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

IN RE: LUMA INITIAL BUDGETS AND RELATED TERMS OF SERVICE	**CASE NO.:** NEPR-MI-2021-0004 **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 October 5, 2026, Genera filed its *Motion to Inform OEM Recommendation Regarding TM2500 Units 3 and 4 at Palo Seco and Request for Determination on Scope of Restoration and Multiyear Budget Allocation* (the "Motion"). Exhibit A to the Motion is a document titled *Genera PR Fleet Profile*, dated October 2, 2026, prepared by GE Aero Services of GE Steam Power Caribe, Inc., a wholly owned subsidiary of GE Vernova ("GE"), the original equipment manufacturer ("OEM") of the TM2500 temporary generation fleet (the "GE Work Plan"). GE delivered the GE Work Plan to Genera at its request on October 5, 2026, following the Energy Bureau's Resolution and Order of October 1, 2026 (the "October 1 Order"), so that Genera could evaluate the restoration of TM2500 Units 3 and 4 at the Palo Seco plant.

[1]Pursuant 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.

2. In the 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 Motion, which publicly discloses the OEM's recommendation of a Major Overhaul for Units 3 and 4, the serial numbers and operating hours of both units, the applicable Major Overhaul interval, and the estimated cost and duration of the 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. The disclosure in the Motion of these discrete data points, which Genera made so that the relief requested could be publicly understood, does not waive the confidentiality of Exhibit A, which compiles GE's assessment, capacity and strategy for the entire fleet in a single document.

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: Genera PR Fleet Profile, prepared by GE Steam Power Caribe, Inc., a wholly owned subsidiary of GE Vernova, and dated October 2, 2026, filed on October 5, 2026	Pages 1 through 21 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-	Exhibit A contains GE's proprietary engine by engine condition assessment of the TM2500 fleet, its maintenance program and intervals, upgrade configurations and performance data, the capacity of its global service network, the availability of hot section modules and shop slots, and its proposed service strategy and staged work plan for the fleet. GE furnished it to Genera in confidence, subject to a

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
		2024; Section 6.15 of Act 57-2014.	proprietary statement restricting its use and disclosure. Its disclosure would harm GE's competitive position and Genera's ability to procure services for the fleet. It also contains component level condition information for each unit, the sequence and timing of the units' restoration, and obsolescence exposure in certain control and protection systems, information that is not otherwise public and could be useful to a person seeking to disrupt the fleet.

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).

In exceptional cases, the Energy Bureau may keep a document entirely outside public scrutiny, in which case the information "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~~may 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). Further, "[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) matters of public security involving threats against PREPA, its property or employees. 22 LPRA § 1141i.

The applicable legal framework is further reinforced by the Industrial and Trade Secret Protection Act of Puerto Rico, Act 80-2011, 10 LPRA §§ 4131-4141 ("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 would cause substantial competitive harm to the person from whom it was obtained, and trade secrets that are confidential by 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 Advantage, Inc.*, KLCE201601116, 2016 WL 6520173, at *11 (TA PR Sept. 13, 2016) (noting that the definition of a trade secret is construed broadly). 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

[2]Rule 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.*

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 harmful repercussions on cybersecurity, health, the economy, the security of Puerto Rico, 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; and (b) 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 GE Work Plan derives independent economic value from not being generally known. It reflects GE's proprietary assessment, engine by engine, of the fourteen (14) TM2500 units in the fleet, including their condition, status and proposed scope of work; GE's maintenance program and intervals for the TM2500 in diesel and gas operation; its upgrade configurations and associated performance data; the size and distribution of its global service network; the current availability of its hot section modules and shop slots; and its proposed staged strategy, timelines and watchpoints for the recovery of the fleet. Exhibit A, pp. 8 through 20. A competitor in the aeroderivative services market with access to this information could use GE's assessment of the fleet, its available capacity and its proposed strategy to tailor competing offers or to position itself against GE in any future procurement for the maintenance of the fleet. 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. GE did not make the document public. Exhibit A opens with a proprietary statement providing that it is furnished in confidence, that it may be used exclusively for the stated purpose, that it may not be published or otherwise disclosed without restriction, and that no copies may be made without GE's prior written permission. Exhibit A, p. 2. Each page of substantive content in Exhibit A bears the legend "GE Vernova Confidential." GE furnished Exhibit A to Genera solely for the purpose stated in its proprietary statement, and Genera has filed it with the Energy Bureau only under seal. These are precisely the kinds of measures that Article 4 of Act 80-2011 recognizes as reasonable, including withholding the information from unauthorized persons, labeling it as confidential, and preventing its indiscriminate reproduction. 10 LPRA § 4133.

The confidential nature of Exhibit A is heightened by the commercial context in which it was prepared. As the Energy Bureau noted in the October 1 Order, Genera's competitive request for proposals for the restoration of Units 3 and 4 drew no bidders, and a single capable supplier furnished a budgetary proposal. October 1 Order, pp. 4 and 6. That budgetary proposal was furnished by Siemens Energy for the LM2500/LM2500+ SAC hot section exchange, which shows that third parties compete with GE in servicing these engines. *Id.*, p. 2. In a market with so few capable suppliers, public disclosure of the OEM's assessment, capacity and strategy could compromise Genera's position in the negotiation of those services and, ultimately, the interests of PREPA and its ratepayers.

Genera is not the owner of this information. It received the GE Work Plan in its role as operator of the TM2500 fleet and submits it to the Energy Bureau solely in support of the Motion. 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 Article 1.10(i)(viii) exempts

matters that must be kept confidential under a confidentiality agreement. 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 Articles 4(ix) and 4(x) of Act 122-2019 and as privileged information under Section 1.15 of Regulation 8543.

B. Exhibit A Contains Critical Energy Infrastructure Information

Although the Energy Bureau's orders have reported the general availability of the TM2500 fleet, Exhibit A goes considerably further. It sets out, engine by engine, the component level condition of each of the fourteen (14) units at the San Juan and Palo Seco plants, the specific modules affected in each unit, the installed and current output of each plant, and the sequence and timing in which units would be restored or held out of service. Exhibit A, pp. 16 through 19. It also identifies obsolescence exposure in certain control and protection systems of the fleet. *Id.*, p. 20. This is specific engineering and vulnerability information about existing energy infrastructure that relates to the generation of energy and could be useful to a person seeking to target the units that remain available, disrupt the fleet's operation, or interfere with its safety and control systems. None of this detail is otherwise in the public domain, and it goes well beyond the general location of the units.

The TM2500 fleet is the subject of Priority Stabilization Activity No. 1 of the Electric System Priority Stabilization Plan, which directs its operation through December 31, 2027, because the units provide a near instant cushion against forced outages, help stabilize voltage near major load centers, and offset potential capacity deficits. October 1 Order, p. 1. The fleet therefore 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 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 matters of public security involving threats against PREPA and its property, which includes the TM2500 units.

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. Because Exhibit A is, in its entirety, a third party's proprietary document furnished under an express restriction on disclosure and copying, and because it combines that information with vulnerability information about critical generation assets, this is an exceptional case in which the document should be kept entirely outside public scrutiny under Section 6.15(c). 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 Motion, which discloses the OEM's recommendation and the information material to the relief requested.

In the alternative, should the Energy Bureau determine that any portion of Exhibit A does not warrant confidential treatment, Genera respectfully requests that it be allowed to file a redacted version of Exhibit A, maintaining under seal, at a minimum, pages 8 through 20, which contain

GE's service network and capacity, maintenance program, upgrade data, fleet condition assessment, staged work plan, and the vulnerability information described above.

In sum, Exhibit A consists of a third party's proprietary commercial and technical information, delivered to Genera in confidence and for a limited purpose, together with specific engineering and vulnerability 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, and federal law. Accordingly, Genera respectfully submits that Exhibit A warrants confidential treatment as Validated Confidential Information, with its fleet condition and vulnerability information 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 Motion 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 fleet condition and vulnerability information therein designated as Critical Energy Infrastructure Information subject to Section D(2) of said Policy; in the alternative, allow Genera to file a redacted version of Exhibit A while maintaining under seal, at a minimum, pages 8 through 20; and grant any other relief the Energy Bureau deems just and proper.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 15th day of October 2026.

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(Signature page follows)

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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 a copy of this memorandum was notified by electronic mail to the following: katiuska.bolanos-lugo@us.dlapiper.com; RegulatoryPREBOrders@lumapr.com; margarita.mercado@us.dlapiper.com; Yahaira.delarosa@us.dlapiper.com; jan.albinolopez@us.dlapiper.com; alexis.rivera@prepa.pr.gov; nzayas@gmlex.net; mvalle@gmlex.net; rcruzfranqui@gmlex.net; kmercado@jrsp.pr.gov; Ricardo.pallens@genera-pr.com; jfernandez@ecija.com; eramos@ecija.com; jdiaz@ecija.com; legal@genera-pr.com; regulatory@genera-pr.com.

In San Juan, Puerto Rico, this 15th day of October 2026.

/s/ Ernesto Raúl Ramos Maldonado
Ernesto Raúl Ramos Maldonado