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GOVERNMENT OF PUERTO RICO
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

JOINT MOTION IN COMPLIANCE WITH THE SEPTEMBER 17, 2026 RESOLUTION AND ORDER AND REQUEST FOR CONFIDENTIAL TREATMENT

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COME NOW the Puerto Rico Electric Power Authority ("PREPA") and Proponent No. 7 (collectively, the "Parties"), through their respective undersigned legal representatives, and respectfully **STATE AND REQUEST** as follows:

1. On September 17, 2026, the Puerto Rico Energy Bureau of the Public Service Regulatory Board ("Energy Bureau") issued a *Resolution and Order* (the "September 17 Order") addressing, among other matters, the proposed Power Purchase and Operating Agreement ("PPOA") and Energy Storage Service Agreement ("ESSA") between PREPA and Proponent No. 7.

2. In the September 17 Order, the Energy Bureau directed PREPA and Proponent No. 7 to submit 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 Energy Bureau further required the Parties to submit redlines of each definitive agreement against the corresponding agreements previously approved for the Tranche 4

RFP. The Energy Bureau further ordered that all documents required by the September 17 Order be submitted in both Microsoft Word native and PDF formats. The native Microsoft Word files will be notified directly to the Clerk of the Energy Bureau because the Energy Bureau's electronic filing platform does not support filings in native format.

3. On September 28, 2026, PREPA and Proponent No. 7 requested an extension until today, October 5, 2026, to comply with the September 17 Order. As explained therein, Proponent No. 7 had provided PREPA with additional information and proposed contractual revisions requiring substantive technical, commercial, and legal review by PREPA.

A. Compliance with the September 17 Order

4. Following the continued review and negotiation process, the Parties have completed their review and have reached agreement on the versions of the PPOA and ESSA submitted herewith. Accordingly, the Parties hereby submit the definitive PPOA and ESSA, together with the corresponding redlines, in compliance with the September 17 Order.

5. The proposed PPOA reflects an 80 MW solar photovoltaic facility, while the proposed ESSA reflects an 80 MW battery energy storage system with a five-hour duration. The agreements submitted herewith therefore reflect the specific project configuration and contractual terms mutually agreed upon by the Parties and presented to the Energy Bureau for its regulatory review and approval.

6. In compliance with the September 17 Order, the Parties hereby submit the following documents, collectively identified as **Confidential Exhibit I**:

Exhibit	Document
Confidential Exhibit I-A	Definitive clean version of the PPOA
Confidential Exhibit I-B	PPOA redline against the corresponding Base Tranche 4 Model
Confidential Exhibit I-C	PPOA redline against the PREPA-supplied template
Confidential Exhibit I-D	Definitive clean version of the ESSA
Confidential Exhibit I-E	ESSA redline against the corresponding Base Tranche 4 Model
Confidential Exhibit I-F	ESSA redline against the PREPA-supplied template

(collectively, the "Confidential Exhibits").

7. The Confidential Exhibits are being submitted in both Microsoft Word and PDF formats, as required by the September 17 Order.

B. Request for Confidential Treatment and Memorandum in Support

8. Considering the deliberative materials contained in the **Confidential Exhibits**, PREPA respectfully requests confidential treatment of the same. Disclosure at this stage would undermine the integrity of the decision-making process and should therefore be protected by the deliberative process privilege until the regulatory review and approval process concludes.

9. 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).

10. Pursuant 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.

11. 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, that is, created before the agency's final determination, and (ii) deliberative, reflecting internal opinions, assessments, and recommendations critical to policy formulation that are not final.

12. 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 "Official Information and Decision-making Official Information in Public Policy-making Procedures, as recognized by case law," including deliberative materials as stated in Bhatia Gautier v. Gobernador.

13. PREPA respectfully requests that the **Confidential Exhibits**, including Confidential Exhibits I-A through I-F, remain confidential until the Energy Bureau completes its regulatory review and approval process. These documents constitute deliberative materials concerning the negotiated PPOA and ESSA and the

modifications to the applicable contractual forms submitted for regulatory review and approval.

14. PREPA further notes that, in the September 17 Order, the Energy Bureau granted the requests for confidential designation and treatment of the PPOA and ESSA documents previously submitted with the August 31 Motion. The documents submitted herewith constitute subsequent versions developed through the same negotiation and regulatory-review process and contain the same type of deliberative contractual material for which confidential treatment remains warranted pending completion of the Energy Bureau's regulatory review and approval process.

WHEREFORE, PREPA and Proponent No. 7 respectfully request that the Energy Bureau (i) **TAKE NOTICE** of the foregoing; (ii) **DETERMINE** that the Parties have complied with the September 17, 2026 *Resolution and Order* through the submission of the definitive, mutually agreed-upon PPOA and ESSA and the corresponding redlines identified herein; (iii) **ACCEPT** the **Confidential Exhibits I-A through I-F** submitted herewith; and (iv) **GRANT** PREPA's request for confidential treatment of the Confidential Exhibits and its subparts until completion of the Energy Bureau's regulatory review and approval process.

RESPECTFULLY SUBMITTED.

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

CERTIFICATE OF FILING AND SERVICE: It is hereby certified that this document was filed with the Office of the Clerk of the Energy Bureau through its electronic filing system, available at https://radicacion.energia.pr.gov/login.

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