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

IN RE: ELECTRIC SYSTEM PRIORITY STABILIZATION PLAN	**CASE NO.:** NEPR-MI-2024-0005 **SUBJECT:** PREPA's Second Proposed Contract Resulting from Temporary Emergency Power Generation.

RESOLUTION

I. Relevant Background

On March 19, 2025, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("March 19 Resolution") directing the Puerto Rico Electric Power Authority ("PREPA") to appear before the Public-Private Partnerships Authority ("P3A") and initiate the process of the Independent Third -Party Procurement Office ("3PPO") to begin the expedited procedure for the acquisition of up to 800 MW of temporary generation for eighteen (18) months. PREPA was directed to submit to the Energy Bureau, upon completion of the bidding process, the costs associated with each initiative so the Energy Bureau could assess whether such costs are prudent and reasonable.[1]

On March 24, 2025, LUMA submitted an Updated Resources Adequacy Report.[2] This report reaffirmed the need for the installation of 800 MW of temporary emergency generation and analyzed the impact of the catastrophic failure of Aguirre Unit #1.[3]

On March 25, 2025, the 3PPO issued RFP No. 3PPO-0314-20-TPG for the procurement of up to 800 MW of temporary emergency generation capacity. The objective of the RFP was to identify one or more qualified providers capable of deploying generation solutions (such as barges or mobile gas turbines) at the Aguirre and Costa Sur substations.

Following various procedural filings and actions, the procurement process did not proceed directly to a final executed contract. The 3PPO closed RFP No. 3PPO-0314-20-TPG and reopened the procurement process with RFP 3PPO-0314-20-TPG2. The solicitation process restarted under revised regulatory parameters directed by the Energy Bureau in their Resolution and Order issued on July 4, 2025.[4]

Subsequently, on November 26, 2025, PREPA filed before the Energy Bureau a document titled *Motion Submitting the First Proposed Contract Resulting from Temporary Emergency Power Generation RFP for the Energy Bureau's Review and Approval and Memorandum of Law in Support of Request for Confidential Treatment* ("November 26 Motion"). In the November 26 Motion, PREPA stated that the filing constitutes the first proposed contract under the reopened procurement and corresponds to 400 MW of temporary emergency generation to be at the Aguirre Power Plant. PREPA further stated that the additional proposed contracts for the remaining 800 MW authorization will be submitted separately as negotiations conclude. PREPA also requested confidential treatment of Exhibits I and II of the November 26 Motion until the evaluation process concludes and the final contract is executed, arguing such documentation contains ongoing deliberative material that forms part of an active negotiation process as part of a competitive procurement process.



[1] March 19 Resolution.

[2] Case No. NEPR-MI -2022-0002, *Motion to Submit Interim Update for Summer 2025 of LUMA's Fiscal Year 2025 Resource Adequacy Resource,* filed by LUMA on March 24, 2025 ("Updated Resources Adequacy Report").

[3] *Id.*, p. 16.

[4] July 4 Resolution and Order.

On December 11, 2025, the Energy Bureau issued a Resolution and Order ("December 11 Resolution") approving the First Proposed Contract as presented in the November 26 Motion, with the addition of 400 MW proposed for Aguirre, and ordered PREPA to submit to the Financial Oversight and Management Board ("FOMB") for its approval. The Energy Bureau also granted confidential designation and treatment to Exhibits I and II of the November 26 Motion.

On January 23, 2026, PREPA filed before the Energy Bureau a document titled *Motion Submitting the Second Proposed Contract Resulting from Temporary Emergency Power Generation RFP for the Energy Bureau's Review and Approval and Memorandum of Law in Support of Request for Confidential Treatment* ("January 23 Motion"), which includes, as Exhibit I, the second proposed contract resulting from the competitive process for temporary emergency power generation, and, as Exhibit II, other documents to ensure the Energy Bureau has a complete record of the RFP process. PREPA also requested confidential treatment of Exhibits I and II of the January 23 Motion until the evaluation process concludes and the final contract is executed, arguing such documentation contains ongoing deliberative material that forms part of an active negotiation process as part of a competitive procurement process.

II. Analysis and Evaluation

A. Summary of Principal Terms of the Proposed Contract

The proposed Performance-Based Service Agreement submitted by PREPA provides 200 MW of continuous power generation. The Seller shall deploy and operate Mobile Sea Generation Units (Floating Power Plants), to provide continuous power to the San Juan Power Plant and if applicable any Additional Site. The generation systems must maintain Power Availability subject to contractual remedies for sustained underperformance.

The Seller shall be responsible for the procurement of Liquefied Natural Gas (LNG) required for the Temporary Power Generation Units. The Seller shall be responsible for the delivery, on-site storage and regasification of Liquified Natural Gas (LNG) required for the Temporary Power Generation Units. Seller's responsibility also includes the provision of regasification equipment, connection infrastructure, and all applicable environmental permits associated with LNG logistics and for the Temporary Power Generation.

Buyer's obligation is limited to paying for metered and accepted kilowatt-hours. The proposed contract imposes no minimum-take requirement, minimum-generation requirement, nor make-whole payments.

The proposed contract becomes effective upon execution by both Parties and shall remain in effect for a ten (10) year term beginning on the Commercial Operation Date ("COD") of the Facility at the Project Site.

The Seller is responsible for all infrastructure required to interconnect the generation systems at the 115 kV and/or 230 kV switchyard at San Juan, and if applicable any Additional Site, including transformers, switchgear, auxiliary systems, and all associated equipment. The Seller shall obtain and maintain all permits and approvals necessary for installation, operation, environmental compliance, and interconnection. In addition, the Seller shall be responsible for the operation and maintenance of all its auxiliary systems, including transformers, switchgear, and related electrical components. These systems must remain in full working condition throughout the Performance Period. The Seller is responsible for all interconnection costs bared by the Seller and LUMA[5].

The Seller is responsible for integrating its power generation system with the Buyer's transmission and dispatch network and shall comply with all applicable interconnection standards and protocols set by the Buyer and coordinated with LUMA as the T&D Operator.

[5] LUMA Energy Management, LLC and LUMA ServCo, LLC (jointly referred as "LUMA").

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B. Evaluation Framework

a. Article 6.32 of Act 57-2014[6] and Regulation 8815[7]

Section 6.32 of Act 57-2014, as amended by Act 17-2019,[8] provides for the evaluation and approval of all agreements between electric power service companies, including independent power producers, before the execution thereof. Paragraph (d) of Section 6.32 provides that in evaluating every proposal for an agreement between electric power service companies, the Energy Bureau shall consider the IRP. The Energy Bureau shall not approve an agreement that is inconsistent with the IRP, particularly in all that pertains to renewable energy, distributed generation, conservation and efficiency goals established in the integrated resource plan and in the Energy Public Policy. In addition, Paragraph (e) of Section 6.32 provides a timeframe for the review and evaluation of PREPA's agreements.

PREPA is facing a critical situation resulting from a shortage of generation resources. There remains significant uncertainty in the availability of sufficient capacity in the coming months. Absent immediate action by the Energy Bureau, this emergency is likely to worsen during the peak demand season, which has begun. PREPA anticipates a base load generation shortfall exceeding 800 MW if the generation resources contemplated under the proposed contract are not available and no mitigating measures are implemented.

Under these circumstances, and given Article 6.32 of Act 57-2014 regarding ensuring that the proposed contract follows the Approved IRP and subject to an expedited evaluation process, the Energy Bureau **DETERMINES** that an expedited evaluation is warranted. Such evaluation, conducted under the principles in Regulation 8815 and Article 6.32 of Act 57-2014, is justified given the emergency circumstances surrounding this matter.

b. Compliance with Approved IRP[9]

An Integrated Resources Plan ("IRP") considers all reasonable resources needed to supply demand over the planning horizon, which in our case is twenty (20) years. Therefore, using temporary emergency generation due to unexpected or emergency situations is not normally considered a resource planning action in an IRP. Due to its temporary nature, actions that may result from unexpected situations or emergencies, such as the one contemplated by PREPA in the proposed contract and validated by the Energy Bureau through the March 19 Resolution, were not specifically identified as a resource planning action during the evaluation of the Approved IRP.

Under certain circumstances, the acquisition or development of a temporary resource to supply a need that arises as the result of an emergency not contemplated in the IRP analysis, could be consistent with such IRP. For example, the temporary acquisition of a generation asset (e.g., by purchase or lease) to make up for the temporary loss of permanent assets due to unforeseen circumstances could be considered one such situation. In these circumstances, the analysis regarding consistency should include, at least, (1) if the permanent assets are part of the identified resources on the IRP, (2) the effect the loss of the assets have on the system, (3) the time the temporary asset would be in service (i.e. the temporary nature of such asset), and (4) the purpose of the acquisition of the temporary asset is to temporary replace, in total or in part, the permanent asset.

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

[7] Joint Regulation for the Procurement, Evaluation, Selection, Negotiation and Award of contracts for the Purchase of Energy and for the Procurement, Evaluation, Selection, Negotiation and Award Process for the Modernization of the Generation Fleet, November 9, 2016 ("Regulation No. 8815").

[8] Known as the *Puerto Rico Energy Public Policy Act* (Act 17 2019).

[9] Final Resolution and Order on the Puerto Rico Electric Power Authority's Integrated Resource Plan, In re. Review of the Puerto Rico Electric Power Authority Integrated Resource Plan, Case No. CEPR-AP-2018-0001, August 24, 2020 ("Approved IRP").

c. Act 1-2025[10]

As required by Act 57-2014, on July 12, 2023, the Energy Bureau initiated a new Integrated Resource Plan (IRP) process to update the previously approved IRP. This update is mandated by law to account for changes in available resources and to reflect updated circumstances and conditions affecting the electric system, thereby ensuring that Puerto Rico's long-term energy planning remains aligned with current realities and future needs. As part of this process, LUMA submitted the First Interim 2025 IRP Filing before the Energy Bureau on November 25, 2024. The IRP process is ongoing, with further evaluations and stakeholder engagements planned to ensure a sustainable and reliable energy future for the island.

Pending the evaluation of the updated IRP, House Bill 267 was enacted into law ("Act 1-2025"), amending Puerto Rico's Public Energy Policy Act ("Act 17-2019") and the Energy Diversification Act, as amended ("Act 82- 2010"). Act No. 1-2025 extends the lawful use of coal-based power generation through the year 2032, which may permit the continued operation of the AES[11] power plant in Guayama beyond its previously anticipated retirement date of December 2027. Additionally, Act No. 1-2025 eliminated the interim renewable energy targets of 40% by 2025 and 60% by 2040, while retaining the statutory objective of achieving 100% renewable energy generation by 2050.

These legislative amendments modify the energy transition goals to better align with current energy system conditions and to ensure continued system reliability. They allow, during a transitional period, the integration of other generation resources into the system, not necessarily based on renewable energy sources, provided that such integration supports the achievement of the 100% renewable energy goal by the year 2050, and that such resources are procured at competitive prices that can compete with renewable energy alternatives. Act 1-2025 also includes provisions to enhance energy efficiency and promote the integration of renewable energy sources into the grid.

Consistent with Act 1-2025, on March 19, 2025 the Energy Bureau issued a Resolution and 0rder ("March 19 Resolution") in which it determined that: (i) given the pattern of forced outages of PREPA's existing, aging, thermal generation fleet, the available generation capacity is limited and may complicate needed maintenance and repairs to the existing fleet; (ii) there is a need to explore the costs and timeframe of availability of new, modern, generation sources that will allow Puerto Rico to reach the goals set in the new energy public policy and serve the electricity customers' best interests; and (iii) this procurement effort shall explore 2,500 to 3,000MW of new capacity. While perhaps the Energy Bureau's directive for the procurement of new generation, as stated in the March 19 Resolution -New Capacity, is not entirely consistent with the Approved IRP, such directive falls within the Energy Bureau's delegated authority to implement the energy policy and to issue determinations in furtherance thereof. This is true given that the decision is aligned with the provisions and policy objectives established under Act No. 1-2025, which directly affects and bears on the mandates in the Approved IRP.

The Energy Bureau has the power and duty to oversee and ensure the execution and implementation of the public policy on the electric power service in Puerto Rico,[12] to establish and implement regulations and regulatory actions to guarantee the capacity, reliability, safety, efficiency, and reasonability of the rates of Puerto Rico's electrical system, and to establish the guidelines, standards, practices, and processes to be followed to purchase power, modernize power plants or electric power generation facilities.[13] It has the power to formulate and implement strategies to achieve the energy public policy goals, including, but not limited to, attaining the goals established in the Renewable Portfolio Standard and promoting the storage

[10] Act No.1 of March 12, 2025 ("Act 1-2025").

[11] AES Puerto Rico, Inc. ("AES").

[12] Act 57 2014 Article 6.3(a).

[13] Article 6.3(c).

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of energy.[14] The Energy Bureau has broad authority under Act 57-2014, Act 82-2010[15] and Act 17-20 19 to oversee the acquisition of energy resources by PREPA to help ensure that the Energy Public Policy goals are met and that PREPA's ratepayers' interests are protected.

C. Proposed Contract Evaluation

a. Consistency with Approved IRP

The emergency generation resources contemplated in the proposed contract are not included in the Approved IRP, as temporary resources of this nature are rarely identified through the IRP resource planning process. However, given the temporary and emergency nature of the proposed generation and considering that its purpose is to address an unforeseen and urgent shortfall resulting from the unavailability of permanent assets, the Energy Bureau **CONCLUDES** that the proposed contract follows the Approved IRP.[16]

b. Pricing Terms

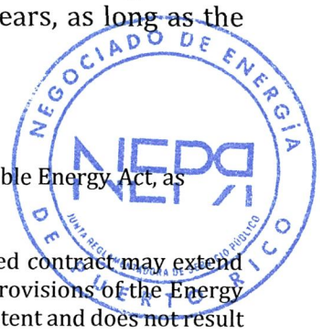
The prices established in the proposed contract arise from a procurement process conducted by the 3PPO under an RFP, which was not reviewed by the Energy Bureau before its execution.

However, based on the report submitted and the proposals received, as evaluated by the Energy Bureau through PREPA's responses to the Energy Bureau's requests for information, in general, the 3PPO followed standard procedures securing competitive pricing. The prices obtained through the proposed contract are deemed reasonable. The pricing associated with the proposed contract is in a confidential exhibit filed under seal with the January 23 Motion and is therefore not disclosed in this Resolution and Order. The proposed price is reasonable.

c. Proposed Contract Term

As previously discussed, for an IRP, a temporary activity is generally defined as one that does not involve prolonged use. Based on the current condition and generation deficiency of Puerto Rico's electrical system, the proposed ten (10) year term is deemed temporary. This is true when considering the extended timeframes typically required to develop and implement permanent fossil generation projects. These circumstances reasonably extend what may be considered a "temporary" period under an IRP framework.
On the other hand, the Energy Bureau, based on prevailing electric system conditions and the public policy changes introduced under Act 1-2025, found it necessary to require the P3A to procure up to 3,000 MW of generation capacity, which may be fulfilled through any generation resource, provided it results from a competitive process and is offered at reasonable prices. This includes, but is not limited to, generation based on natural gas or renewable energy sources. It is further recognized that the legislative amendments enacted under Act 1-2025 have, to some extent, affected or influenced the Approved IRP.

Considering these circumstances, and given the critical state of the electrical system, the Energy Bureau finds that a term of up to ten (10) years is not inconsistent with Puerto Rico's energy public policy or with the Energy Bureau's directive in the March 19 Resolution-New Capacity, provided that such extension proves beneficial to ratepayers. It must be considered this type of generation peaking unit supports the integration of renewable energy resources, as they can be provided during periods of renewable generation intermittency. Therefore, under the current context, the Energy Bureau concludes that it follows the Energy Public Policy to authorize the proposed contract for a term of up to ten (10) years, as long as the terms remain favorable to ratepayers.



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[14] Article 6.3(f).

[15] Puerto Rico Energy Diversification Policy through Sustainable and Alternative Renewable Energy Act, as amended, ("Act 82-2010").

[16] As discussed further below, even when the use of the assets proposed in the proposed contract may extend beyond what is typically expected for a temporary or emergency situation, under the provisions of the Energy Public Policy adopted through Act 1-2025, the proposed contract is still considered consistent and does not result in an insurmountable incompatibility with the Approved IRP.

d. Interconnection

The parties propose to utilize the existing interconnection infrastructure at San Juan, expecting to reduce the extent of interconnection work timeline and costs. The parties intend to integrate the proposed temporary generation using the existing transmission infrastructure at San Juan. In addition, the design and construction of all interconnections related infrastructure shall comply with all applicable industry standards, as well as any technical requirements reasonably established by LUMA. Given this, the Energy Bureau deems that the interconnection of the proposed generation does not threaten the reliability or security of the electric grid and confirms that no terms or conditions in the proposed contract are contrary to -or undermine- the safe and reliable operation of the system.

The Energy Bureau **UNDERSCORES** it is not, and has never been, a party to the contractual negotiations. The Energy Bureau does not direct, supervise, or participate in the negotiation of the terms agreed upon between the parties, nor does it assume responsibility for the commercial strategy, policy determinations, or risk-allocation decisions inherent to those negotiations. The responsibility for negotiating a contract that reflects sound governmental judgment and advances the objectives and interests entrusted to P3A lies exclusively with the governmental negotiator, whose scope of evaluation encompasses various operational, financial, policy, and strategic considerations outside the jurisdiction of the Energy Bureau.

The Energy Bureau further emphasizes that its role is not to second-guess or replicate the bargaining process, nor to substitute its discretion for that of the governmental entity that negotiated the agreement (P3A). Instead, the Energy Bureau's authority is strictly limited to determining whether the submitted contract complies with applicable regulatory requirements, supports fair and reasonable rates, and aligns with the statutory mandate to ensure that utility services remain reliable, affordable, and consistent with the public interest.

However, the Energy Bureau notes that, to the extent that a policy-based decision embedded in the negotiated agreement would (i) adversely affect the public interest, (ii) undermine the Energy Bureau's ability to fulfill its statutory duties, or (iii) result in unjust, unreasonable, or discriminatory outcomes for ratepayers, the Energy Bureau may require modifications or conditions to ensure compliance with applicable regulatory standards. In such limited circumstances, the Energy Bureau is justified in addressing those contractual elements, even if they stem from broader governmental policy judgments, solely to the extent necessary to prevent detriment to ratepayers and to protect the integrity of the regulatory framework.

III. Conclusion

After evaluating the proposed contract and the supporting documentation submitted by PREPA, the Energy Bureau **DETERMINES** its terms and conditions are prudent and reasonable and align with the public interest. The Energy Bureau **APPROVES** the Second Proposed Contract as presented in the January 23 Motion.

The Energy Bureau **NOTES** that, within the procurement process, the proponent to the Second Proposed Contract represented its ability to provide approximately **200 MW** of capacity at the San Juan site.

The Energy Bureau **GRANTS** confidential designation and treatment to Exhibits I and II to the January 23 Motion.

The Energy Bureau **ORDERS PREPA** to file immediately the approved amendment with the Financial Oversight and Management Board for Puerto Rico ("FOMB") for its review and approval. Any further amendments require the prior approval of the Energy Bureau.

The Energy Bureau WARNS PREPA that, in accordance Art. 6.36 of Act 57-2014:

(i) noncompliance with this Resolution and Order, regulations and/or applicable laws may carry the imposition of fines and administrative

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sanctions of up to one hundred twenty-five thousand dollars ($125,000) per day; and

(ii) for any recurrence of non-compliance or violation, the established penalty shall increase to a fine of not less than fifteen thousand dollars ($15,000) nor greater than two hundred fifty thousand dollars ($250,000), at the discretion of the Energy Bureau.

Be it notified and published.

Edison Avilés Deliz
Chairman

Lillian Mateo Santos
Associate Commissioner

Sylvia B. Ugarte Araujo
Associate Commissioner

Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on February 2, 2026. Associate Commissioner Ferdinand A. Ramos Soegaard did not intervene. I also certify that on February 2, 2026. I proceeded with filing the Resolution and a copy was notified by electronic mail to alexis.rivera@prepa.pr.gov; nzayas@gmlex.net; mvalle@gmlex.net; rcruzfranqui@gmlex.net; lrn@roman-negron.com; legal@genera-pr.com; regulatory@genera-pr.com; RegulatoryPREBorders@lumapr.com; Emmanuel.porrogonzalez@us.dlapiper.com; laura.rozas@us.dlapiper.com; margarita.mercado@us.dlapiper.com.

I sign this in San Juan, Puerto Rico, on February 2, 2026.

Sonia Seda Gaztambide
Clerk

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