NEPR

Received:

Nov 12, 2026

6:41 PM

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

MOTION IN COMPLIANCE WITH THE NOVEMBER 6, 2026 RESOLUTION AND ORDER AND REQUEST FOR CONFIDENTIAL TREATMENT

TO THE HONORABLE ENERGY BUREAU:

COMES NOW the Puerto Rico Electric Power Authority ("PREPA"), through its undersigned legal representation, and respectfully **STATES AND PRAYS** as follows:

1. On August 31, 2026, PREPA and Proponent No. 7, PBJL Energy Corporation ("PBJL"), jointly filed a *Joint Motion in Compliance with the August 21, 2026 Resolution and Order*, whereby they submitted proposed versions of the Power Purchase and Operating Agreement ("PPOA") and the Energy Storage Services Agreement ("ESSA") for the Energy Bureau of the Puerto Rico Public Service Regulatory Board's ("Energy Bureau") review and approval, and requested confidential treatment of the submitted draft agreements.

2. In support of their request, the parties invoked the deliberative process privilege, asserting that the draft agreements constituted predecisional and deliberative materials developed during ongoing negotiations, reflecting internal analyses, assessments, recommendations, and proposed contractual positions subject to further review and modification. The parties further argued that premature public disclosure could impair the integrity of the governmental decision-making

process, undermine their ability to negotiate effectively and in good faith, and prejudice the successful completion of the transactions. In support of their request, the parties relied on Bhatia Gautier v. Gobernador, 199 D.P.R. 59 (2017), and Article 4(iv) of Act 122-2019, 3 L.P.R.A. § 9894, which recognize the protection afforded to predecisional and deliberative governmental materials.

3. On September 17, 2026, the Energy Bureau issued a *Resolution and Order* ("September 17 Resolution"), whereby it directed PREPA and PBJL to submit definitive, mutually agreed-upon, complete, and execution-ready versions of the PPOA and ESSA, together with redlines against the corresponding Tranche 4 RFP agreements. In the September 17 Resolution, the Energy Bureau expressly granted confidential designation and treatment to the draft contractual agreements submitted by the parties' August 31, 2026 joint motion.

4. On October 30, 2026, the Energy Bureau issued a *Resolution and Order* ("October 30 Resolution"), whereby it approved the proposed PPOA and ESSA, subject to certain terms and conditions. The Energy Bureau further directed that any subsequent amendment or modification to either agreement, including their respective appendices, be submitted for its review and prior approval before execution or implementation.

5. On November 4, 2026, PREPA and PBJL jointly filed an *Urgent Joint Motion for Correction of Inadvertent Clerical Error in PPOA Appendices B and C, and Request for Clarification Regarding PPOA Supply Period*, requesting authorization to correct an inadvertent clerical error in Appendices B and C of the PPOA and clarification regarding the applicable Supply Period.

6. Specifically, the parties requested authorization to delete Item 1(k) from Appendix B (PREPA Signing Conditions) of the PPOA and incorporate the corresponding requirement as Item (j) of Appendix C, Part 1 (Resource Provider Conditions Precedent), consistent with the placement of that requirement in the ESSA. The requested correction would establish PBJL's obligation to provide evidence of its ability to contribute the required Equity as a condition precedent to the Closing Date, rather than as a condition for signing the PPOA.

7. The parties further requested clarification that the reference in Section III (A)(ii) of the October 30 Resolution to a twenty (20)-year term for the PBJL Solar PV Project did not modify the twenty-five (25)-year Supply Period established in the approved PPOA, while acknowledging that the ESSA provides for a twenty (20)-year term.

8. On November 6, 2026, the Energy Bureau issued a *Resolution and Order* ("November 6 Resolution"), whereby it authorized the requested modifications to Appendices B and C of the PPOA and clarified that the PPOA provides for a twenty-five (25)-year Supply Period commencing on the Commercial Operation Date, pursuant to Sections 1.1 and 2.2 thereof, while the ESSA provides for a twenty (20)-year term. Accordingly, the Energy Bureau corrected the reference in Section III(A)(ii) of the October 30 Resolution to reflect the twenty-five (25)-year Supply Period applicable to the Solar PV Project.

9. The Energy Bureau further determined that these modifications and clarifications do not alter its evaluation or approval of the PPOA and ESSA under the

October 30 Resolution, and that all other terms, conditions, requirements, and determinations established therein remain unaltered and in full force and effect.

10. Pursuant to the November 6 Resolution, the Energy Bureau ordered PREPA and PBJL to submit, within five (5) days from notification thereof, complete revised versions of the applicable agreements incorporating the approved changes, in both PDF and native editable Microsoft Word formats.

8. In compliance with the November 6 Resolution, PREPA hereby submits, as **Confidential Exhibit A**, the complete revised PPOA between PREPA and PBJL, including its appendices, in PDF (the "Revised PPOA"). Because the Energy Bureau's filing system does not support native editable Microsoft Word formats, PREPA will submit the native editable Microsoft Word version of the Revised PPOA directly to the Clerk of the Energy Bureau via email.

9. The Revised PPOA incorporates the correction authorized by the Energy Bureau to Appendices B and C, whereby the requirement to provide evidence of the PBJL's ability to contribute Equity at least equal to the sum of (i) thirty percent (30%) of the forecasted costs to develop the Facility and (ii) the forecasted cost to construct the PREPA Interconnection Facilities Works is included as Item (j) of Appendix C, Part 1, as a condition precedent to the Closing Date, rather than as a condition for signing the PPOA under Appendix B.

10. PREPA respectfully submits that the Revised PPOA incorporates the modifications authorized by the Energy Bureau in the November 6 Resolution and constitutes the version agreed upon by the parties for purposes of compliance with the Energy Bureau's directive.

11. As discussed above, the Energy Bureau previously granted confidential designation and treatment to the draft PPOA and ESSA submitted by PREPA and PBJL in this proceeding, through its September 17 and October 30 Resolutions. PREPA respectfully submits that the Revised PPOA submitted herein as **Confidential Exhibit A** warrants the same confidential treatment previously authorized by the Energy Bureau. Although the Revised PPOA incorporates the modifications authorized by the Energy Bureau in its November 6 Resolution, it remains subject to further governmental review and approval by the Financial Oversight and Management Board for Puerto Rico ("FOMB"). Accordingly, the Revised PPOA has not yet completed the governmental approval process and PREPA submits that it continues to constitute predecisional and deliberative material protected from disclosure under the deliberative process privilege, consistent with the grounds previously asserted by the parties in support of their requests for confidential treatment and the Energy Bureau's prior determinations granting such treatment.

12. In light of the foregoing, PREPA respectfully requests that the Energy Bureau extend to **Confidential Exhibit A** the confidential designation and treatment previously granted to the draft contractual agreements submitted in this proceeding, at least until completion of the FOMB's review and approval process. Maintaining the confidentiality of the Revised PPOA during this period is consistent with the Energy Bureau's prior determinations and necessary to protect the integrity of the ongoing governmental decision-making process. This request is made pursuant to Section 6.15 of Act 57-2014, Section 1.15 of Regulation 8543, Article 4(iv) of Act 122-2019, 3 L.P.R.A.

§ 9894, and the deliberative process privilege recognized in Bhatia Gautier v. Gobernador, 199 D.P.R. 59 (2017).

WHEREFORE, PREPA very respectfully requests that the Energy Bureau **TAKE NOTICE** of the foregoing; **ACCEPT** the complete Revised PPOA between PREPA and PBJL, submitted herein as **Confidential Exhibit A** in both PDF and native editable Microsoft Word formats; **EXTEND** to Confidential Exhibit A the confidential designation and treatment previously granted to the draft contractual agreements submitted in this proceeding, at least until completion of the FOMB's review and approval process; and **DETERMINE** that PREPA has complied with the November 6, 2026 *Resolution and Order* with respect to the submission of the Revised PPOA.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 12th day of November 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.

[Signatures in the next page]

GONZÁLEZ & MARTÍNEZ LAW OFFICES P.S.C.
1509 López Landrón Bldg.
Seventh Floor
San Juan, PR 00911-1933
Tel. (787) 274-7404

Counsels for PREPA

s/ Mirelis Valle Cancel
Mirelis Valle Cancel
RUA No. 21,115

s/ Natalia Zayas Godoy
Natalia Zayas Godoy
TSPR No.: 20,415
E-mail: nzayas@gmlex.net

Confidential Exhibit A: Complete revised PPOA between PREPA and PBJL Energy Corporation, including its appendices

(PDF version submitted under seal and native Word version notified directly to the Clerk of the Energy Bureau, also under seal)