization of Allocated Transmission: Line 37100 and the Montalva Sectionalizer switchyard are already designated and studied to carry 80 MW AC. Contracting an 80 MW BESS ensures that Puerto Rico's transmission capacity and collector substation infrastructure are fully utilized rather than stranded at 50% capacity.
- Elimination of Midday Solar Curtailment: Montalva features an expanded DC solar field (DC/AC ratio > 2.0). An 80 MW BESS captures all midday surplus and clipped energy

that the grid cannot instantaneously absorb, storing up to 400 MWh of clean energy to reliably shift and discharge during the critical evening peak demand hours.

- Superior Economies of Scale and Financial Viability: An 80 MW / 5-hour installation lowers PREPA's fixed transmission cost overhead per deployed MWh and maximizes the benefit of available crucial federal Investment Tax Credits (ITCs).

V. PRAYER FOR RELIEF

WHEREFORE, Proponent No. 7 respectfully requests that the Energy Bureau:

1. **TAKE NOTICE** of the provenance of the 80 MW BESS capacity originating in Section IV of Proponent No. 7's February 9, 2026, BAFO;
2. **TAKE NOTICE** of Proponent No. 7's June 12, 2026, letter and the June 18, 2026, agreement with PREPA, which confirmed that under the Settlement PPOA framework, the separate ESSA would govern an 80 MW BESS with 5-hour duration;
3. **CLARIFY** that the operative and authorized BESS capacity under the ESSA is 80 MW;
4. **EXPRESSLY AUTHORIZE** PREPA and Proponent No. 7 to execute the separate ESSA reflecting an 80 MW BESS capacity with a five (5) hours storage duration; and
5. Grant such other and further relief as the Energy Bureau deems just and appropriate under the circumstances.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 10 day of September 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. We further certify that a true and exact copy of this document was served by electronic mail upon: alexis.rivera@prepa.pr.gov; nzayas@gmlex.net; mvalle@gmlex.net; rcruzfranqui@gmlex.net.

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