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

IN RE: ANNUAL TAKE OR PAY CALCULATIONS UNDER NFENERGÍA LLC'S GAS SALE AGREEMENT	**CASE NO.**: NEPR-MI-2026-0009 **SUBJECT:** Commencement of Proceeding.

RESOLUTION AND ORDER

Through its Resolution and Order of September 30, 2026, issued in case *In re: Tarifa Permanente de la Autoridad de Energía Eléctrica de Puerto Rico*, Case No. NEPR-MI-2020-0001 ("September 30 Resolution"), the Energy Bureau of the Puerto Rico Public Service0 Regulatory Board ("Energy Bureau") determined to undertake a comprehensive audit and evaluation of the costs, deliveries, supply deficiencies, credits, obligations, and payments associated with the supply of natural gas by NFEnergía LLC ("NFE"). The purpose of that review is to assess the reasonableness of the amounts claimed, identify potential responsibilities, and evaluate the available regulatory and contractual remedies to protect the Puerto Rico Electric Power Authority ("PREPA"), the electric system, and consumers.

The September 30 Resolution specifically identified the need to examine potential take-or-pay obligations, distinguishing amounts properly attributable to the buyer from those associated with supply deficiencies or failures attributable to the supplier.[1] It also identified concerns regarding nominations, payments for quantities not received, and the recognition and application of contractual credits and mitigation mechanisms.[2] These matters warrant examination to determine whether amounts claimed under the applicable agreements are properly calculated and supported, and whether available exclusions and credits have been fully recognized.

The Energy Bureau has already collected information concerning these matters in Case No. NEPR-MI-2020-0001, and related documents form part of that administrative record. The Energy Bureau **OPENS** this proceeding to collect additional information concerning natural gas take-or-pay costs and related contractual obligations, develop the record necessary for their evaluation, and determine what further action, if any, may be appropriate. This proceeding forms part of the broader audit and evaluation contemplated in the September 30 Resolution.

At this stage, this proceeding is non-adjudicative and is limited to information gathering and preliminary evaluation. Through this Resolution and Order, the Energy Bureau is not adjudicating a contractual dispute, determining liability, or resolving the merits of any potential claim. Any subsequent adjudicative action, if warranted, shall be undertaken through the applicable procedures and with the corresponding procedural safeguards.

The GSA[3] establishes both monthly and annual take-or-pay mechanisms. Under Section 4.3.2, the annual mechanism begins with a minimum quantity of 40,000,000 MMBtu, subject to the adjustments provided in Section 4.3.3, a maximum of 50,000,000 MMBtu, and the deduction, without duplication, of applicable Buyer Excused Quantities.

The definition of Buyer Excused Quantities includes qualifying quantities not made available or not taken by reason of force majeure, off-specification gas that the buyer is entitled to reject and does reject, and quantities affected by an unexcused failure of the seller to make gas available at the Delivery Point. Section 4.3.6 also provides for qualifying quantities

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[1] See September 30 Resolution, pp. 4-5 and 11-12.

[2] See *Id.*, pp. 1–2 and 12.

[3] *Gas Sales Agreement*, Contract No. 2026-G00097, dated December 4, 2025, among NFE, as seller, PREPA, as buyer, and the Puerto Rico Public-Private Partnerships Authority ("P3A"), which is a party solely with respect to Section 22.13 ("GSA").

actually taken by Energiza LLC to be deemed taken by PREPA for purposes of the annual minimum. Additionally, Section 4.5.2 expressly provides that the buyer shall not be required to pay twice for the same quantity of gas made available and not taken under the annual and monthly take-or-pay provisions.

Section 3.4 separately provides for an adjustment involving quantities of natural gas made available under the prior agreement for San Juan Units 5 and 6,[4] from the Supply Start Date through July 31, 2026, for purposes of calculating the minimum take-or-pay obligation under Section 4.3.2. As discussed further below, the preliminary assessment required herein shall explain how Genera proposes to apply, or understands that the parties should apply, that adjustment and shall provide the information and calculations supporting its position.

Under Section 4.3.4 of the GSA, if the annual quantity taken is below the applicable Annual TOP Quantity, the buyer must pay the resulting shortfall, multiplied by the contractual formula of 115% × HH + ToP Adder, within thirty (30) days after the end of the Contract Year. The GSA defines the first Contract Year as the period from the Supply Start Date through December 31, 2025, and subsequent Contract Years as calendar years. Accordingly, the current Contract Year ends on December 31, 2026, and the thirty-day period prescribed in Section 4.3.4 runs from that date, subject to the GSA's applicable time-computation provisions.[5]

Section 9.1 of the GSA further provides that the seller shall include any Annual TOP Payment in its first invoice of each Contract Year after the first Contract Year, together with supporting documentation reasonably required to verify the invoiced amounts. The seller's submission of that invoice and supporting information does not preclude Genera PR LLC ("Genera") from independently monitoring potential annual exposure, collecting the relevant operational and contractual records, identifying applicable exclusions and credits, and assessing the basis of any potential charge before receiving the seller's calculation.

For purposes of complying with this Resolution and Order, Genera shall coordinate with PREPA, P3A, and the Third-Party Procurement Office ("3PPO"), as necessary, and shall timely request and obtain information required for its response that must be secured through those entities. Genera shall include the information obtained through those efforts in its filing. The fact that information must be requested or obtained through another entity shall not, by itself, excuse compliance with the reporting deadline established herein.

Accordingly, the Energy Bureau **ORDERS** Genera, within **ten (10) calendar days** after notification of this Resolution and Order, to submit a preliminary report addressing the following:

1. *Status of monitoring and review.* Describe the actions undertaken to monitor potential annual take-or-pay exposure for the 2026 Contract Year, collect and reconcile relevant information, identify applicable exclusions and credits, and prepare to evaluate any annual calculation or invoice submitted by NFE. Identify the persons and entities responsible for those activities, the coordination undertaken with PREPA, P3A, and 3PPO, as applicable, and the anticipated schedule for completing the review.

2. *Applicable annual minimum.* Identify the Annual TOP Quantity Genera currently expects to apply for 2026. Explain and document each adjustment under Sections 4.3.2 and 4.3.3, including the affected generation units, relevant notices, effective dates, consumption assumptions, and any applicable proration.

3. *San Juan Units 5 and 6 adjustment.* Explain how Genera proposes to apply, or understands that the parties should apply, the adjustment contemplated in Section 3.4 for quantities of Gas made available under the prior San Juan Units 5 and 6

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[4] *Fuel Sale and Purchase Agreement*, Contract No. 2019-P00079, dated March 5, 2019, between NFE, as Seller, and the P3A, as Buyer ("San Juan Units 5 and 6 Agreement").

[5] GSA, Section 1.1, definitions of "Contract Year," "Buyer Excused Quantities," and "ToP Adder"; Sections 1.2.9–1.2.10, 3.4, 4.3.2–4.3.4, 4.3.6, 4.5.2–4.5.4, and 9.1.

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agreement. Identify the quantities and periods Genera considers applicable, the supporting contractual provisions, any proposed proration, and the relationship between that adjustment, the ACQ, and the Annual TOP Quantity. Provide a monthly breakdown distinguishing quantities made available, actually delivered, and billed but not taken, together with the supporting records. Show the effect of the proposed treatment on the estimated 2026 annual shortfall and Annual TOP Payment, and identify any differing positions communicated by NFE or other entities.

4. *Quantities taken and projected.* Provide, by month and Delivery Point, the quantities actually taken under the GSA through the latest date for which information is available, together with projected quantities for the remainder of 2026. Identify the source of the actual quantities and the assumptions supporting the projections. Distinguish actual deliveries from nominations, quantities made available but not taken, and quantities billed without delivery.

5. *Buyer Excused Quantities.* Identify and quantify, by month, Delivery Point, and underlying event, all quantities Genera has identified as qualifying or potentially qualifying as Buyer Excused Quantities for purposes of the annual calculation. State the contractual basis for each exclusion and provide the supporting records. Identify separately any quantities whose classification remains under review or is disputed and explain how those quantities are treated in the preliminary estimate.

6. *Monthly payments and applicable credits.* Identify monthly take-or-pay quantities and payments relevant to the annual calculation, distinguishing amounts invoiced from amounts paid. Explain how duplicate payment for the same quantity under Sections 4.3.2 and 4.5.2 will be identified and prevented. Identify applicable mitigation-sale credits, ToP Carryover Credits, and any other adjustments, and explain their treatment without duplication.

7. *Preliminary annual exposure.* Based on the information presently available, state whether Genera expects an Annual TOP Payment to arise for 2026. Provide the estimated shortfall, if any, in MMBtu and its estimated dollar value, showing the calculation from the applicable annual minimum through each exclusion, credit, or adjustment, including the proposed treatment under Section 3.4. Identify the HH and ToP Adder values used, their contractual basis, and any assumptions or unresolved issues that could materially change the result. If no payment is expected, provide the calculation supporting that conclusion.

8. *Information and communications collected.* Submit the information already collected or prepared for monitoring, estimating, or reviewing annual take-or-pay exposure, including working calculations, supporting schedules, and related communications exchanged with NFE or other entities concerning the applicable minimum, exclusions, credits, the San Juan Units 5 and 6 adjustment, potential shortfall, or anticipated annual charge. Include any estimate, report, demand, invoice, or proposed calculation received from NFE. Provide spreadsheets in native, unlocked format with formulas intact, together with a PDF version of the report.

9. *Outstanding information and completion dates.* Identify any information not yet available, the entity from which it must be obtained, the requests and follow-up efforts undertaken directly or through PREPA, P3A, or 3PPO, and the expected receipt date. Explain how each outstanding item affects the preliminary assessment and identify the steps being taken to complete the review.

Genera's response shall be based on the information presently available to it and the information obtained through the coordination required herein. This preliminary information request precedes the GSA's annual invoicing process and does not depend on receipt of NFE's annual calculation, invoice, or supporting documentation. Accordingly, Genera shall provide its preliminary assessment, supporting information, and responses to each requirement above within the prescribed term. The report shall distinguish verified information from estimates, disputed items, and matters pending confirmation. Genera shall submit the information available within the prescribed term and identify any outstanding

items individually. A general statement that the seller's calculation or information from another entity remains pending shall not constitute a sufficient response.

This Resolution and Order does not determine whether an Annual TOP Payment is owed, establish its amount, or adjudicate the contractual rights or responsibilities of any party. All applicable requirements and determinations established in the September 30 Resolution remain in effect.

The Energy Bureau **DIRECTS** its Clerk to open this docket and notify this Resolution and Order to Genera, PREPA, P3, and the 3PPO. Future filings responding to this information request shall be submitted in this docket.

The Energy Bureau **WARNS** Genera that non-compliance with the Energy Bureau's orders could result in the imposition of fines under Article 6.36 of Act 57-2014,[6] as amended.

Be it notified and published.

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 agreed on November 20, 2026. I also certify that on November 20, 2026, I have proceeded with the filing of this Resolution and Order and was notified by email legal@genera-pr.com; regulatory@genera-pr.com; Alexis.rivera@prepa.pr.gov; josue.colon@p3.pr.gov; ocarlo@carlolaw.com; wcarlo@carlolaw.com; administrator@p3.pr.gov; lionel.santa@p3.pr.gov; cdefendini@smclawpr.com; lsepulvado@smclawpr.com..

I sign this in San Juan, Puerto Rico, today November 20, 2026.

Sonia Seda Gaztambide
Clerk

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