GOVERNMENT OF PUERTO RICO
PUERTO RICO PUBLIC SERVICE REGULATORY
BOARD 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 pertaining *Joint Motion in Compliance with the August 21, 2026, Resolution and Order*

RESOLUTION AND ORDER

I. Relevant Background

On July 23, 2026, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") directed the Puerto Rico Electric Power Authority ("PREPA") and Proponent No. 7 to continue good-faith negotiations for separate agreements governing the proposed Solar PV generation facility ("Solar PV") and Battery Energy Storage System ("BESS") under the Tranche 4 RFP contractual framework and to report whether they had reached an agreement.

Following several procedural developments, on August 31, 2026, PREPA and Proponent No. 7 filed a joint motion informing the Energy Bureau that Proponent No. 7 had accepted the Power Purchase and Operating Agreement ("PPOA") and Energy Storage Service Agreement ("ESSA") proposed by PREPA. The parties submitted purported red-line PDF versions of both draft agreements for the Energy Bureau's review and approval and requested confidential treatment of those documents.[1]

On September 10, 2026, Proponent No. 7 filed an urgent motion requesting that the Energy Bureau clarify and expressly authorize an 80 MW BESS with a five-hour storage duration under the proposed ESSA.[2] Proponent No. 7 argued this capacity was included in its February 9, 2026 Best and Final Offer ("BAFO") and subsequently confirmed during negotiations with PREPA, notwithstanding the June 12 Resolution's reference to an approximately 40 MW BESS. Proponent No. 7 further asserted that the proposed 80 MW configuration would maximize the transmission capacity, reduce solar curtailment, and provide operational, financial, and ratepayer benefits.

II. Discussion and Determination

A. *Proponent No. 7's September 10 Motion and Final Project Configuration*

Regarding Proponent No. 7's September 10 Motion, the Energy Bureau clarifies that, through the Resolution and Order issued on June 12, 2026 ("June 12 Resolution"), it directed PREPA to continue the negotiation process with Proponent No. 7 based on its determination that the circumstances that had led PREPA to disqualify that proponent had been sufficiently addressed. That determination, however, did not constitute an evaluation, approval, or adjudication by the Energy Bureau of the BAFO submitted by Proponent No. 7.

In the June 12 Resolution, the Energy Bureau described Proponent No. 7's project based on the information in the administrative record before it, which reflected a principal proposal consisting of an 80 MW solar PV facility and a 40 MW BESS. The Energy Bureau recognizes

[1] See *Joint Motion in Compliance with the August 21, 2026, Resolution and Order* filed by PREPA and Proponent No. 7 on August 31, 2026 ("August 31 Motion").

[2] See Urgent Motion for Clarification and Authorization of 80 MW BESS Capacity in the Energy Storage Services Agreement (ESSA) dated September 10, 2023 ("September 10 Motion").

NEGOCIADO DE ENERGÍA
NEPR
JUNTA REGLAMENTADORA DE SERVICIO PÚBLICO
DE PUERTO RICO

that Proponent No. 7's BAFO also describes certain alternatives and expressly contemplates that aspects of the proposal remain subject to negotiation and to specified conditions.

Although evaluating those alternatives and conditions rests with PREPA as part of the procurement and negotiation process, the Energy Bureau considers it necessary to emphasize that a BAFO submitted through a competitive procurement process is expected to constitute a sufficiently definite and executable proposal. While the contracts arising from a BAFO may appropriately remain subject to a reasonable degree of negotiation, the process should not depend upon speculative assumptions or contingencies outside the proponent's control to such an extent that the resource ultimately being offered cannot be reasonably identified at the time of evaluation.

Proponent No. 7's BAFO appears to contemplate different project configurations depending upon the availability or treatment of Investment Tax Credits ("ITCs") applicable to the solar PV component. Without prejudging PREPA's evaluation of that matter or determining the acceptability of the alternatives in Proponent No. 7's BAFO, the Energy Bureau is concerned that proposals materially dependent upon unresolved external contingencies may introduce uncertainty inconsistent with the expectation that PREPA evaluate concrete and sufficiently defined proposals in a competitive procurement.

Accordingly, it is incumbent upon Proponent No. 7 and PREPA to evaluate the circumstances and conditions underlying the BAFO and determine the specific resources to be developed and contracted. The resulting agreement between the parties must identify the solar PV and BESS components that will comprise the project presented to the Energy Bureau for regulatory review. Nothing herein, however, should be construed as precluding PREPA, subject to compliance with the applicable procurement requirements and all other relevant parameters, from agreeing an 80 MW solar PV project with an 80 MW BESS project, nor does the Energy Bureau determine at this stage the need, appropriateness or ultimate approval of such a configuration.

Therefore, the clarification requested by Proponent No. 7 in the September 10 Motion must first be resolved between Proponent No. 7 and PREPA as part of their negotiation of the final project configuration and is not a matter for the Energy Bureau to determine absent an agreement between the contracting parties.

B. Proposed PPOA and ESSA

The Energy Bureau received the proposed PPOA and ESSA submitted in PDF format by PREPA and Proponent No. 7 as exhibits to the August 31 Motion. Upon a preliminary review, the Energy Bureau notes that both proposed agreements differ from the contractual forms previously approved for the Tranche 4 RFP. The agreements applicable to Proponent No. 7 must substantially follow the Tranche 4 RFP contractual framework, and any project-specific modifications must be limited in scope and may not constitute material or substantive departures from that framework. Nevertheless, the proposed agreements contain significant differences from the corresponding Tranche 4 RFP agreements. The proposed PPOA appears to be based on a different contractual form.

The Energy Bureau further notes that the agreements submitted with the August 31 Motion are incomplete. They omit information about the projects' operating characteristics and other technical, commercial, and contractual terms necessary for the Energy Bureau to conduct a complete regulatory review. Agreements containing blank provisions, incomplete schedules or appendices, unresolved alternatives, or other missing material information are not suitable for regulatory review.

Considering the determination in Part II (A) above, the agreements to be submitted in compliance with this Resolution and Order must not merely constitute completed or revised versions of the agreements attached to the August 31 Motion. Rather, they must reflect the specific project configuration and contractual terms ultimately agreed upon by PREPA and Proponent No. 7 after resolving the matters discussed above. The required filing should place before the Energy Bureau the definitive agreements that the parties seek to have reviewed

NEGOCIADO DE ENERGÍA DE PUERTO RICO
NEPR
JUNTA REGLAMENTADORA DE SERVICIO PÚBLICO

and approved, rather than preliminary contractual documents that remain subject to resolution of material project terms.

The Energy Bureau **ORDERS** PREPA and Proponent No. 7 to submit, within **ten (10) days** from the notification of this Resolution and Order, a single, definitive, mutually agreed-upon, complete, and execution-ready version of each proposed agreement reflecting the specific project configuration and contractual terms agreed upon by the parties. The agreements shall include all information necessary for the Energy Bureau to conduct a complete regulatory review, including, without limitation, the projects' operating characteristics and all applicable technical, commercial, and contractual terms. Agreements containing blank provisions, incomplete schedules or appendices, unresolved alternatives, or other missing material information shall not be considered.

The Energy Bureau further **ORDERS** PREPA and Proponent No. 7 to submit, **within the same ten (10)-day period**, a redline of each definitive agreement against the corresponding agreement previously approved for the Tranche 4 RFP. The redlines shall identify all modifications to the applicable Tranche 4 RFP contractual framework and shall permit the Energy Bureau to evaluate whether any project-specific modification constitutes material or substantive departure from that framework. All documents required by this Resolution and Order shall be submitted in both Microsoft Word and PDF formats.

The Energy Bureau further **GRANTS** the requests for confidential designation and treatment of the documents submitted with the August 31 Motion.

The Energy Bureau **WARNS** PREPA and Proponent No. 7 that, under Art. 6.36 of Act 57-2014[3], non-compliance with this Resolution and Order may carry the imposition of fines.

Edison Avilés Deliz
Chairman

Ferdinand A. Ramos Soegaard
Associate Commissioner

Sylvia B. Ugarte Araujo
Associate Commissioner

Antonio Torres Miranda
Associate Commissioner

Omar M. Rodríguez González
Associate Commissioner

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on September 17 2026. I also certify that on September 17 2026 I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau and a copy was notified by electronic mail to the following: alexis.rivera@prepa.pr.gov; nzayas@gmlex.net; mvalle@gmlex.net; rcruzfranqui@gmlex.net; eirizarry@ccdlawpr.com.

I sign this in San Juan, Puerto Rico, today September 17, 2026.

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[3] Known as *the Puerto Rico Energy Transformation and RELIEF Act*, as amended ("Act 57-2014").

Sonia Seda Gaztambide
Clerk

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