



PUBLIC-PRIVATE PARTNERSHIPS

AUTHORITY

GOVERNMENT OF PUERTO RICO

Eng. Josué A. Colón Ortiz | Executive Director

October 11, 2025

BY ELECTRONIC MAIL

Robert.mujica@promesa.gov

Mr. Robert F. Mujica Jr.
Executive Director
Financial Oversight and Management
Board for Puerto Rico
PO Box 192018
San Juan, Puerto Rico 00919-2018

Dear Mr. Mujica:

Re.: P3A Response to FOMB's October 10, 2025 Letter

The Public-Private Partnerships Authority ("P3A") acknowledges receipt of the letter sent by the Financial Oversight and Management Board for Puerto Rico ("FOMB") letter of October 10, 2025. This letter seeks to provide clarity regarding the revisions and final structure of the liquified natural gas agreement ("LNG agreement") and the tolling agreement included therein, reaffirming that the adopted terms are the result of a rigorous legal, technical, and fiscal evaluation carried out in alignment with the Government of Puerto Rico's energy and transparency policies.

The P3A acknowledges and concurs with the FOMB's recognition that the revised agreement represents a substantial improvement over the version and terms originally proposed and insisted upon by NFEnergía, LLC ("NFE") and operates in the best interest of the people of Puerto Rico. The version originally submitted by the Office of the Independent Third-Party Procurement Office ("3PPO"), was provided under the understanding that the FOMB would conduct a joint review with the 3PPO to enable the development of a final proposal more closely aligned with the parameters and revisions pursued by the P3A and not the ones insisted by NFE. This collaborative review process would have allowed for the refinement of key contractual provisions in alignment with the Government of Puerto Rico's public policy objectives.

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Notwithstanding, the updated terms provide greater clarity, accountability, and protections for the public interest, including a clearer allocation of operational and commercial risks, a much-improved pricing structure, and enhanced safeguards for reliability of supply. The P3A underscore that the terms now agreed upon are materially consistent with those originally developed and recommended by the P3A during the initial evaluation process. Importantly, the revised language breaks NFE's prior exclusivity and authorizes the Government to utilize the terminal infrastructure whenever NFE cannot meet its supply obligations, thus reinforcing energy resilience and safeguarding system stability. The incorporation of these principles into the final version of the agreement ensures that the contractual structure now aligns fully with the Island's energy security objectives, while safeguarding fiscal discipline and compliance with the policy and oversight standards established by the FOMB. In this regard, P3A reaffirms that the final structure of the agreement serves the best interests of the Government and the people of Puerto Rico, providing a more balanced, enforceable, and resilient foundation for LNG delivery operations.

Initial

NA

As part of the ongoing coordination process between the P3A and FOMB, the proposed modifications to the language of the tolling agreement were thoroughly discussed during the meeting held on Monday, September 29, 2025, and subsequently reflected in the draft version of the agreement submitted to the FOMB on Friday, October 3, 2025. Following a detailed legal and technical review, the P3A further confirms that the language contained in the final tolling agreement was revised to eliminate any reference to the terms "willful" and "negotiate" to prevent interpretive ambiguity and to align the agreement with the Government's transparency and risk-mitigation objectives.

Furthermore, to address and dispel any concern regarding conflicts of interest or transparency with NFE and Genera PR, LLC ("Genera"), the P3A reaffirms that, under its guidance and oversight, the 3PPO shall retain full administrative responsibility over the contract. This includes, without limitation, the authority to oversee and enforce compliance with all operational and delivery obligations; present and prosecute claims against NFE for any shortfalls, deviations, or non-compliance; and ensure full reporting and audit transparency consistent with the P3A's oversight protocols and applicable statutory requirements.

Along with this letter, P3A is enclosing the responses prepared by the 3PPO addressing the specific observations raised by FOMB. The P3A reiterates that its principal objective in advancing this agreement is to safeguard the operational and financial stability of Puerto Rico's electric system, ensuring the continuous and reliable supply of energy for all customers. The P3A remains available for any

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additional communication or coordination FOMB may deem necessary, recognizing the urgency of advancing this matter to final approval and ensuring that the agreement is executed and communicated without further delay, in the best interest of the people of Puerto Rico.

We appreciate your immediate attention and cooperation in addressing this matter of public interest.

Cordially,
Signed by:

A handwritten signature in black ink that reads "Josué A. Colón Ortiz". The signature is written in a cursive style.

ACAE19A8DEF549C...
Josué A. Colón Ortiz
Executive Director

Annex

c. Francisco J. Domenech, Executive Director, AAFAF, fjdomenech@aaaf.pr.gov
Mary C. Zapata Acosta, Executive Director, PREPA, mary.zapata@prepa.pr.gov



October 11, 2025

Robert F. Mujica, Jr.
Executive Director

Response to FOMB Request for Information (RFI) October 10th 2025 – Proposed LNG Contract

I. Introduction

This document responds to the October 10, 2025, Request for Information (RFI) issued by the Financial Oversight and Management Board (FOMB) regarding the Proposed LNG Contract between Genera PR, LLC (Genera), as agent to the Puerto Rico Electric Power Authority (PREPA), and NF Energía LLC (Seller).

The Government of Puerto Rico, through the P3A and its Third-Party Procurement Office (3PPO), appreciates the Board's acknowledgment of improvements made since the June 2025 version, including the reduced term, removal of exclusivity, and lower Take-or-Pay commitment.

The following sections provide detailed clarifications and corrections organized by reference to the specific contractual provisions cited in the FOMB letter.

II. Section 22.12 – Access to Seller's Facilities

FOMB Comment

The FOMB expressed concern that Section 22.12 was conditioned on authorization from the United States Coast Guard for ship-to-ship operations in the San Juan Bay, noting that such transfers are currently not permitted, which would make the clause inoperative and restrict third-party access to the terminal.

Clarification

The version submitted on September 12, 2025 inadvertently retained the Coast Guard condition in Section 22.12, even though that requirement had been intentionally eliminated from other related clauses such as Section 4.4.5 to ensure operational consistency. This was an unintentional oversight during the harmonization of the document.

To correct it, we have amended Section 22.12 so that it aligns fully with the intent of the rest of the contract, removing the Coast Guard condition and preserving the same structure and meaning applied elsewhere.

The revised clause now reads:

22.12 Access to Seller's Facilities

Seller shall permit third-party LNG suppliers to utilize Seller's Facilities at a rate of \$0.50 per MMBtu, provided that such access does not interfere with Seller's operations or compromise the safety, integrity, or reliability of the Facilities.

This amendment ensures consistency throughout the contract and guarantees that access by third-party LNG suppliers is governed solely by operational and safety considerations, not external authorizations.

III. Section 22.13 – Tolling Arrangements

FOMB Comment

The FOMB cited concerns with subsections 22.13.1 and 22.13.2, noting that the prior draft relied on an undefined term, "willful default," and that the Seller's obligation to enter into tolling arrangements appeared discretionary, potentially limiting the Government's ability to ensure fuel continuity in the event of supply disruptions.

Clarification

The FOMB's observations appear to be based on an earlier draft of the contract. In the updated version submitted to the FOMB on September 12, 2025, the term "willful default" was intentionally eliminated from the document in its entirety. This was not an omission, but a deliberate amendment aimed at simplifying the enforcement structure and avoiding subjective interpretations of the Seller's obligations.

The current language in Section 22.13 reads as follows:

22.13 Tolling Arrangements

22.13.1 Seller Default – Tolling Obligation.

During any period of default by Seller of its obligation to make LNG available under this Agreement, Seller shall enter tolling arrangements permitting Buyer to deliver third-party LNG to Seller's Facilities (the "Tolling Arrangements").

22.13.2 Other Failures to Supply.

Except as set forth in Section 22.13.1, during any period when Seller is unable to

perform its obligation to make LNG available under this Agreement for reasons not attributable to (i) Buyer's action or inaction, or (ii) any other event outside Seller's reasonable control, Seller shall use commercially reasonable efforts to cooperate with Buyer to mitigate the impact, including by entering into Tolling Arrangements.

This updated language replaces "willful default" with a clear and enforceable reference to any "default" by Seller, ensuring that the tolling mechanism is triggered automatically upon failure to deliver LNG, without the need for subjective determinations of intent. The revision strengthens the Government's ability to secure third-party LNG access in the event of a supply interruption and aligns with the contractual intent to maintain energy security and continuous operations at all relevant facilities.

IV. Independent Validation of LNG Volumes and Cost Estimate

FOMB

Comment

The FOMB requested confirmation that the LNG consumption forecasts and Take-or-Pay volumes, originally derived from Genera's operational data, were independently validated to ensure reasonableness and to prevent ratepayers from incurring costs for excess LNG volumes.

Clarification

The 3PPO has formally requested that LUMA Energy provide updated and certified demand and LNG consumption estimates to support the assessment of the reasonableness of the *Take-or-Pay* provisions under the proposed contract.

As the system operator responsible for energy dispatch and demand forecasting, LUMA has been asked to review and validate the certification submitted by Genera PR, taking into account planned and unplanned unit outages, scheduled maintenance, inspections, and conversions. LUMA has also been requested to ensure that the revised estimates reflect the most current information available under the Integrated Resource Plan (IRP).

This data is necessary to confirm that projected LNG volumes align with actual system needs and to mitigate the risk of incurring *Take-or-Pay* costs for unconsumed gas. The 3PPO has requested that LUMA provide the updated certification no later than **Wednesday at 5:00 p.m.**

V. Contract Enforcement and Conflict-of-Interest Safeguards

FOMB Comment

The FOMB raised concerns that enforcement actions, such as collection of liquidated damages, would rely on Genera, an affiliate of the Seller, potentially creating a conflict of interest.

Clarification

The 3PPO acknowledges the FOMB's concern regarding potential conflicts of interest arising from the affiliate relationship between Genera PR (Operator) and New Fortress Energy (Seller). It is precisely for this reason that the Multisite LNG procurement has been structured under independent 3PPO administration.

Although 3PPO is not the contracting principal, it holds administrative authority over the procurement process, including compliance oversight and performance supervision. Where a conflict of interest arises, such as a dispute involving Seller default, shortfall recovery, or unpaid DoP obligations, 3PPO retains the authority to initiate legal action on behalf of the contracting utility.

Any such legal action would be formally captioned as:

"Genera PR, by and through the Third-Party Procurement Office (3PPO) as Contract Administrator, v. NF Energía LLC (NFE)"

This structure ensures that enforcement is not compromised by corporate affiliation. The Multisite framework was specifically designed to prevent an Operator from arbitrating its own dispute with an Affiliate Seller. Through 3PPO's escalation authority, Puerto Rico retains a neutral enforcement channel to recover shortfall, liquidated damages, or to compel performance under Article 22 and Article 4 of the contract.

Consistent with this role, 3PPO documents performance violations, coordinates with PREPA and legal counsel, and refers enforcement matters to the appropriate court room under the caption described above, ensuring full compliance with 2 CFR §200.318(c)(1) and PROMESA oversight standards.

Best Regards,

Osvaldo Carlo Linares

President

Third-Party Procurement Office (3PPO)