

September 25, 2015


VIA E-MAIL: [comentarios@energia.pr.gov](mailto:comentarios@energia.pr.gov)

Agustín F. Carbó Lugo, Esq.  
President  
Puerto Rico Energy Commission  
268 Muñoz Rivera Ave.  
World Plaza Suite 400  
San Juan, Puerto Rico 00918

**Re: Comments to Puerto Rico Energy Commission's Regulation No. 8618, entitled "Regulation on Certifications, Annual Fees and Operational Plans of Electrical Service Companies" Submitted by EcoEléctrica**

Dear Mr. Carbó:

On July 10, 2015, the Puerto Rico Energy Commission (the "Commission") Regulation on Certifications, Annual Fees and Operational Plans of the Electric Service Companies in Puerto Rico, Regulation No. 8618 (the "Regulation") went into effect pursuant to the expedited process for approval of regulations under the emergency exceptions authorized by Act 57-2014, as amended ("Act 57"). The Energy Commission, through Order No. CEPR-MI-2015-0006, granted an extension until September 25, 2015 to provide comments to the Regulation. Within such period, EcoElectrica herein provides its suggested modifications.



Section 4.03 of the Regulation imposes an annual fee on all electric service companies, including co-generators such as EcoElectrica, as authorized by Section 6.16(d) of Act 57. The purpose of this fee is to cover the operating expenses of the Commission. The fee is based on 0.25% of each electric power company's annual gross revenues (Section 4.03(A) of the Regulation).

The Regulation, consistent with Section 6.16(c) of Act 57, also included a prohibition for electric service companies to charge PREPA to recover the annual Energy Commission fee (Section 4.03(C) of the Regulation). However, Art. 4.03(C)(1) of the Regulation also states, with respect to such prohibition, that:

"Any clause or condition of a power purchase agreement, electrical interconnection agreement, or electric power transmission (wheeling) agreement that contravenes the prohibition established in this subsection shall be understood as excluded and, once this Regulation has entered into force, shall cease to have effect solely with regard to the reimbursement from or charge to PREPA of the expenses for the annual fee, and so long

as it does not constitute an impairment to contractual obligations as is prohibited under Article II, Section 7 of the Constitution of the Commonwealth of Puerto Rico or Article I, Section 10 of the United States Constitution.”

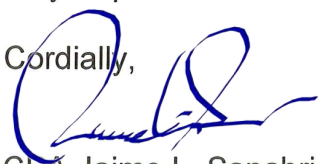
EcoEléctrica herein requests the Commission to revise such Art. 4.03(C)(1) to conform it to the more accurate language of Act 57 which provides that the prohibition from charging PREPA the applicable amounts to recover the Commission fee will be applicable “as long as it does not constitute an impairment to contractual obligations with existing cogenerating companies arising from contracts existing as of the date of approval of [Act 57].” EcoEléctrica has a contractual right to charge PREPA for the Commission fee and subsequent regulation should not impair such right, particularly when Act 57 expressly excluded our contract from such prohibition.

We do not object to the Commission making such exclusion applicable to other contracts through the inclusion of additional more expansive language, but we urge the Commission to revise Art. 4.03(C)(1) of the Regulation to make sure that it unambiguously excludes EcoElectrica from its prohibition. As proposed herein, Art. 4.03(C)(1) would read:

“(1) Any clause or condition of a power purchase agreement, electrical interconnection agreement, or electric power transmission (wheeling) agreement that contravenes the prohibition established in this subsection shall be understood as excluded and, once this Regulation has entered into force, shall cease to have effect solely with regard to the reimbursement from or charge to PREPA of the expenses for the annual fee, and so long as it does not constitute an impairment to PREPA obligations with the existing co-generators emerging from existing contracts as of the date of approval of Act 57, and under other applicable contracts to the extent prohibited under Article II, Section 7 of the Constitution of the Commonwealth of Puerto Rico or Article I, Section 10 of the United States Constitution”

At EcoElectrica we are available to provide further comments as the Energy Commission may request.

Cordially,



CPA Jaime L. Sanabria  
General Manager, Finance & Administration

C: Eng. Carlos A. Reyes-Berríos, PE