Arthur J. Gonzalez
Chair and Board Member

Members
Andrew G. Biggs
John E. Nixon
Betty A. Rosa

Robert F. Mujica Jr.
Executive Director

BY ELECTRONIC MAIL

May 8, 2026

Mr. Alexis G. Rivera Medina
General Counsel
Puerto Rico Electric Power Authority

Re: Power Expectations, LLC; Enchanted Rock; and Reyes Contractor, LLC (RFP No. 3PPO-0314-20-TPG2 – Temporary Power Generation)

Dear Mr. Rivera Medina,

In accordance with the Contract Review Policy (the "Policy") of the Financial Oversight and Management Board for Puerto Rico (the "Oversight Board"), established pursuant to Section 204(b)(2) of PROMESA, we have reviewed the proposed power generation contract between the Puerto Rico Electric Power Authority ("PREPA"), as buyer, and each of Power Expectations, LLC; Enchanted Rock; and Reyes Contractor, LLC (jointly, the "Seller") (the "Proposed Contract").

On July 15, 2025, the Third-Party Procurement Office ("3PPO") issued procurement process no. 3PPO-0314-20-TPG2 (the "RFP") pursuant to the directive of the Puerto Rico Energy Bureau ("PREB") to address the emergency related to an anticipated generation shortfall of approximately 700 to 850 megawatts ("MW") and stabilize system reliability.[1] Following the procurement process, the 3PPO awarded the Proposed Contract to the Seller approximately six months later and PREPA submitted it to the Oversight Board for review and approval on January 16, 2026.[2]

[1] *See* PREB's Resolution and Order dated March 19, 2025 in case no. NEPR-MI-2024-0005. In March 2025, the 3PPO issued procurement process no. 3PPO-0314-20-TPG1 for the services contemplated under the Proposed Contract (the "Original RFP"). During PREB's evaluation of the proposed contract resulting from the Original RFP, PREB directed the 3PPO to renegotiate pricing and incorporate a longer term and reduced fixed rates. Understanding that these directives constituted material commercial changes, the 3PPO cancelled the Original RFP and subsequently issued the RFP that led to the Proposed Contract.

[2] PREB approved the Proposed Contract, determining its terms and conditions are prudent and reasonable and align with the public interest. *See* PREB's Resolution and Order dated December 11, 2025.

The Proposed Contract reflects the Government's efforts to address Puerto Rico's energy emergency and near-term generation needs. However, as currently structured, the Proposed Contract raises certain concerns and involves certain risks that must be addressed **prior to execution** in order to ensure that the Proposed Contract promotes market competition and is not inconsistent with the approved Fiscal Plan. These risks primarily relate to: (i) project execution and deployment, (ii) performance guarantees, and (iii) fixed price assurances. The Oversight Board raised concerns in connection with these risks through multiple requests for information ("RFIs") issued during its review of the Proposed Contract, but such concerns remain to be addressed.[3]

After reviewing the Proposed Contract, the Oversight Board concludes "**Approved with Conditions." Approval of the Proposed Contract is conditioned upon the Government implementing the revisions set forth in Appendix A attached hereto. The requested revisions seek to address the risks identified during the Oversight Board's review of the Proposed Contract and increase generation capacity and energy reliability for the benefit of the people of Puerto Rico.**

PREPA must submit a revised version of the Proposed Contract to the Oversight Board incorporating the required revisions. The parties may not execute the Proposed Contract until the Oversight Board determines, in its sole discretion, that the conditions set forth herein have been satisfied. Once PREPA submits the revised version of the Proposed Contract to the Oversight Board, we will review it on an expedited manner.

Our review is solely limited to compliance of the Proposed Contract with Section 204(b)(2) of PROMESA, which seeks to ensure proposed contracts promote market competition and are not inconsistent with approved Fiscal Plans. For the avoidance of doubt, the review performed by the Oversight Board does not constitute a legal review of the contractual documentation or the contracting process, including without limitation: (i) compliance with contracting requirements under applicable laws, rules, and regulations, both federal and local; and (ii) compliance with applicable laws, rules, and regulations governing procurement activities, both federal and local.

In addition, the Oversight Board has not engaged in any due diligence or background check with respect to the contracting parties nor whether the contracting parties comply with the requirements under the applicable contract. Any material changes to the Proposed Contract must be submitted to the Oversight Board for review and approval **prior to execution**.

This letter is delivered as of the date hereof and we reserve the right to provide additional observations and modify this letter based on information the Oversight Board was not directed to when the review was conducted. In addition, during the course of our review, we may receive information that we may refer to the relevant authorities.

This letter is issued only to PREPA and solely with respect to the Proposed Contract.

Sincerely,

[3] *See* the Oversight Board's letters dated February 13, 2026 and March 26, 2026.



Jaime A. El Koury
General Counsel

PREPA – POWER EXPECTATIONS, LLC AND OTHERS

Background

This review covers the Proposed Contract between PREPA and the Seller for the deployment, installation, operation, and maintenance of temporary power generation units at the Aguirre Power Plant with an aggregate capacity of 400 MW (the "Project").[4]

The Proposed Contract stems from the RFP issued by the 3PPO on July 15, 2025[5] pursuant to PREB's directive to address the emergency related to an anticipated generation shortfall of approximately 800 MW expected by Summer 2025.

The Proposed Contract has a **10-year term** and a phased deployment timeline between **90 and 150 days** to achieve full commercial operation. The Proposed Contract places primary financial risk on the Seller and direct fiscal exposure to PREPA and ratepayers is limited. Specifically, it provides for a **fixed energy rate of $0.224/kWh** under a **performance-based structure** in which PREPA is only obligated to pay for energy delivered, without minimum take-or-pay requirements or guaranteed payments obligations.[6] The estimated maximum contract value is **$5,886,720,000**.[7]

PREPA has certified that (i) the cost of the Proposed Contract is a pass-through rate expenditure with no budgetary impact, and (ii) the funds to pay for the Proposed Contract are unrestricted, unobligated and available without future encumbrances or restrictions, and will not be obligated except for the payment of the Proposed Contract.

Moreover, pursuant to the Proposed Contract, the Seller is responsible for the procurement of liquefied natural gas ("LNG"), as primary fuel, and bears responsibility for all interconnection, permitting, and infrastructure necessary to deliver power to the grid. Diesel-based operation may be required at any time upon PREPA's request. In such case, PREPA shall supply diesel fuel, logistics and its delivery infrastructure.

Key Observations and Risks Considerations

The PREPA Fiscal Plan establishes a framework for the transformation of Puerto Rico's energy sector into a modern, efficient, resilient, fiscally responsible system. It emphasizes the need to improve system reliability and resource adequacy through coordinated planning, investment in new generation capacity, integration of additional energy resources, and implementation of

[4] Pursuant to the Proposed Contract, an additional site in the Municipality of Yabucoa may be incorporated into the Proposed Contract upon PREB's review and approval.

[5] Three proponents participated in the RFP, of which the Seller obtained the lowest evaluation score. 3PPO awarded contracts to the Seller and Gothams, LLC. The Oversight Board's determination in connection with the Gothams, LLC proposed contract shall be the subject of a separate letter from the Oversight Board.

[6] The Proposed Contract also includes termination for convenience provisions and associated payment obligations under certain circumstances.

[7] The estimated maximum contract value assumes a 75% capacity factor (6,570 yearly hours of operation). Such capacity factor was not certified by LUMA (the "System Operator").

demand-response measures to mitigate shortfalls, supported by appropriate technical analysis and procurement discipline. Achieving these objectives requires sustained investment and careful alignment among system needs, resource planning, and procurement decisions.

Below, we identify a series of concerns and risks that were raised by the Oversight Board through multiple RFIs and remain to be addressed in order to ensure market competition and achieve the Fiscal Plan's objectives of reliability, affordability, and overall sustainability of the electric system.

i. Project Execution and Deployment

The Proposed Contract lacks sufficient mechanisms to ensure timely and enforceable project execution. While it establishes a phased deployment period between 90 and 150 days, it lacks defined requirements for permitting, interconnection, or infrastructure development. It also fails to establish milestones leading to commercial operation or clear progress monitoring and reporting requirements for the Seller against which PREPA can measure the Seller's performance or address any delays.

As a result, the Government lacks adequate contractual tools to monitor project progress, identify delays, and ensure delivery of the agreed capacity within the required timeframe.

Furthermore, the Proposed Contract also fails to properly define liquidated damages, allowable delays, or termination thresholds in the event the Seller does not achieve the commercial operation date ("COD"). In addition, it does not align Force Majeure provisions with COD obligations and Event of Default triggers, further limiting the Government's ability to enforce timely performance.

ii. Performance Guarantees

The Proposed Contract lacks a defined payment and performance bond framework. Without clearly defined payment and performance bond requirements, the Proposed Contract provides limited financial safeguards and assurance that the Seller will meet its contractual obligations.

The RFP required a bid bond representing 5% of the project bid. The procurement file reflects that the Seller originally submitted a surety-backed bid bond of $300,000, representing 5% of the Seller's proposal value.[8] According to the procurement file, the bid bond was deemed potentially insufficient in light of the scope, magnitude, technical complexity, and overall costs associated with the Project.[9] We also note that, according to the procurement file, the surety-backed bid bond

[8] According to the United Surety & Indemnity Company, the Seller's original bid bond was based on a project bid of $6,000,000.

[9] According to the submitted documentation, the Seller submitted a revised bid bond of $6,000,000. The procurement record reflects inconsistent representations regarding the underlying project bid value supporting such bond, including references to project values of $120,000,000 and $300,000,000, neither of which aligns with the Proposed Contract's estimated maximum value. In all cases, the reported bid bond amount is materially insufficient when compared against the Proposed Contract's estimated maximum value of $5,886,720,000.

submitted by the Seller erroneously referred to an incorrect project name and date, seemingly tied the Original RFP.[10]

In addition to the risks associated with the Seller's financial capacity, there are notable deficiencies and concerns regarding the Seller's experience in similar projects. The procurement file reflects the limited utility-scale experience of certain project participants particularly in light of the scope and complexity of the Project.

The allocation of financial risk to the Seller limits direct exposure to PREPA. Nevertheless, the Seller's purported limited financial capacity and experience raise doubts regarding the viability and bankability of the Project in the absence of any financial commitments from PREPA.[11]

The Proposed Contract's objective of increased energy reliability depends largely on the Seller's ability to finance, execute, and operate the Project throughout the proposed 10-year term. Incorporating a Payment and Performance Bond framework into the Proposed Contract is therefore essential to mitigate such execution risk.

iii. Fixed Price Assurances

The Proposed Contract establishes a fixed energy rate of $0.224/kWh solely for LNG-based operation. However, it lacks assurances that LNG infrastructure will be in place prior to COD, resulting in uncertainty regarding both cost exposure and operational incentives.

The Proposed Contract assigns the Seller full responsibility for LNG procurement, delivery, storage, and regasification. However, it does not identify the logistical framework necessary to support an LNG-based operation, including permitting, fuel supply arrangements, and transportation and delivery infrastructure. The responses to the RFIs issued by the Oversight Board do not clarify this aspect even though it is essential to achieving commercial operation and maintaining the fixed price.

Furthermore, we note that the Proposed Contract provides for diesel-based operations at any time at PREPA's request. However, it does not allocate fuel costs or define the resulting financial impact on PREPA and ratepayers in connection with diesel-based operation. This creates misalignment between pricing assumptions and operational incentives and introduces considerable cost risk, particularly if LNG is unavailable.

iv. System Planning

During its review of the Proposed Contract, the Oversight Board raised questions about lack of system planning and coordination efforts. Key elements, such as the contracted capacity, contract

[10] The Oversight Board requested clarification from the 3PPO regarding which procurement stakeholder authorized the acceptance of the Seller's bid bond as compliant. However, the 3PPO could not provide a response.

[11] Considering that the Proposed Contract does not include guaranteed revenues for the Seller, the Oversight Board requested the financial model underlying the Proposed Contract. On April 4, 2026, the 3PPO indicated that such model was not required, purportedly because it would not be determinative of PREPA's financial obligations. Thus, the Oversight Board could not confirm the Seller's ability to service its external financial obligations.

term, and project site selection were not supported by targeted technical analysis. Instead, the estimated maximum contract value relies on assumed utilization levels that are not supported by certified economic dispatch modeling or resource planning projections from the System Operator.

Furthermore, it remains unclear how the 10-year proposed term aligns with the emergency nature of the RFP and the anticipated integration of new generation sources. These resources include 164 MW of battery energy storage system (BESS) capacity and the planned restoration of Unit #1 of the Aguirre site. To date, PREPA has not submitted to the Oversight Board any interconnection assessment or agreement between the Seller and the System Operator, nor have the relevant stakeholders confirmed that the Proposed Contract will not interfere with the interconnection capacity of those planned projects.

During the Oversight Board's review of the Proposed Contract, PREPA indicated that final design determinations and interconnection requirements will be completed following the execution of the Proposed Contract. Deferring critical system planning and integration considerations to until after contract execution increases the risk of misalignment with system needs, interconnection constraints, and planned resource additions.

v. Procurement Consistency with Best Practices

Finally, the Oversight Board reiterates its concerns regarding the procurement process leading to the Proposed Contract vis-a-vis the Oversight Board's mandate to ensure that proposed contracts promote market competition. We note that during the procurement process, the 3PPO, on behalf of the procurement stakeholders, allowed deviations from certain RFP requirements. For instance, 3PPO waived certain bid bond requirements, introduced the Government's non-negotiable terms after submission of proposals,[12] and selected the Seller as the awarded proponent despite its ranking as the lowest-scored proponent.

In addition, the procurement file does not clearly demonstrate how the final award decision reconciles with the documented evaluation results or whether all evaluation criteria were applied consistently across all proponents throughout the procurement process.

The Oversight Board recognizes the emergency nature of the RFP and the urgent need to address near-term generation shortfalls and improve energy reliability. However, even in this scenario, the deviations from best procurement practice set forth above, and identified by the Oversight Board during its review process, underscore the need for stronger adherence to such practices in future procurement processes in order to promote market competition and increase the public's faith in government contracting.

[12] The non-negotiable terms required by the 3PPO include: (i) no "take-or-pay" provisions; (ii) no requirement for a letter of credit, surety bond, or any other form of financial guarantee as condition precedent for contract execution; (iii) no capacity payments; (iv) no separate costs for mobilization or demobilizations; and (v) references to minimum hours as non-binding.

Conditions and Required Government Actions

In light of the above-mentioned concerns and risks, **the Oversight Board's approval of the Proposed Contract is conditioned upon the Government implementing the following revisions to the Proposed Contract. PREPA must submit the revised version of the Proposed Contract for the Oversight Board's review and approval prior to execution.**

1. **Project Schedule and Performance Enforcement**
   Define milestones for project schedule, including permitting, interconnection, infrastructure deployment, and achievement of COD; and require the Seller to submit weekly reports demonstrating compliance with such milestones.

   The Proposed Contract must establish liquidated damages, allowable delays, and termination provisions tied to failure to achieve COD; and require default notifications from the Seller and reasonable cure periods in the event of any failure by the Seller to meet its obligations. The Proposed Contract must also establish that failure by the Seller to achieve COD within the applicable timeline, including any allowable delays, shall constitute grounds for termination of the Proposed Contract.

   In addition, the Proposed Contract must align Force Majeure provisions with these performance obligations and Event of Default triggers to ensure that relief from performance does not undermine enforceability of the COD and related obligations.

2. **Payment and Performance Guarantees**
   Establish a payment and performance bond structure with a defined methodology for calculating annual coverage, with (i) surety coverage equal to 100% of project obligations through COD, and (ii) minimum coverage equal to 20% of the projected annual contract value during the operational phase, based on a fixed and clearly defined value.[13]

3. **Fuel Structure and Fixed Price Assurances**
   Establish LNG as the primary fuel, with LNG-based operation designated as the primary mode of operation and diesel-based operation as secondary. Further, the Proposed Contract must require LNG-based operation prior to COD and limit diesel operation to defined contingency scenarios. The Proposed Contract must also allocate costs associated with diesel operation to ensure that PREPA and ratepayers are not exposed to unquantified costs.

PREPA is expected to inform the Oversight Board of any budgetary differences other than those specified in Appendix A to the Policy (Contract Submission Questionnaire) and to request a re-review of the Proposed Contract should any changes occur.

This review was conducted on the basis of information submitted by PREPA. The Oversight Board has not independently verified the information included in the submission. Should the Oversight

[13] Pursuant to Exhibit C of the Proposed Contract, a Payment and Performance Bond will be incorporated upon contract execution. However, it does not clearly define the bonding requirements. The specific bonding structure was later introduced by the 3PPO in response to an RFI from Oversight Board.

Board become aware of any inaccuracies or misrepresentations – whether intentional or not – it would re-evaluate its assessment.