

COMMONWEALTH OF PUERTO RICO
PUERTO RICO ENERGY COMMISSION



IN RE: AMENDMENTS TO REGULATION
ON CERTIFICATION, ANNUAL FEES, AND
OPERATIONAL PLANS FOR ELECTRIC
POWER COMPANIES IN PUERTO RICO

No.: CEPR-MI-2015-0006

ORDER

On July 10, 2015, the Puerto Rico Energy Commission (Commission) approved, on an emergency basis, Regulation No. 8618, known as the Regulation on Certification, Annual Fees, and Operational Plans for Electric Service Providers in Puerto Rico" (hereinafter, Regulation or Regulation 8618). The notice to the public announcing the approval of the Regulation and the instructions on public participation was published in the newspaper *Primera Hora* on July 11, 2015. The Commission submitted the Regulation to the Department of State on July 13, 2015.

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In response to the public participation process concerning Regulation 8618, the Commission has received written comments and requests for clarification from Nextility, Inc., Nextility Puerto Rico Leasing, LLC (jointly, Nextility), and Sunnova Energy Company and its subsidiaries (jointly, Sunnova). These companies own solar photovoltaic systems on residential rooftops in Puerto Rico, and sell the output of those systems to the owners of the residences. The Commission appreciates the comments submitted by Nextility and Sunnova, in which they expressed their concern regarding the potential effects of Regulation 8618 on their business practices.

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Consistent with Act 57-2014, as amended, known as the Puerto Rico Energy Transformation and RELIEF Act, the Commission is committed to the development of a strong and stable energy industry in Puerto Rico and the success of cost-effective efforts to bring renewable energy to Puerto Rico. Therefore, in order to promote a wider participation in the regulation process and to provide other entities with an opportunity to share their views, the Commission hereby extends the period during which the public may submit written comments with regards to Regulation 8618 **until September 25, 2015**.

The Commission requests that all written comments to be submitted pursuant to this Order address the issues stated in the enclosed Appendix, along with any others that commenters wish to address. The comments we invite with this Order will give the Commission a better understanding of the concerns of the energy sector in Puerto Rico and will help us to reconcile and align those concerns with the public interest, the public policy and the provisions of Act 57-2014. All comments must be submitted by electronic mail at: comentarios@energia.pr.gov.

In light of the foregoing, we also extend the deadlines for compliance with Regulation 8618 as follows:

- a) Submittal of Personal Information, the information on gross revenue generated during the previous fiscal year, and last audited financial statements, in accordance to Sections 2.01 and 4.02 of the Regulation.- The deadline is extended until December 1, 2015.
- b) Submittal of Operational Report in accordance to Section 2.02 of the Regulation.- The deadline is extended until December 18, 2015.
- c) Filing of Request for Certification in accordance to the provisions of Article 3 of the Regulation.- The deadline is extended until December 18, 2015.


Be it hereby notified and published.



Agustín F. Carbó Lugo
Chairman



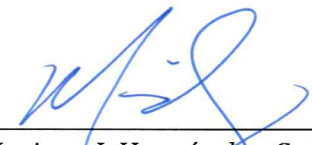
Ángel R. Rivera de la Cruz
Associate Commissioner



José H. Román Morales
Associate Commissioner

I certify that the Puerto Rico Energy Commission has so agreed on September 4, 2015.





Mariana I. Hernández Gutiérrez
General Counsel

Appendix



A. Entities Covered by the Regulation

1. As of today, the following types of companies providing electricity services in Puerto Rico may be listed as: (a) the Puerto Rico Electric Power Authority (PREPA); (b) independent power producers that sell at wholesale to PREPA, including utility scale renewable generation companies; (c) companies that own distributed generation (DG) facilities and sell to commercial or industrial customers; (d) companies that own DG facilities and sell only to residential customers; and (e) companies that do not own generation facilities but that buy and resell electric power, at wholesale and retail. In what ways should the Regulation differentiate among these categories? Within each of these categories, should the Commission distinguish based on system capacity, based on utility scale vs. distributed generation, or based on some other criteria (e.g. generation connected at transmission, sub-transmission, distribution)? How should the Commission establish these distinctions?
2. If the Commission establishes a capacity limit, below which certification is not required, should the criterion be: company revenues; total capacity installed by that company in Puerto Rico; the typical capacity of a single generating unit owned by such company; or some other factor?
3. Section 1.3(j) of Act 57 defines "electric power service company" to include, among others, any person or entity engaged in the "billing" of electric power. How should the Commission interpret and apply this term for purposes of the regulation on certification?
4. Should certification be required of companies that merely install, operate or maintain facilities, but do not own them, sell power from them or provide billing for electric service? If so, what type of certification is appropriate? Does your answer change if such companies (i.e., those that install, operate or maintain facilities) also bill for the electric power consumed?
 - a. In this context, how would you define "to operate a facility"?
 - b. In this context, how would you define "to maintain a facility"?
 - c. In this context, how would you define "billing"?
 - d. In this context, how would you define "selling"?

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B. Types of Information Required

1. Section 6.13(c) of Act 57 requires each applicant for certification to provide evidence of "his/her moral probity, financial solvency, and technical experience in the field for which a certification is requested." For each of these three factors, what information requirements can most efficiently and expeditiously fulfill this requirement for every type of company listed in paragraph (A)(1)?
2. Section 6.22 of Act 57 requires that each "electric power service company" submit to the Commission information concerning "[p]lans that establish the parameters and goals of the company to meet the electricity needs of the Commonwealth"; "[f]uture operating budgets"; "[s]tudies on service costs"; plans and goals relating to "energy demand, efficiency, and/or conservation management"; "gas emission or environmental pollutants reduction; resource diversification; and use of renewable energy sources, as applicable"; reliability reports; and reports relating to wheeling applications.
 - a. Although Section 6.22 does not refer specifically to certification, please specify which, if any, of the listed information should be required from each type of company as part of a request for certification?
 - b. Which of the listed information should be required from each type of company listed in paragraph (A)(1), when submitting the operational report?
 - c. Section 6.22 of Act 57 requires all electric power service companies to submit information on plans, operating budgets, service cost studies, and other reports.
 - i. How can the Commission best define these requirements for different categories of companies, so as to advance the goals of Act 57, while also respecting the confidentiality of business operations and minimizing cost to the companies?
 - ii. Under what terms do you recommend the Commission to require the information listed in Section 6.22 from each type of company?
3. The Commission needs to know which individuals are responsible for decisions that affect the public, so that it can assign appropriate consequences to those who fail to comply with the Commission's regulations. What information should the Commission require about such individuals?
4. As part of the regulatory process, the Commission must analyze supply-side resources and electric power demand in order to meet the electricity needs of the Commonwealth of Puerto Rico within a reasonable time. What information should the Commission request -in addition to the required information of the

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operational reports as provided in Regulation 8618- to properly address this mandate?

5. What obligations should a certified entity have to notify the Commission of changes in the conditions that originally supported the company's certification?
6. One of the commenters suggested that the certification process should focus not on the company providing service, but on the physical facility where the service is provided. Please comment.

C. Miscellaneous

1. Section 6.13(f) of Act 57 allows the Commission to "charge a just and reasonable fee for the evaluation, processing, and issue of certifications to defray administrative expenses incurred in said processes." What methods for designing this fee the commenters propose? Should the method differ for each type of certified entities?
2. If the Commission learns of facts indicating that a company's certification should be modified, suspended or revoked, in the commenter's opinion, what procedures should the Commission follow?
3. In the commenter's opinion, what are useful examples of certification criteria and procedures used in other jurisdictions that could be applied to the Puerto Rico energy market?

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