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 First Proposed Contract Resulting from Temporary Emergency Power Generation.

RESOLUTION AND ORDER

I. Relevant Background

Given the critical condition of Puerto Rico's electric system, through a Resolution and Order issued on March 19, 2025 ("March 19 Resolution"), the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") ordered 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]

Before issuing the March 19 Resolution, the Energy Bureau had initiated efforts to develop a plan to stabilize the electric system in response to recurring major outages and grid instability events that took place in early June 2024.[2] As part of this proceeding, the Energy Bureau ordered LUMA,[3] PREPA, and Genera[4] to each develop an "aggressive preliminary plan of improvements to the electric system" with a maximum implementation period of two (2) years.[5] This proactive initiative required the identification and mitigation of all key factors contributing to the electric system's unreliability, including, but not limited to, outdated protection schemes, lack of system redundancy, inadequate vegetation management practices, insufficient reliable generation capacity, deficiencies in frequency and inertia control, and persistent triggers for load shedding. Each plan was to describe the proposed corrective measures, the associated costs, and the identified funding sources.[6] As part of the evaluation process of the plans submitted by LUMA, Genera, and PREPA, the Energy Bureau considered identified deficiencies in generation, as well as their effects on system operations and the proposed measures to address such deficiencies.

In determining the need to procure 800 MW of emergency generation, the Energy Bureau also considered the October 2024 Adequacy Report[7], which identified a generation shortfall of that magnitude.[8] In addition, a catastrophic failure at Aguirre Unit #1 occurred during the Energy

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[1] March 19 Resolution.

[2] *See* Resolution and Order, *In re: Electric System Priority Stabilization Plan*, Case No.: NEPR-MI-2024-0005, June 13, 2025 ("June 13 Resolution").

[3] LUMA Energy, LLC, and LUMA Energy ServCo, LLC, (collectively, "LUMA").

Bureau's evaluation process, further aggravating the shortfall.[9] This event was also considered by the Energy Bureau as part of the supporting facts justifying the request for 800 MW of emergency generation made through the March 19 Resolution.

Through a March 24, 2025 filing, LUMA submitted an Updated Resources Adequacy Report.[10] This report reaffirmed the need for the installation of 800 MW of temporary emergency generation and analyzes the impact of the catastrophic failure of Aguirre Unit #1.[11] Finally, it is worth highlighting that, on that same date, the Energy Bureau issued the Priority Stabilization Plan,[12] which also addresses the aforementioned matters.

On June 20, 2025, PREPA filed a document titled *Motion Submitting Proposed Contract Resulting from Temporary Emergency Power Generation RFP for the Energy Bureau's Review and Approval* ("June 20 Motion"), including as *Exhibit A* a proposed contract resulting from the competitive procurement process for temporary emergency power generation, and as *Exhibit B* a 3PPO report summarizing the procurement process and providing the rationale for the selection of the preferred proponent.

On June 27, 2025, the Energy Bureau issued a Resolution and Order requiring information and clarifications from PREPA regarding the June 20 Motion ("June 27 Resolution"). On July 1, 2025, PREPA filed a document titled Motion in Partial Compliance with the June 27 Resolution ("July 1 Motion"). Through this motion, PREPA submitted certain documents and information required by the June 27 Resolution.

On July 4, 2025, the Energy Bureau issued a Resolution and Order granting conditional approval to the proposed contract, subject to the parties agreeing to modify the proposed contract to allow for a longer term and reduced price ("July 4 Resolution"). The Energy Bureau required PREPA to renegotiate and resubmit the contract with materially revised terms, including reduced energy pricing capped at approximately $0.189/kWh for Aguirre and $0.203/kWh for Costa Sur.

Following the issuance of the July 4 Resolution, the procurement process did not proceed directly to a final executed contract. The solicitation process restarted under the revised regulatory parameters. 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 represented 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 that Exhibits I and II to the November 26 Motion be granted confidential treatment 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.

[9] *See In re: Electric System Priority Stabilization Plan*, Case No.: NEPR-MI-2024-0005, *Motion Submitting LUMA's*

II. Analysis and Evaluation

A. Summary of Principal Terms of the Proposed Contract

The proposed Performance-Based Service Agreement submitted by PREPA provides for 400 MW of Continuous Operating Power ("COP") generation at the Aguirre site and/or the additional site, subject to the Power Availability requirements. As defined in the proposed contract "Additional Site" means the generation site proposed in the Municipality of Yabucoa, Puerto Rico, which may be incorporated into this Agreement upon review and approval by the Energy Bureau. The inclusion, activation, and use of the Additional Site shall not be effective unless and until the Energy Bureau's approval is obtained, and all related regulatory, technical, and operational requirements applicable to the Additional Site have been satisfied.

For the Aguirre Power Plant, the Seller shall procure all Liquefied Natural Gas ("LNG") required to operate the Temporary Power Generation Units. The Seller shall be responsible for LNG delivery, storage, regasification, associated infrastructure, and environmental and safety compliance. The Buyer may elect to operate the TM2500 units using diesel fuel. In such case, the Buyer shall supply the diesel fuel and its delivery infrastructure. When instructed by the Buyer, the Seller shall operate the generation units on diesel.

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.

Buyer's obligation is limited to paying for metered and accepted kilowatt-hours. The proposed contract imposes no minimum-take requirement, minimum-generation requirement, or make-whole payments.

The Seller is responsible for all infrastructure required to interconnect the generation systems at the 115 kV or 230 kV switchyards, 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.

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. The Seller shall connect its system at the 115 kV and/or 230 kV switchyard at Aguirre and if applicable to the Additional Site shall operate and maintain all auxiliary facilities, including transformers, switchgear, and related equipment, in full working condition throughout the Performance Period. The Seller is responsible for all interconnection costs bared by the Seller and LUMA.

B. Evaluation Framework

i. Article 6.32 of Act 57-2014[13] and Regulation 8815[14]

Section 6.32 of Act 57-2014, as amended by Act 17-2019,[15] 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

generation, conservation and efficiency goals established in the integrated resource plan as well as in the Energy Public Policy.[16] 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 in light of Article 6.32 of Act 57-2014 with respect to ensuring that the proposed contract is consistent with 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 listed in Regulation 8815 and Article 6.32 of Act 57-2014, is justified given the emergency circumstances surrounding this matter.

ii. Compliance with Approved IRP[17]

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. The IRP should identify the permanent resources needed to supply demand over the planning horizon, at least cost. All permanent resources are assumed to be available to provide service.

If certain assets are not available due to a prolonged emergency, the effect this loss can have on the system could be detrimental to the point of compromising service reliability. 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 considered as 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.

iii. Act 1-2025[18]

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 has been 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[19] 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 Order[20] 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 establish energy public 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 set forth 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,[21] to establish and implement regulations and the 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.[22] 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 of energy.[23] The Energy Bureau has broad authority under Act 57-2014, Act 82-2010[24] and Act 17-2019 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.

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

C. Proposed Contract Evaluation

(i) 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.[25]

(ii) 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- it appears that, 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 contained in a confidential exhibit filed under seal with the November 26 Motion and is therefore not disclosed in this Resolution and Order.

The Energy Bureau acknowledges the 3PPO's[26] clarification that the pricing values referenced in the July 4 Resolution ($0.189/kWh for Aguirre and $0.203/kWh for Costa Sur) reflected an earlier proposal scenario structured under an 8,000-hour minimum annual dispatch assumption. Although proponents subsequently removed this assumption, the procurement record presented before the Energy Bureau did not clearly differentiate the preliminary dispatch-based pricing from the updated scenario, and the Energy Bureau reasonably relied on the information PREPA placed before it. The July 4 Resolution benchmarks represented sound regulatory reference points based on the evidence then available. The updated pricing submitted through the November 26 Motion, is therefore evaluated under the evolved procurement record, which excludes the dispatch guarantee. Because the proponents earlier lower pricing assumed a guaranteed 8,000 hours of annual dispatch, the removal of that guarantee necessarily increased the per-kWh price, since the seller must now recover fixed and operating costs over a smaller and uncertain volume of energy. By eliminating the 8,000 hours minimum dispatch guarantee, the ratepayers avoid any obligation to pay for energy they do not need, ensuring they only pay for actual energy delivered.

(iii) Proposed Contract Term

As previously discussed, for purposes of 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 as 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 that the P3A procure up to 3,000 MW of generation capacity, which may be fulfilled through any type of

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 set forth in the March 19 Resolution–New Capacity, provided that such extension proves beneficial to ratepayers. It must be considered that this type of generation peaking unit supports the integration of renewable energy resources, as they can be made available during periods of renewable generation intermittency. Therefore, under the current context, the Energy Bureau concludes that it is consistent with 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.

(iv) Interconnection

The parties propose to utilize the existing interconnection infrastructure at Aguirre, 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 Aguirre. 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** that it is not, and has never been, a party to the contractual negotiations at issue. 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 just and reasonable rates, and aligns with the statutory mandate to ensure that utility services remain reliable, affordable, and consistent with the public interest. It must be clearly understood that the proceeding before the Energy Bureau is not a negotiation of the contract, but a regulatory review focused solely on ensuring adherence to the legal and regulatory framework governing public utilities.

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

The Energy Bureau **NOTES** that, within the procurement process, the proponent to the First Proposed Contract represented its ability to provide approximately 201 MW of supplemental capacity at the Costa Sur site, in addition to the 400 MW proposed for Aguirre. At this stage, the Energy Bureau **approves the 400 MW** reflected in the proposed contract to be installed at Aguirre. However, consistent with the stated need for up to 800 MW, if upon conclusion of the procurement process, the 3PPO determines that the remaining proponents do not submit pricing terms that are more favorable to ratepayers than the approved herein, the 3PPO may designate the proponent under this First Proposed Contract to supply the additional capacity **under the same terms and conditions approved in this Resolution and Order**. The Energy Bureau **CLARIFIES** that, consistent with the procurement, the Costa Sur site is already an authorized location under scope of the competitive process. Therefore, should PREPA and the proponent to the First Proposed Contract later proceed with approximately 201 MW contemplated for Costa Sur, no additional substantive approval from the Energy Bureau shall be required. Notwithstanding, PREPA shall submit before the Energy Bureau the corresponding contractual amendment under the same terms and conditions approved in this Resolution and Order, for ministerial confirmation, without the need for further substantive approval by the Energy Bureau.

However, **any capacity beyond the Aguirre and Costa Sur** sites shall require a separate filing **and approval** by the Energy Bureau. The Energy Bureau **CLARIFIES** that the scope of the procurement process pertains exclusively to the installation of temporary emergency generation at the Aguirre and Costa Sur site. Nothing in this Resolution and Order shall be construed as authorizing installation or operations of temporary generation at any additional or alternative site. Should the proponent seek to locate any portions of the temporary generation capacity at a site other than Aguirre or Costa Sur, and as required in the contract, PREPA must file the corresponding proposal for separate review and approval by the Energy Bureau.

The Energy Bureau **GRANTS** confidential designation and treatment to Exhibits I and II to the November 26 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 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.

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 December 11, 2025. I also certify that on December 11, 2025 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 December 11, 2025.

Wanda I. Cordero Morales
Interim Clerk