

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

NEPR

Received:

Oct 5, 2026

11:45 AM

IN RE: REVIEW OF GENERA PR, LLC
REQUEST TO OPERATE PALO SECO MP
AND MAYAGUEZ CT WITH NATURAL
GAS AS PRIMARY FUEL

Case No.: NEPR-MI-2024-0004

Subject: Memorandum of Law in Support of
Request for Confidential Treatment of Exhibit
A.

**MEMORANDUM OF LAW IN SUPPORT OF REQUEST FOR CONFIDENTIAL
TREATMENT OF EXHIBIT A**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW GENERA PR LLC (“Genera”), as agent of the Puerto Rico Electric Power Authority (“PREPA”),¹ through its counsel of record, and respectfully submits and prays as follows:

I. INTRODUCTION

1. On September 23, 2026, Genera filed an *Informative Motion Regarding the Status of the Mayagüez Conversion Project and Request for Confidential Treatment of Exhibit A* (“Informative Motion”). **Exhibit A** to the Informative Motion is a document titled “RFI-Response_LNG_Logistics_and_Specs_of_Mayaguez_LNG_Proposal_090126,” prepared by Crowley LNG Puerto Rico, LLC (“Crowley”) and delivered to Genera by the Third-Party Procurement Office (“3PPO”) of the Puerto Rico Public-Private Partnerships Authority (“P3 Authority”) on September 1, 2026 (the “Crowley RFI Response”). The 3PPO delivered the Crowley RFI Response to Genera at its request, so that Genera’s technical personnel could develop

¹Pursuant to the *Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement* (“LGA OMA”), dated January 24, 2023, executed by and among PREPA, the Puerto Rico Public-Private Partnerships Authority and Genera, Genera is the sole operator and administrator of the Legacy Generation Assets (as defined in the LGA OMA) and the sole entity authorized to represent PREPA before the Energy Bureau with respect to any matter related to the performance of any of the O&M Services (as defined in the LGA OMA) provided by Genera under the LGA OMA.

the Initial Scope of Work for the conversion of the Mayagüez Power Plant to natural gas (the “Mayagüez Project”) that must be submitted to the Federal Emergency Management Agency.

2. In the Informative Motion, Genera submitted **Exhibit A** *under seal*, requested that the Puerto Rico Energy Bureau (“Energy Bureau”) grant it confidential treatment, and informed that it would submit a memorandum of law in support of such request within ten (10) days, pursuant to the Energy Bureau’s Policy on Management of Confidential Information, CEPR-MI-2016-0009, as amended (the “Policy on Confidential Information”). Accordingly, Genera respectfully submits the instant *Memorandum of Law*.

3. At the outset, Genera emphasizes that its request is narrowly tailored. Genera does not seek confidential treatment of the Informative Motion, which publicly describes the site visit, the request for information, the receipt of the Crowley RFI Response, and the status of the Initial Scope of Work. The request is limited exclusively to **Exhibit A**, a document that belongs to a third party and that Genera received for a limited purpose.

II. IDENTIFICATION OF CONFIDENTIAL INFORMATION

Document Name and File Date	Pages in which Confidential Information is Found	Summary of Legal Basis for Confidential Designation	Summary of why each claim or designation conforms to the applicable legal basis for confidentiality
Exhibit A: Response to Request for Information regarding proposed LNG delivery logistics plan and equipment specifications for the Mayagüez Power Plant, prepared by Crowley LNG Puerto Rico, LLC and dated September 1, 2026, filed on September 23, 2026	Pages 1 through 6 of Exhibit A	Trade secrets of a third party under Act 80-2011 and Rule 513 of the Rules of Evidence; Article 1.10(i) of Act 17-2019; Article 4 of Act 122-2019; Critical Energy Infrastructure Information under Section D(2) of the Policy on Confidential Information and 18 C.F.R. § 388.113(c)(2); Critical Infrastructure Information under 6 U.S.C. § 650(4) and Act 40-2024; Confidential Information under Sections 1.1 and 13.2 of the LGA OMA; Section 6.15 of Act 57-2014.	The Crowley RFI Response contains Crowley’s proprietary LNG delivery logistics model, fleet sizing and configuration, delivery frequency, loading and cycle time assumptions, contingency strategy, and recommended technical specifications and design parameters for the Mayagüez LNG receiving, storage, regasification, and send out system. Crowley prepared it in an ongoing competitive procurement, and the 3PPO delivered it to Genera for the limited purpose of developing the Initial Scope of Work. Its disclosure

Document Name and File Date	Pages in which Confidential Information is Found	Summary of Legal Basis for Confidential Designation	Summary of why each claim or designation conforms to the applicable legal basis for confidentiality
			would harm Crowley's competitive position and the integrity of the procurement. It also contains detailed design information, including gas detection, fire protection, and emergency shutdown systems, for energy infrastructure at a generation facility that could be useful to a person seeking to disrupt it.

III. APPLICABLE LAW

The governing statute for the management of confidential information submitted to the Energy Bureau is Section 6.15 of Act No. 57-2014, also known as the “Puerto Rico Energy Transformation and RELIEF Act.” This section stipulates that “[i]f any person who is required to submit information to the Energy [Bureau] believes that the information to be submitted carries a confidentiality privilege, such person may request the [Bureau] to treat such information as confidential...” 22 LPRA § 1054n. If, after conducting a meticulous evaluation, the Energy Bureau determines that the information warrants protection, it is required to “grant such protection in a manner that least affects the public interest, transparency, and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted.” *Id.* at Section 6.15(a).

Consequently, such information must be withheld from the public domain by the Energy Bureau and “must be duly safeguarded and provided exclusively to the personnel of the Energy [Bureau] who need to know such information under nondisclosure agreements.” *Id.* at Section 6.15(c). Access to the confidential information shall be provided “only to the lawyers and external consultants involved in the administrative process after the execution of a confidentiality

agreement.” *Id.* Section 6.15(b). Therefore, “[t]he Energy [Bureau] must swiftly act on any privilege and confidentiality claim made by a person under its jurisdiction through a resolution for such purposes before any potentially confidential information is disclosed.” *Id.* at Section 6.15(d).

The Policy on Confidential Information, issued pursuant to the foregoing statutory framework, details the procedures a party should follow to request confidential treatment for a document or a portion thereof. Said policy requires identifying confidential information and filing a memorandum of law explaining the legal basis and support for a request to file information confidentially. *See* Section A of the Policy on Confidential Information. The memorandum should also include a table that identifies the confidential information, a summary of the legal basis for the confidential designation, and an explanation of why each claim or designation conforms to the applicable legal basis for confidentiality. *Id.* With respect to access to validated Trade Secret Information, the Policy further provides that any document designated by the Energy Bureau as Validated Confidential Information for being a trade secret under Act 80-2011 may only be accessed by the Producing Party and the Bureau, unless otherwise set forth by the Bureau or any competent court. *Id.* Section D.

Relatedly, Energy Bureau Regulation No. 8543, *Regulation on Adjudicative, Notice of Noncompliance, Rate Review, and Investigation Proceedings*, includes a provision for filing confidential information in proceedings before this Honorable Bureau. To wit, Section 1.15 provides that should “a person ha[ve] the duty to disclose information to the [Bureau] considered to be privileged pursuant to the Rules of Evidence, said person shall identify the allegedly privileged information, request the [Energy Bureau] the protection of said information, and provide supportive arguments, in writing, for a claim of information of privileged nature. The [Bureau] shall evaluate the petition and, if it understands [that] the material merits protection

proceed accordingly to ... Article 6.15 of Act No. 57-2014, as amended.” *See also* Energy Bureau Regulation No. 9137 on Performance Incentive Mechanisms, Section 1.13 (addressing disclosure before the Energy Bureau of Confidential Information and directing compliance with Resolution CEPR-MI-2016-0009).

In connection with the duties of electric power service companies, Article 1.10(i) of Act No. 17 of April 11, 2019, as amended, known as the Puerto Rico Energy Public Policy Act (“Act 17-2019”), provides that electric power service companies shall provide documents and information requested by customers, except for, among others: (i) information privileged under the Rules of Evidence of Puerto Rico; (vii) trade secrets of third parties; (viii) matters that must be kept confidential under a confidentiality agreement, provided the agreement is not contrary to the public interest; and (ix) public security matters relating to threats against the company, its property, or its employees. 22 LPRA § 1141i.

The contractual framework governing Genera’s operations also independently supports the confidential treatment requested herein. Section 1.1 of the LGA OMA defines “Confidential Information” as follows:

[D]ata or information in any form disclosed by one Party to the other Party by any means, if and for so long as the data and information are protectable as trade secrets by the disclosing Party or are otherwise confidential. As a non-exhaustive list of examples, “Confidential Information” includes non-public information regarding a Party’s Intellectual Property, financial condition and financial projections, business and marketing plans, product plans, product and device prototypes, the results of product testing, research data, market intelligence, technical designs and specifications, secret methods, manufacturing processes, source code of proprietary software, the content of unpublished patent applications, customer lists, vendor lists, internal cost data, the terms of contracts with employees and third parties, and information tending to embarrass the disclosing Party or tending to tarnish its reputation or brand. For the avoidance of doubt, information in this list of examples is only considered “Confidential Information” for

so long as it has not been made known to the general public by the disclosing Party or through the rightful actions of a third party.

Id. Sec. 1.1. Section 13.2 of the LGA OMA, in turn, establishes confidentiality obligations with respect to Confidential Information disclosed in connection with the agreement. *Id.* Sec. 13.2.

The applicable legal framework is further reinforced by the Industrial and Trade Secret Protection Act of Puerto Rico, Act 80-2011, 10 LPRA §§ 4131-4144 (“Act No. 80-2011”). Under Act No. 80-2011, industrial or trade secrets are deemed to be any information:

(a) That has a present or a potential independent financial value or that provides a business advantage, insofar as such information is not common knowledge or readily accessible through proper means by persons who could make a monetary profit from the use or disclosure of such information, and; (b) for which reasonable security measures have been taken, as circumstances dictate, to maintain its confidentiality.

Id. § 4132, Section 3 of Act 80-2011.² Trade secrets include, but are not limited to, processes, methods and mechanisms, manufacturing processes, formulas, projects, or patterns to develop machinery and lists of specialized clients that may afford an advantage to a competitor. *See* Statement of Motives, Act No. 80-2011. *See also* Article 4 of Puerto Rico’s Open Data Law, Act 122-2019 (exempting from public disclosure, among others, commercial or financial information whose disclosure will cause competitive harm, and trade secrets protected by a contract, statute, or judicial decision), Articles 4(ix), (x), and (xi), 3 LPRA § 9894.

The Puerto Rico Supreme Court has explained that the trade secrets privilege protects free enterprise and extends to commercial information that is confidential in nature. *Ponce Adv. Med. v. Santiago González*, 197 DPR 891, 901-02 (2017); *see also Next Step Medical Co. v. MCS*

²Rule 513 of the Rules of Evidence of Puerto Rico provides that the owner of a trade secret may invoke the privilege to refuse and to prevent another person from revealing trade secrets, provided that these actions do not tend to conceal fraudulent activities or lead to an injustice. 32 LPRA Ap. VI, R. 513. If a court of law mandates the disclosure of a trade secret, precautionary measures should be adopted to protect the interests of the trade secret owner. *Id.*

Advantage Inc., KLCE201601116, 2016 WL 6520173 (holding that in Puerto Rico, what constitutes a trade secret is evaluated applying a broad definition). A trade secret includes any and all information from which a real or potential value or economic advantage may be derived; that is not common knowledge or accessible through other means; and as to which reasonable security measures have been adopted to keep the information confidential. *Ponce Adv. Med.*, 197 DPR at 906.

The Policy on Confidential Information further recognizes Critical Energy Infrastructure Information (“CEII”) as a category of information warranting confidential treatment and provides that information validated as CEII may only be accessed by the parties’ authorized representatives after executing a Non-Disclosure Agreement, and only at the offices of the Energy Bureau or the producing party, without copying or recording devices. *See* Section D(2) of the Policy on Confidential Information. Under federal regulations, CEII is defined as specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that relates details about the production, generation, transportation, transmission, or distribution of energy; could be useful to a person in planning an attack on critical infrastructure; is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. § 552; and does not simply reveal the general location of the critical infrastructure. 18 C.F.R. § 388.113(c)(2). The same regulation, in turn, defines critical infrastructure as existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters. *Id.* § 388.113(c)(4).

Federal law reflects the same policy with respect to critical infrastructure information more broadly. The Critical Infrastructure Information Act of 2002, 6 U.S.C. §§ 671 through 674, defines

critical infrastructure information as information not customarily in the public domain and related to the security of critical infrastructure or protected systems, including information regarding the ability of critical infrastructure to resist interference or incapacitation and any planned operational solution regarding its continuity. 6 U.S.C. § 650(4). Although the protections of that statute attach to information voluntarily submitted to covered federal agencies, it evidences a clear federal policy that information of this nature should not be made available under state or local disclosure laws. *See* 6 U.S.C. § 673(a)(1)(E).

At the local level, Act No. 40-2024, the Cybersecurity Act of the Commonwealth of Puerto Rico, as amended, defines critical infrastructure as those services, systems, resources, and essential assets, whether physical or virtual, the incapacity or destruction of which would have a debilitating impact on Puerto Rico's cybersecurity, health, economy, or any combination thereof. 3 LPRA § 10124(p). Its provisions apply not only to government entities, but also to natural or juridical persons doing business or having contracts with the government, including private persons performing public services and duties, with respect to those services and duties. 3 LPRA § 10122.

IV. REQUEST FOR CONFIDENTIALITY AND SUPPORTING ARGUMENTS

The confidential treatment requested for **Exhibit A** is warranted under the applicable legal framework as: (a) it constitutes a trade secret of a third party; (b) it constitutes Confidential Information under the LGA OMA; and (c) it contains CEII and critical infrastructure information. Genera has produced **Exhibit A** to the Energy Bureau in full. It only requests that it be safeguarded in accordance with Section 6.15 of Act 57-2014 and the Policy on Confidential Information.

A. Exhibit A Constitutes a Trade Secret of a Third Party

Exhibit A satisfies both elements of Act 80-2011. First, the Crowley RFI Response derives independent economic value from not being generally known. It reflects the operational model Crowley has developed to supply LNG by truck from its Peñuelas terminal, including the number

of deliveries, the energy content per ISO container, the loading, transit, and receiving times per delivery cycle, the size and composition of the dedicated fleet, and its contingency and redundancy strategy. It also reflects Crowley's technical recommendations for the design and equipment of the LNG receiving and regasification system, which draw on Crowley's stated experience in more than twenty LNG projects. A competitor with access to this information could replicate Crowley's logistics approach and cost assumptions, or use them to position itself against Crowley in the Mayagüez procurement or in any future procurement for LNG supply or regasification infrastructure in Puerto Rico. Under the broad definition adopted in *Ponce Adv. Med.*, this information falls squarely within the protection of Act 80-2011.

Second, the information has been subject to reasonable measures to maintain its confidentiality. Crowley did not make the document public. It submitted the Crowley RFI Response to the 3PPO within the confidential channels of RFP No. 3PPO-1125-17-MSIN, and the 3PPO delivered it to Genera for the limited purpose of developing the Initial Scope of Work for the Mayagüez Project.

The confidential nature of Exhibit A is heightened by the fact that the procurement remains ongoing. As Genera informed in its *Motion in Response to Resolution and Order Dated July 20, 2026*, the supply agreement with Crowley has not been finalized. Public disclosure of Crowley's technical and logistical proposal before the contracting process concludes could compromise the negotiation, the competitive integrity of the procurement, and ultimately the interests of PREPA and its ratepayers.

Genera is not the owner of this information. It received the Crowley RFI Response in its role as operator of the Mayagüez Power Plant and submits it to the Energy Bureau solely to keep it informed of the progress of the Mayagüez Project. Article 1.10(i)(vii) of Act 17-2019 expressly

exempts trade secrets of third parties from the information that electric power service companies must disclose, and the privilege recognized under Rule 513 of the Rules of Evidence allows the owner of a trade secret to prevent others from revealing it. Genera therefore has a duty to protect the confidentiality of third party proprietary information that was entrusted to it for a limited purpose. **Exhibit A** also qualifies for protection as sensitive commercial information under Article 4 of Act 122-2019 and as privileged information under Section 1.15 of Regulation 8543.

B. Exhibit A Constitutes Confidential Information under the LGA OMA

The Crowley RFI Response was delivered to Genera by the 3PPO, an office of the P3 Authority, which acts as Administrator under the LGA OMA, in connection with the conversion of one of the Legacy Generation Assets. The document consists of nonpublic technical designs and specifications, together with information concerning a vendor and the terms of its proposed supply arrangement, all of which are expressly listed as examples of Confidential Information in Section 1.1 of the LGA OMA. The information is protectable as a trade secret, as explained above, and has not been made known to the general public. Accordingly, **Exhibit A** falls within the contractual definition of Confidential Information and is subject to the confidentiality obligations of Section 13.2 of the LGA OMA.

C. Exhibit A Contains Critical Energy Infrastructure Information

Exhibit A describes, in detail, the proposed design of the LNG receiving, storage, pumping, vaporization, and gas send out system for the Mayagüez Power Plant. This includes the storage capacity and maximum operating pressure of the buffer tank, the number and ratings of the high pressure pumps and vaporizers, the send out flow, pressure, and temperature ranges, the configuration of the offloading bays and connections, and the number and type of gas and flame detectors, alarms, and emergency shutdown stations. It also describes the frequency, timing, and

route of LNG deliveries to the facility. This is specific engineering and detailed design information about proposed energy infrastructure that relates to the generation of energy and could be useful to a person seeking to damage the facility, disrupt its fuel supply, or interfere with its safety systems.

The Mayagüez Power Plant is part of the Legacy Generation Assets and constitutes critical infrastructure within the meaning of 18 C.F.R. § 388.113(c)(4), since its incapacity would negatively affect the economic security and the public health and safety of Puerto Rico. The design information in Exhibit A therefore meets the definition of CEII under 18 C.F.R. § 388.113(c)(2), falls within the protective purposes of the Critical Infrastructure Information Act and Act 40-2024, and warrants the heightened access restrictions of Section D(2) of the Policy on Confidential Information. Genera, as the sole operator of the Legacy Generation Assets under the LGA OMA, is a person performing public services under contract with the government within the meaning of Act 40-2024. Likewise, Article 1.10(i)(ix) of Act 17-2019 exempts from disclosure public security matters relating to threats against the property of electric power service companies.

V. CONCLUSION

Pursuant to Section 6.15(a) of Act 57-2014, the Energy Bureau must grant confidential protection in the manner that least affects the public interest, transparency, and the rights of the parties. 22 LPRA § 1054n. The requested protection meets that standard. The Energy Bureau and its personnel will retain full access to **Exhibit A** in the exercise of their regulatory functions, while the public will continue to have access to the Informative Motion, which describes the relevant events and the status of the Mayagüez Project.

In sum, **Exhibit A** consists of a third party's proprietary commercial and technical information, prepared in an ongoing procurement and delivered to Genera for a limited purpose,

together with detailed design information about critical energy infrastructure, all of which falls within the categories of confidential information recognized by Act 57-2014, Act 17-2019, Act 80-2011, Act 122-2019, Act 40-2024, Regulation 8543, federal law, and the LGA OMA. Accordingly, Genera respectfully submits that **Exhibit A** warrants confidential treatment as Validated Confidential Information, with its design and technical specifications subject to the access restrictions applicable to CEII.

WHEREFORE, Genera respectfully requests that the Energy Bureau **take notice** of the above *Memorandum of Law*; **grant** confidential treatment to Exhibit A of the *Informative Motion Regarding the Status of the Mayagüez Conversion Project and Request for Confidential Treatment of Exhibit A*, as Validated Confidential Information pursuant to Section 6.15 of Act 57-2014 and the Policy on Management of Confidential Information, CEPR-MI-2016-0009, as amended, with the technical specifications and design information therein designated as Critical Energy Infrastructure Information subject to Section D(2) of said Policy.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 5th day of October 2026.

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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and accurate copy of this memorandum was filed with the Office of the Clerk of the Energy Bureau using its electronic filing system and that we will send an electronic copy of this memorandum to the following counsel of record: alexis.rivera@prepa.pr.gov, nzayas@gmlex.net, rcruzfranqui@gmlex.net, and mvalle@gmlex.net.

In San Juan, Puerto Rico, this 5th day of October 2026.

/s/ Jorge Fernández-Reboredo
Jorge Fernández-Reboredo

/s/ Ernesto Raúl Ramos Maldonado
Ernesto Raúl Ramos Maldonado

/s/ José Javier Díaz Alonso
José Javier Díaz Alonso