



REGULATION: 8701

**AMENDMENT TO REGULATION NO. 8618 ON CERTIFICATION,
ANNUAL FEES, AND OPERATIONAL PLANS FOR
ELECTRIC SERVICE COMPANIES IN PUERTO RICO**

**OFFICIAL TRANSLATION
PUERTO RICO ENERGY COMMISSION**

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COMMONWEALTH OF PUERTO RICO
PUERTO RICO ENERGY COMMISSION

**AMENDMENT TO REGULATION NO. 8618 ON CERTIFICATION, ANNUAL FEES,
AND OPERATIONAL PLANS FOR ELECTRIC SERVICE COMPANIES IN
PUERTO RICO**

ARTICLE 1.- GENERAL PROVISIONS

Section 1.01.- Title.

This Regulation shall be known and cited as the Amendment to Regulation No. 8618 on Certification, Annual Fees, and Operational Plans for Electric service companies in Puerto Rico.

Section 1.02.- Legal Basis.

This Amendment is adopted pursuant to Articles 6.3, 6.13, 6.14, 6.16, 6.20, and 6.22 of Law No. 57-2014, as amended, known as the Puerto Rico Energy Transformation and RELIEF Act (herein after referred to as “Law 57-2014”), and pursuant to Law No. 170 of August 12, 1988, as amended, known as the Uniform Administrative Procedure Act (“LPAU” by its acronym in Spanish).

Section 1.03.- Purpose and Executive Summary.

On July 10, 2015, the Puerto Rico Energy Commission (“Commission”), through the emergency procedure authorized in Article 6.20 of Law 57-2014, enacted Regulation No. 8618, known as the Regulation on Certification, Annual Fees, and Operational Plans for Electric service companies in Puerto Rico (“Regulation 8618”).¹ Public notice of the approval of said Regulation was given on July 11, 2015, and on Monday, July 13, the Regulation was filed with the Puerto Rico State Department.

The adoption of Regulation 8618, established the rules regarding the information and the plans that electric service companies must submit to the Commission; the rules relating to the content of and the procedures applicable to the requests for certification that electric service companies must submit and obtain in order to

¹ Article 6.20 of Law 57-2014, as amended, authorizes the Commission to adopt its first regulations by way of the emergency mechanism provided in Section 2.13 of the Uniform Administrative Procedure Act with no need for the Governor of Puerto Rico to issue any certification whatsoever.

provide their services in Puerto Rico, including the rules that are applicable to requests for and the granting of amendments to certifications, their suspension, revocation, and the levying of sanctions; and the rules regarding the levying and payment of annual fees that the Commission shall levy upon electric service companies that generate revenue from the provision of services in Puerto Rico, with the purpose of defraying its annual operating costs.

The intention of Regulation 8618 was to adopt a reliable and stable regulatory framework for the Puerto Rico energy sector that would promote an adequate balance of the interests of all sectors and foster the development of the energy industry in a way that is consistent with the public policy set forth in Law 57-2014.

Pursuant to Article 2.13 of the LPAU, which provides that the public participation component of a regulation approved using the emergency procedure to be held following its filing with the State Department, the Commission granted the general public a period of thirty (30) days to file reactions, comments, and suggestions with regard to the provisions contained in Regulation 8618. During this process, the Commission received written comments from members of the industry, whereby they contended that some of the provisions of Regulation 8618 might be onerous for certain companies, specifically those in the distributed generation market. Similarly, participants recommended the incorporation of several amendments to Regulation 8618 that were geared toward tempering its provisions to the reality of the electric market in Puerto Rico. In response to the comments received and considering the provisions of Articles 6.3, 6.13, 6.14, 6.16, 6.21, and 6.22 of Law 57-2014, on September 4, 2015, the Commission issued an order through which it extended the public participation process through September 25, 2015 and posed several questions and requested interested parties to submit their comments in writing in response to the questions posed. Several members of the industry, as well as other interested parties responded to the Commission's request for comments.

After evaluating the comments from a healthy group of electric service companies and other interested parties, the Commission identified the need to amend several provisions of Regulation 8618 with the objective of, among others, (i) classifying and establishing the obligations of the different electric service companies according to their role in the energy sector, their relationship with their customers, their relationship with other electric service companies, their capacity, and their impact on the energy grid; (ii) clarifying some provisions of Regulation 8618; (iii) relaxing some requirements that may be onerous for the regulated sector; (iv) establishing the procedure for raising and processing confidentiality claims in relation to the information required by Regulation 8618, as amended; and (v) establishing rules regarding the levying of fines and sanctions for noncompliance with the provisions of Regulation 8618, as amended, the Commission's orders, or for filing false information, among others.

In accordance with the above, the Commission, as a regulatory body with ample powers to regulate the electric industry in Puerto Rico, and in consideration of the

responses received from members of the industry and the general public as a result of the public participation process for Regulation 8618, has determined to adopt this Amendment to Regulation 8618. The Commission has determined that the amendments to Regulation 8618 provided herein are necessary in order to provide a balanced regulatory framework that furthers the development of the electric power industry in Puerto Rico in accordance with the public interest, protects the interests of electric service customers, and safeguards the stability of the electric grid in Puerto Rico.

Section 1.04.- Publication Format of Amendments to Regulation 8618.

The effective and successful application of the Commission's jurisdiction is closely tied to the establishment of a stable and reliable regulatory framework that is accessible and easy to examine and understand. In adopting and publishing its rules and regulations, the Commission intends to ensure the highest degree of clarity and accessibility possible, fostering accurate interaction between the Commission and the entities subject to its regulation, and, therefore, providing greater certainty with regard to the obligations, rights, and responsibilities of each party.

The public participation process brought about a profound and extensive analysis by the Commission, the result of which are the amendments to Regulation 8618 that are made public and adopted by way of this document. The Commission determined that publishing the amendments individually could be confusing, as it would force the parties to have to examine multiple texts in order to determine their rights, responsibilities, and obligations. In light of the above, through this Amendment, the Commission publishes the entire body of Regulation 8618, as amended in light of the public participation process described above, and as such amendments have been adopted by the Commission. The Commission has determined it appropriate to include as part of the present Amendment the entirety of the provisions of Regulation 8618, as amended, with the purpose of fostering greater accessibility to its rules, thus avoiding the need for the public to review multiple regulatory texts, and promoting procedural economy and efficiency in the examination of rules and regulations.

For the benefit of the general public, and considering the Commission's responsibility to ensure transparency in all of its proceedings, the Commission includes as Attachment A to this Amendment a detailed summary of the sections of Regulation 8618 that have been amended and the nature of each amendment.

The provisions of Regulation 8618 that have been amended by means of this document are Sections 1.04 through 1.17, 2.01, 2.02, 2.03, 3.03, 3.04, 3.07, 4.01, 4.02, 4.03, 4.04, and Article 5. Additionally a new Section 1.04 was included, the subsequent sections have been renumbered, and a new Section 3.08 was added.

Section 1.05.- Application.

This Regulation shall apply to all electric service companies that are operating in Puerto Rico at the time that this Regulation enters into force, as well as to all electric service companies that intend to operate or offer services in Puerto Rico.

Section 1.06.- Interpretation.

This Regulation shall be interpreted in a way that promotes the highest public interest and the protection of the interests of the residents of Puerto Rico, and in such a way that proceedings are carried out quickly, fairly, and economically.

Section 1.07.- Provisions of Other Regulations.

The provisions of this Regulation may be supplemented by the provisions of other regulations of the Puerto Rico Energy Commission that are compatible with the provisions of this Regulation.

Section 1.08.- Definitions.

A) For the purposes of this Regulation, the following terms shall have the meanings established below, except where the context or content of a given provision clearly indicates otherwise:

- 1) "PREPA" refers to the Puerto Rico Electric Power Authority.
- 2) "Fiscal Year" means the period of twelve (12) months that each electric service company uses for accounting purposes.
- 3) "Aggregate capacity" refers to the sum total of installed capacity of all the units or generating systems that are administrated or operated by an electric service company, or those that an electric service company owns.
- 4) "Energy Commission" or "Commission" refer to the Puerto Rico Energy Commission.
- 5) "Electric Service Company" refers to:
 - a) PREPA;
 - b) Any natural or legal person that generates electric power through the use of fossil fuels or renewable energy sources for sale to PREPA or any other electric service company in accordance with a power purchase agreement. This shall not include persons that generate electric power for their own

consumption by means of distributed generation that have net metering agreements with PREPA;

c) Any natural or legal person that offers any of the following services:

- i. Electric power generation for sale in Puerto Rico through distributed generators that are interconnected to the PREPA power grid with an aggregate capacity of one megawatt (1 MW) or more, regardless of whether or not said distributed generators or the clients to whom the electric power is sold are participants of PREPA's Net Metering Program;
- ii. Electric power storage, where at least one storage unit has a nominal capacity of one megawatt (1 MW) or more;
- iii. Electric power billing; or
- iv. Electric power resale.

d) Any natural or legal person that that carries out or offers electric power transmission (wheeling) service.

6) "CEPPO" refers to the "Commonwealth Energy Public Policy Office".

7) "Person" includes any natural person, company, or legal person regardless of how said entity is organized.

8) "Unit", "plant", "facility", or "system" shall refer to electric power generation facilities, including distributed generators. Nevertheless, according to the context in which it is used, the term "facility" may also refer to other electric service facilities.

B) Every word used in the singular in this Regulation shall be understood to also include the plural, unless the context indicates otherwise. Similarly, the terms used in the masculine gender shall also include the feminine and vice versa.

Section 1.09.- Dates and Time Periods.

In computing any time period established in this Regulation, or by order of the Commission, the day of the occurrence of the act, event, or noncompliance that triggers the period shall not be counted, and the established period shall begin to

elapse on the following day. Whenever a due date falls on a Saturday, Sunday or legal holiday, said due date shall be extended until the next workday.

Section 1.10.- Language.

- A) Should there be any discrepancy between the Spanish and English versions of this Regulation, the provisions of the Spanish version shall prevail.
- B) The proceedings heard before the Commission shall be conducted in the Spanish language. Nevertheless, at the request of a party, or whenever warranted, the Commission may order that the proceedings be conducted in the English language, so long as it is not incompatible with the fair resolution of the matter at hand.
- C) All appeals, motions, requests, and other documents must be filed in Spanish or English, as per the preference of the appearing party. Any written document undersigned by a party or other person who does not understand Spanish or English may be filed in said party's native language, provided it is accompanied by a certified translation into Spanish or English.
- D) The translation of documents submitted in the English language shall not be necessary or compulsory. Nevertheless, in cases where justice so warrants or where the translation of the submitted documents is considered indispensable for the just resolution of the matter, the Commission may order the translation of the documents into Spanish.
- E) All documents submitted in any language that is not Spanish or English must be accompanied by a certified translation into Spanish or English.

Section 1.11.- Severability.

If any article, provision, word, sentence, subsection or section of this Regulation is disputed, for any reason, before a court and declared unconstitutional or null and void, such ruling shall not affect, damage, or invalidate the remaining provisions of this Regulation, rather the effect shall be limited to the article, provision, word, sentence, subsection or section that has been declared unconstitutional or null and void. The nullity or invalidity of any article, word, sentence, subsection or section in any specific case, shall not affect or jeopardize in any way its application or validity in any other case, except where it has been specifically and expressly invalidated for all cases.

Section 1.12.- Forms.

The Commission shall establish the forms for the submission of the information required by this Regulation, and said forms shall be made available to the public through the Commission's website. Nevertheless, the fact that the Commission has

not adopted one or more forms, is in the process of reviewing them, or the website is out of service, shall not release any person from their obligation to timely submit the required information to the Commission. When any of the aforementioned circumstances arises, the person shall, in a document of their own creation, submit the information in full, specifying the Articles, Sections, or Subsections of this Regulation they are in response to.

Section 1.13.- Mode of Submission.

The forms, documents and appearances required by virtue of this Regulation or any order of the Commission, must be submitted to the Commission electronically in accordance with the instructions that, from time to time, the Commission establishes through an order regarding the electronic filing system.

If the electronic filing system is temporarily not operating or functioning, the forms, documents and appearances required by virtue of this Regulation or by any order of the Commission, shall be submitted before the Commission through the means, in the forms, in the location, and pursuant to the instructions that, from time to time, the Commission establishes by way of an order.

Section 1.14.- Effect of Submission.

The submission of a document that has been prepared or the content of which has been formulated by the filing party, shall be equivalent to certifying that the content of said document is true and that, according to the filer's best knowledge, information, and belief, formed after reasonable inquiry, the document is based on accurate facts, arguments, sources of law, and information.

Section 1.15.- Confidential Information; Procedure for the Processing of Confidentiality Claims.

- A) If in compliance with the provisions of this Regulation or any of the Commission's orders, a person has the duty to disclose to the Commission information, that to the best of their knowledge, is privileged or confidential pursuant to the provisions of a law or regulation, said person shall identify the information considered privileged, request the protection of said information before the Commission, and state, in writing, the arguments that form the basis of the person's claim regarding the privileged or confidential nature of the information.
- B) When a person believes that the commission must treat certain information as confidential and has made a confidentiality claim to that effect pursuant to the provisions of this Section and Article 6.15 of Law 57-2014, the following procedure shall be observed:

- 1) The person that requests confidential treatment must file a motion before the Commission, together with the information for which the person requests protection, wherein the following is set forth:
 - a) The specific information for which confidential treatment is requested;
 - b) A detailed explanation of the facts and legal basis in support of the confidential treatment of the information;
 - c) The documents wherein the confidential information is found must be filed in a sealed envelope marked "confidential".
 - 2) The Commission shall evaluate the confidentiality claim and issue its decision by way of a resolution or order. In its ruling on the merits of the claim the Commission shall determine the following:
 - a) Which information, if any, is privileged or confidential;
 - b) The treatment, if any, it will give to the privileged or confidential information for the purposes the protection and avoidance of the disclosure thereof; and
 - c) When the Commission has rejected a confidentiality claim in full or in part, the ruling shall specify the time period during which the Commission shall make the information accessible to the public, subject to the limits that this entity imposes, if any. With regard to the provisions of subsection (B)(3) of this Section, said time period shall be, at minimum, thirty (30) days beginning on the date of notice and filing of the Commission's decision.
 - 3) Any person that is dissatisfied with the Commission's decision may file a duly substantiated motion to reconsider with the Commission within a period of twenty (20) days beginning on the date of notice and filing of the Commission's decision. The filing of a motion to reconsider shall stay the term established by the Commission under Subsection (B)(2)(d) of this Section.
 - 4) During the time that any confidentiality claim is pending response and adjudication before the Commission, the Commission shall treat the information the protection of which has been requested by the petitioner as confidential information.
- C) Taking into account the provisions of Section 3.05(A) of Regulation 8543, the Regulation on Adjudicative, Notice of Noncompliance, Rate Review, and

Investigation Procedures, with respect to the notice of information regarding complaints or appeals in adjudicative proceedings before the Commission, the Commission shall publish the contact information of all of the electric service companies. To that effect, the information submitted pursuant to Section 2.01(A) of this Regulation—with the exception of the mobile telephone number of the Company's authorized representative—shall be accessible to the general public; as such, it will not be subject to confidentiality claims.

Section 1.16.- Method of Payment of Fees.

The fees established in this Regulation shall be paid in accordance with the methods and instructions that, from time to time, the Commission establishes.

Section 1.17.- Validity.

Pursuant to Article 6.20 of Law 57-2014, as amended, Regulation 8618 came into effect immediately after its submission to the Department of State and the Legislative Library. The provisions of Regulation 8618 that have been modified by this Amendment will come into effect thirty (30) days after they have been submitted to the Department of State and the Legislative Library, in accordance with Sections 2.8 and 2.13 of the LPAU.

ARTICLE 2.- REQUIRED INFORMATION AND DUTY TO UPDATE

Section 2.01.- Personal Information.

- A) All electric service companies intending to offer services in Puerto Rico must file the following required information to the Commission along with their Request for Certification:
 - a) The name of the electric service company; the manner in which it is organized (e.g. corporation, company, limited liability company, etc.); and the name of the jurisdiction and the country under the laws of which it is organized.
 - b) A copy of the certificate of incorporation and registration issued by the competent government entity of the jurisdiction and country under whose laws it has been organized;
 - c) A copy of the certificate of good standing issued by the Puerto Rico State Department. The date of issuance of the certificate of good standing may not be more than three (3) months prior to the date of submission of the information provided for in this Section;

- d) In case it were a foreign entity, a copy of the certificate of authorization to do business in Puerto Rico issued by the Puerto Rico Sate Department;
- e) The dates on which the electric service company's fiscal year begins and ends;
- f) Street and mailing addresses of the location that is or will be their main office in Puerto Rico, and of each of the offices in Puerto Rico where it has conducted or will conduct operations or offer services;
- g) Street and mailing addresses of the location where the company is to receive notices of complaints, claims, requirements, and investigations against them before the Commission. Companies shall also indicate the persons that have been designated to personally receive notices in the location situated at the street address provided;
- h) Email address it will use to receive notices of orders, resolutions, rulings, warnings, and announcements from the Commission, as well as any text or document filed by any person as part of a proceeding before the Commission;
- i) The name of the natural person designated as the authorized representative of the electric service company who has the legal capacity to bind said company. With regard to this natural person, the following information shall also be provided:
 - a) The names of the positions or job titles the person holds with the electric service company;
 - b) Email address;
 - c) Mobile telephone number;
 - d) Office or work phone; and
 - e) Street and mailing addresses of the office where said person works.
- j) Name, street and mailing addresses, mobile telephone number, office or work phone, and email address of the person designated to receive service of process in the Commonwealth of Puerto Rico;
- k) Name, street and mailing addresses, mobile telephone number, office or work phone, and email address of each member of the board of

directors or equivalent governing body and of the principal executive officers of the electric service company;

- l) The information required in Subsections (A)(1), (2), and (3) for each one of the affiliate or subsidiary entities of the company as well as the parent companies that, in turn are electric service companies and that provide services in Puerto Rico;
 - m) The identity of each stockholder, owner, or proprietor of the electric service company whose percentage of participation is equal to or greater than thirty-five percent (35%); and
 - n) Any other information required in the appropriate form provided by the Commission, as well as any other information the Commission requires through an order.
- B) The information required in Subsection (A) of this Section must be included in a document undersigned by an authorized representative of the electric service company identified in Subsection (A)(9) of this Section. The signature of the authorized representative shall constitute a sworn certification, under penalty of perjury, that said information is correct and complete.
- C) All electric service companies that are already operating in Puerto Rico at the time that this Regulation enters into force shall submit the information required by this Section to the Commission within a period of thirty (30) days following the date on which this Amendment enters into force.
- D) Should there be any change in the information that an electric service company has submitted to the Energy Commission pursuant to this Section, said electric service company must alert the Commission of the referred change and submit the updated information within a period of ten (10) days following the occurrence of the change.

Section 2.02.- Operational Report; Classification of Electric Service Companies.

- A) Pursuant to the provisions of this Section, the following electric service companies must file before the Commission an Operational Report that includes the information required below:
- a) Persons who offer electric power generation services for sale in Puerto Rico through distributed generators that are interconnected to PREPA's power grid with an aggregate capacity of one megawatt (1 MW) or more, regardless of whether or not said distributed generators or the customers to whom the electric power is sold are participants of PREPA's Net Metering Program; or

Persons who generate electric power through the use of fossil fuels or renewable energy sources with an aggregate capacity that is equal to or less than one hundred megawatts (100 MW) for sale to PREPA or any other electric service company in accordance with a power purchase agreement.-

The Operational Report of the electric service companies identified in this Subsection (A)(1) shall include:

- a) A projection of the percentage of the total demand of electric power service the company proposes to satisfy in Puerto Rico. Where it is a company that offers electric power generation services through distributed generation for sale in Puerto Rico, the Report must also include the amount of installed systems and customers the company serves per electric service region in Puerto Rico, as these have been established by PREPA, as well as an estimate of the amount of new customers to whom the company will offer service during the year that follows the filing of the Operational Report;
- b) In cases where companies offer electric power generation services for sale in Puerto Rico by way of distributed generators, the Operational Report must:
 - a. Specify (i) the charges and rates it charges customers who purchase electric power and (ii) what each of those charges and rates represents;
 - b. Identify and explain all the efforts that the company is carrying out to (i) inform its customers of the benefits of conservation and efficiency in their electric power service consumption and (ii) foster the efficient consumption of electric power service on the part of its customers;
- c) A projection of the capital investments it will make within a one (1) year time horizon, including investments for the acquisition or use of equipment, technologies, systems, and facilities;
- d) In cases where all or part of the system's operation is to be contracted out to another entity, the company must provide the name, contact information, and credentials of the entity to be contracted; and

- e) Any other information required in the appropriate form provided by the Commission.

The electric service companies identified in this Subsection (A)(1) must file an Operational Report every year, as provided in this Subsection and in Subsection (D) of this Section.

- 2) Persons who generate electric power through the use of fossil fuels or renewable energy sources with an aggregate capacity of more than one hundred megawatts (100 MW) for sale to PREPA in accordance with a power purchase agreement.-

The Operational Report of the companies identified in this Subsection (A)(2) shall include:

- a) Information specifying the parameters, projections, goals, and stages of compliance in relation to:
 - 1) The demand for electric power service and its changes or fluctuations;
 - 2) The company's contribution to a future of sustainable energy future for the People of Puerto Rico through strategies geared toward:
 - i. maximizing social, environmental, and economic benefits;
 - ii. minimizing social, environmental, and economic impacts;
 - iii. promoting more and better use of the energy resources available in Puerto Rico (renewable energy, conservation, and energy efficiency);
 - 3) Promoting the diversification of electric power sources, maximizing the use of renewable energy;
 - 4) The reduction of the cost of electric service;
 - 5) Promoting conservation and maximizing efficiency in the provision of electric service;
 - 6) Highly efficient electric power generation with fossil fuels;

- 7) Electric power generation with renewable sources;
 - 8) Reduction of gas emissions or environmental pollutants;
 - 9) Its programs and technologies for load management;
 - 10) The duty to guarantee the safety and reliability of electric power infrastructure; and
 - 11) How their operational plan relates to other energy public policy principles of the Commonwealth of Puerto Rico.
- b) Its operational budget for the current fiscal year;
 - c) The changes the company foresees, plans for, or envisages in its operational budgets for the three (3) years that follow the filing of the Operational Report;
 - d) All studies that the company has or has performed regarding the cost of the electric services it provides and that show the relationship between current company costs and the revenue received for rates or fees;
 - e) All reports that the company has or has prepared regarding the average frequency (hertz) of the electric power system during the three (3) fiscal years prior to the submission of the Operational Report;
 - f) All reports that the company has or has prepared regarding the operation and maintenance, whether programmed or not programmed, of the machinery required and used for the generation of electric power during the three (3) fiscal years prior to the submission of the Operational Report;
 - g) All reports that the company has or has prepared regarding the number of electric power outages, whether programmed or not programmed, that have occurred on the company's electric power equipment during the three (3) fiscal years prior to the submission of the Operational Report;
 - h) All reports that the company has or has prepared regarding requests for energy transmission or wheeling submitted to PREPA, and the results of the submission of said requests;
 - i) In cases where all or part of the system's operation is to be contracted out to another entity, the company must provide

the name, contact information, and credentials of the entity to be contracted; and

- j) Any other information required in the appropriate form provided by the Commission.

The electric service companies identified in this Subsection (A)(2) must file an Operational Report every three (3) years, as provided in this Subsection and in Subsection (D) of this Section.

- 3) Persons who offer energy storage services where at least one storage unit has a nominal capacity of one megawatt (1 MW) or more.-

The Operational Report of the companies identified in this Subsection (A)(3) shall include:

- a) A projection of the capital investments it will make within a three (3) year time horizon, including investments for the acquisition or use of equipment, technologies, systems, and facilities;
- b) All reports the company has or has prepared regarding improvements in the behavior of the electric system as it pertains to the location of the storage unit— for example, the stability in the average frequency (hertz) of the electric system;
- c) Any other information required in the appropriate form provided by the Commission.

The electric service companies identified in this Subsection (A)(3) must file an Operational Report every three (3) years, as provided in this Subsection and in Subsection (D) of this Section.

- 4) Persons in the business of offering billing or energy resale services.-

The Operational Report of the companies identified in this Subsection (A)(4) shall include:

- a) An estimate of the amount of customers to whom the company will offer service, as well as a description of the service provided to each one;
- b) Specify (i) the charges and rates it charges customers to whom it offers service and (ii) what each of those charges and rates represents;

- c) In cases where all or part of the system's operation is to be contracted out to another entity, the company must provide the name, contact information, and credentials of the entity to be contracted; and
- d) Any other information required in the appropriate form provided by the Commission.

The electric service companies identified in this Subsection (A)(4) must file an Operational Report every three (3) years, as provided in this Subsection and in Subsection (D) of this Section.

- 5) Persons who carry out or offer energy transmission or wheeling service.-

The Operational Report of the companies identified in this Subsection (A)(5) shall include:

- a) A projection of the percentage of the total demand of electric power service the company proposes to satisfy in Puerto Rico, including an estimate of the number of customers to whom the company will offer service, as well as a description of the service provided to each one;
- b) A projection of the capital investments it will make within a three (3) year time horizon, including investments for the acquisition or use of equipment, technologies, systems, and facilities;
- c) Any and all reports it has or has prepared regarding requests for energy transmission or wheeling filed with PREPA, and the results of the filing of these requests; and
- d) Any other information required in the appropriate form provided by the Commission.

The electric service companies identified in this Subsection (A)(5) must file an Operational Report every three (3) years, as provided in this Subsection and in Subsection (D) of this Section.

- B) All electric service companies identified in Subsection (A) of this Section that are operating in Puerto Rico at the time that this Regulation enters into force, must file the appropriate first Operational Report before the Commission under the referred Subsection within a period of thirty (30) days from the date that this Amendment takes effect.

- C) Electric service companies that intend to operate or offer services in Puerto Rico after this Amendment has taken effect must submit the appropriate Operational Report in accordance with Subsection (A) of this Section, along with their Request for Certification.
- D) The provisions of Subsection (A) regarding the frequency with which every class of electric service company must file their Operational Report notwithstanding, said Report must be submitted before the Commission on or before the month of March of the year it is to be filed. Similarly, the Commission may order any electric service company to submit all or part of the information required in the Operational Report at any time.
- E) Electric service companies shall refer their Operational Report to the CEPPPO for review and comments prior to submitting it to the Energy Commission. In submitting their Operational Reports before the Commission, electric service companies shall indicate whether they referred it to the CEPPPO for review and comments.
 - 1) In cases where the CEPPPO has made suggestions or comments to the Operational Report, electric service companies must submit copies of them to the Commission along with their Operational Report. Nevertheless, if on the date that a company files its Operational Report with the Commission, the CEPPPO is in the process of making suggestions or comments, the company must file said suggestions or comments with the Commission within a period of ten (10) days from the date on which the CEPPPO has given notice of them to the company.
 - 2) In cases where electric service companies have not referred their Operational Report to the CEPPPO prior to filing it before the Commission, the electric service companies shall explain the reasons that justify their not having made said referral.
- F) The information required in this Section must be contained in a document signed by an authorized representative of the electric service company. The signature of an authorized representative shall constitute a sworn certification, under penalty of perjury, that said information is correct and complete.
- G) The Commission may require by way of an order for the production of information in addition to that required in the Operational Report that the Commission deems necessary for the full performance of its duties and responsibilities.
- H) This section shall not apply to PREPA.

Section 2.03.- Fees.

A) All electric service companies shall pay the Energy Commission the fees established below upon submission of the following forms, documents, or information:

1) Personal Information of the electric service company: one hundred dollars (\$100.00).

a) Update of Personal Information of the electric service company: fifty dollars (\$50.00).

2) Operational Report:

a) Companies identified in Subsections (A)(1), (A)(3), and (A)(4) of Section 2.02 of this Regulation: eight hundred dollars (\$800.00);

b) Companies identified in Subsection (A)(5) of Section 2.02 of this Regulation: one thousand dollars (\$1,000.00);

c) Companies identified in Subsection (A)(2) of Section 2.02 of this Regulation: two thousand dollars (\$2,000.00).

B) In cases where, pursuant to the provisions of Subsection (D) of Section 2.02 of this Regulation, the Commission orders an electric service company to submit information to the Commission and said company believes that the payment of the amount corresponding to the fee for the submission of the Operational Report would be onerous, the company in question may request that the Commission waive the requirement to pay the fee for the submission of the Operational Report. In such cases, the company must file, together with the information required by the Commission, a motion wherein it sets forth the facts and explains the legal basis that justifies said waiver of payment.

ARTICLE 3.- CERTIFICATION

Section 3.01.- Generally.

With the exception of the electric service companies that are operating in Puerto Rico at the time that this Regulation comes into force, no electric service company shall operate or offer any service whatsoever in Puerto Rico without first having requested and obtained a certification from the Energy Commission authorizing it to operate or offer electric service in Puerto Rico subject to the terms and conditions established by the Commission upon the issuance of said Certification.

Issuance of a certification shall not release the electric service company so certified from its obligation to comply with other steps, processes, requirements, or permits required by other public entities, whether local or federal, or from its obligation to comply with other processes, regulations, orders, steps, or requirements before the Energy Commission.

Section 3.02.- Electric Service Companies Operating in Puerto Rico at the Time that this Regulation Comes into Force.

All electric service companies operating in Puerto Rico at the time that this Regulation enters into force must submit their Request for Certification to the Commission within a period of thirty (30) days from the date that this Amendment enters into force.

Section 3.03.- Request for Certification.

A) With the exception of the provisions of Subsection (I) of this Section, all electric service companies that intend to operate or offer electric service in Puerto Rico shall state the following in detail on their Request for Certification:

- 1) The type or types of electric service the company intends to offer. In cases where the company offers electric power generation or transmission services, it must establish the company's aggregate capacity. In cases where the company offers electric power billing services, it shall establish the amount of energy in megawatts-hours (MWh) that the company bills or expects to bill annually. In cases where the company offers electric power resale services, it must establish the amount of energy in megawatts-hours (MWh) that the company resells or expects to resell annually;
- 2) Whether the electric service company intends to enter into a contract or any other legal transaction with PREPA or any other electric service company for the provision of service. If this were the case, it must specify the type of legal transaction it intends to enter into, the objective of the legal transaction, and the name of the electric service company with which it intends to enter into the legal transaction;
- 3) A certified statement from a certified public accountant (CPA) authorized to practice in Puerto Rico that confirms that the electric service company has sufficient financial resources to operate and provide the services it intends to offer, to be able to replace any existing asset, and to make any investment it intends to carry out during a period of one (1) year from the date of issuance of the Certification;

- 4) A statement as to the fact that the company has the necessary human resources (technical, professional, and administrative) to operate and provide the services it intends to offer in Puerto Rico. The company must also list in detail the technical and professional qualifications of said personnel, as well as the profile of those it intends to recruit in order to show their expertise and competency to operate and provide the services the company intends to offer in Puerto Rico;
 - 5) A copy of the permits, authorizations, and federal, state, and municipal endorsements the company has obtained in order to operate and do business in Puerto Rico and provide electric power service in Puerto Rico; and
 - 6) Any other information the Commission may require.
- B) In addition to the information required in Subsection (A) of this Section, the following electric service companies must include the information required below in their Request for Certification:
- 1) Electric service companies that generate power through the use of fossil fuels or renewable energy sources for sale to PREPA or any other electric service company or that offer electric power storage or transmission (wheeling) services:
 - a) The power sources used in the provision of service;
 - b) The street and mailing addresses of the facilities where the company is to provide the service. The company must also specify whether said facilities are or will be new construction, are existing facilities, or are existing facilities that will be or are being renovated. In cases where the facilities are new construction or where existing facilities will be or are being renovated, the company must also file a certification that confirms that the company has the economic capacity and solvency to finance the construction and the operation of the facilities, as well as a certification to the effect that the company has obtained or will obtain all the necessary permits from the appropriate public entities for the execution of the works;
 - c) A description that includes the specifications, nominal capacity as indicated by the nameplate on the equipment, the capacity, and the net capacity (or net use) of each unit, plants, or technologies used in the provision of service as provided in this Subsection.

- i) The nominal capacity on the manufacturer's nameplate refers to the full, continuous output of a piece of equipment under specific conditions as established by the manufacturer.
- ii) For the purposes of this Section, the capacity of generating units will be determined or identified as follows:
 - a. The capacity of generating units that are fueled with renewable energy sources, as well as the capacity of all other generating units the nominal capacity of which, as established on their nameplate, is ten megawatts (10 MW) or less, shall be that specified by the manufacturer on the nameplate of the particular unit or piece of equipment;
 - b. The capacity of all other generation units the nominal capacity of which, as established on their nameplate, is greater than ten megawatts (10 MW), shall be the equivalent of its net capacity at an ambient temperature between thirty-five and forty point five degrees Celsius (35 - 40.5 °C) or between ninety-five and one hundred and five degrees Fahrenheit (95 - 105 °F).
- iii) The net capacity (or net use) of plants or generation units shall be expressed in terms of the maximum output in megawatts (MW) that the unit or plant is capable of supplying in conditions or for a period of time that may not exceed the approved operational and temperature limits recommended by the manufacturer.
- d) If the electric service company is not the owner of each and every one of the facilities, units, plants, and technologies described in Subsections (B)(1)(b) and (B)(1)(c) of this Section, the company must specify the name of the owner and the nature of the right under which the electric service company has possession of each and every one of the facilities, units, plants, pieces of equipment, and technologies;
- e) The area of Puerto Rican territory that is to be affected by the service the company intends to provide, identifying the municipalities, neighborhoods, and sectors located within said space;

- 2) Electric service companies that generate electric power by means of distributed generators that are interconnected with PREPA's grid and that have an aggregate capacity of five megawatts (5 MW) or more, regardless of whether said distributed generators or the customers to whom they sell electric power are or are not participants in PREPA's net metering program:
 - a) The energy sources it will use for the provision of service;
 - b) The amount of installed systems, their capacity, and the number of customers they serve for every electric power service region in Puerto Rico as these have been established by PREPA;
 - c) A summary list of the electric equipment used or that the company intends to use in order to provide electric power service in Puerto Rico.
- C) Requests for Certification must also be accompanied by every document, certificate, or permit that confirms or sustains the information included in the Request pursuant to Subsections (A) and (B) of this Section. Requests for Certification of all electric service companies must refer to the attached documents that support each part of the information contained in the Request. The documents must be duly identified and organized as attachments or appendices to the Request.
- D) Requests for Certification must be signed by an authorized representative of the electric service company. The signature of the authorized representative shall constitute a sworn statement, under penalty of perjury, that said information is correct and complete.
- E) Should there be any change in the information that an electric service company has submitted to the Energy Commission pursuant to this Section, said electric service company must inform the Commission of the change in question and submit an Amended Request for Certification or a Request to Amend Certification, as is applicable:
 - 1) If the Commission has yet to issue or deny the certification, the company must submit an Amended Request for Certification wherein it shall specify the information that is subject to change as compared to its Request for Certification. When an Amended Request for Certification has been submitted, the period of thirty (30) days that the Commission has during which to process the request shall begin to elapse anew upon the submission of said Amended Request for Certification.

- 2) If the Commission has already issued a certification to the electric service company, said company shall submit a Request to Amend Certification wherein it shall specify the information that is subject to change. The Commission shall evaluate the Request to Amend Certification as if it were a new Request for Certification.
 - 3) Amended Requests for Certification and Requests to Amend Certification must be signed by an authorized representative of the electric service company. The signature of the authorized representative shall constitute a sworn statement, under penalty of perjury, that said information is correct and complete.
 - 4) In the case of the electric service companies described in subsection (B)(2) of this Section, the filing of a Request to Amend Certification due to changes in the information required by Subsection (B)(2)(b) of this Section will not be necessary, until such time as their total aggregate generation capacity changes category (line), in accordance with the provisions of Section 3.07 (A)(1)(a). Nevertheless, said electric service companies must inform the Commission of any changes in the information required by Subsection(B)(2)(b) of this Section by way of the annual report provided in Section 2.02(A)(1).
- F) Following the submission of a Request for Certification, an Amended Request for Certification, or a Request to Amend Certification, as applicable, the Commission may require the electric service company to produce any additional information, document, or report related to the information provided or that it deems necessary in order to consider the Request on its merits. In accordance with the provisions of Section 3.04 (E) of this Regulation, in these cases, the period of thirty (30) days during which to process this Request will be interrupted. Said term shall begin to elapse again once the Commission has determined that the electric service company has complied with the requirement to provide the additional information that was required.
- G) Requests for Certification, Amended Requests for Certification, and Requests to Amend Certification shall be deemed submitted so long as the appropriate fee has been paid, they contain all the information, data, and documents required by this Regulation or by order of the Commission, they comply with all requirements of form established in this Regulation, and once the Commission has confirmed and given written notice that the Request in question is, in fact, complete. Any Requests that do not comply with every provision of this Regulation shall be deemed to have never been submitted and shall have no legal effect whatsoever.

- 1) If an electric service company submits a motion to waive the payment of fees under Section 3.07 (B) of this Regulation, the Request to Amend Certification shall not be deemed submitted until the Commission processes and gives notice of its decision regarding said motion to waive payment. In cases where the Commission has denied the motion to waive payment, the Request to Amend Certification shall not be deemed filed until the electric service company has paid the applicable fee.
- H) The Commission shall assign a submission number to every Request for Certification and Request to Amend Certification after it has determined that the Request is complete and that the petitioning company has included all the information required by Law 57-2014, as amended, and by this Regulation.
- I) The provisions established in Subsections (A) through (G) of this Section shall not apply to the electric service companies described in Section 1.08(A)(5)(c)(i) with an aggregate capacity of between one megawatt (1 MW) and less than five megawatts (5 MW). All electric service companies in this category that intend to offer services in Puerto Rico must file a Request for Certification before the Commission; however, it will be enough for companies to certify in said Request that they have filed their Personal Information with the Commission in accordance with the provisions of Section 2.01 of this Regulation, together with the appropriate payment for the certification fee, as specified below in this Regulation.
- 1) All electric service companies in this category that have been operating in Puerto Rico at the time that this Regulation entered into force must file a Request for Certification in accordance with the provisions of this Subsection (I) within the period established in Section 3.02 of this Regulation.

Section 3.04.- Evaluation of Requests for Certification, Amended Requests for Certification, and Requests to Amend Certification.

- A) The Commission shall evaluate, on its merits, every Request for Certification, Amended Request for Certification, and Request to Amend Certification that has been submitted and that contains all the information required by this Regulation and any other order issued by the Commission. The Governing Body of the Commission may delegate to any of its officials the power to hear, grant, or deny Requests for Certification, Amended Requests for Certification, and Requests to Amend Certification. In such cases, the officer to whom the Commission has delegated these powers shall also have the authority to require additional information and halt the period of thirty (30) days provided in Subsection (E) of this Section.

- B) After evaluating the Request, the Commission shall issue a decision through which it shall:
- 1) Grant certification as requested by the petitioner;
 - 2) Grant certification subject to the limitations, conditions, and restrictions established by the Commission;
 - 3) Require amendments to the Request, in which case the petitioner must submit an Amended Request for Certification should it wish to proceed; or
 - 4) Deny certification.
- C) The Commission shall grant certification or the amendment to certification in cases where:
- 1) The petitioner has confirmed its legal, technical, financial, physical, moral, and human resources capacity for operating and providing the services it intends to offer;
 - 2) The provision of services and operations, as proposed on the Request, are consistent with the energy public policy of the Commonwealth of Puerto Rico, the provisions of Law 57-2014, as amended, and any other applicable law, and the Commission's Regulations;
 - 3) The Request shows that the service that the petitioner intends to offer will be reliable and will not threaten the safety and reliability of the electrical infrastructure; and
 - 4) The Request is complete and complies with all of the requirements established by law, this Regulation, and any order the Commission may have issued in the performance of its functions.
- D) In all decisions issued by the Commission for the disposal on its merits of a Request for Certification, Amended Request for Certification, or Request to Amend Certification, the Commission shall present the grounds on which it has based its decision. The procedures for the evaluation of these requests must be governed by the provisions of Law 57-2014 and Chapter V of Law No. 170 of August 12, 1988, as amended, known as the Uniform Administrative Procedure Act of Puerto Rico.
- E) All Requests for Certification, Amended Requests for Certification, and Requests to Amend Certification that have been submitted to the Commission and that contain all the information required by this Regulation and by any order issued by the Commission shall be considered granted

following a period of thirty (30) days from the date of submission of the Request, except where, before this period has expired, the Commission has ordered its tolling in order to require the production of additional information it believes necessary for the evaluation of the Request on its merits.

- F) No Request for Certification, Amended Request for Certification, or Request to Amend Certification shall be denied for reasons that are arbitrary or discriminatory, or for reasons that are incompatible with the principles of the energy public policy of the Commonwealth of Puerto Rico as established by law.
- G) Upon submission of an Amended Request for Certification, the thirty-day (30) period established in Subsection (E) above for the evaluation of a Request for Certification, as amended, shall begin to elapse once again.
- H) If a person were dissatisfied with the decision of the Commission with respect to a Request for Certification, an Amended Request for Certification, or a Request to Amend Certification, the person may, within a period of thirty (30) days from the date on which notice of the decision on the Request was given, file a Request for Review and Hearing before the Governing Body of the Commission.
 - 1) The filing of a Request for Review and Hearing before the Governing Body of the Commission within the period referenced above shall initiate an expedited adjudicative proceeding before the Commission. The Request for Review and Hearing before the Governing Body of the Commission shall specify the grounds under which the moving party believes that the decision with respect to the Request was mistaken, the decision that, in the person's judgment, the Commission should have issued, and the grounds therefor.
 - a) Upon the timely filing of Request for Review and Hearing, the Commission shall verify that the Request is complete, in which case it will proceed to schedule the administrative hearing within a period of no less than fifteen (15) and no more than forty-five (45) days from the date of the determination that the Request for Review and Hearing is complete.
 - b) The provisions of Subsection (H)(1)(a) above notwithstanding, in exceptional cases, the Commission may authorize a discovery procedure where it is essential to corroborate or challenge the contentions put forward in the Request for Review and Hearing or the content of the Commission's decision the review of which is the object of the expedited adjudicative proceeding.

- 2) The provisions of Regulation No. 8543 known as the Regulation on Adjudicative, Notice of Noncompliance, Rate Review, and Investigation Procedures shall apply to the expedited adjudicative proceeding initiated following the filing of a Request for Review and Hearing before the Governing Body of the Commission insomuch as it is not incompatible with the provisions of this Article.
- l) Any person who is dissatisfied with the final resolution issued by the Commission in relation to the Request for Review and Hearing may:
 - 1) File a duly substantiated request to reconsider before the Commission. The request to reconsider must be filed and evaluated in accordance with the time periods and provisions established in the LPAU.
 - 2) Appear before the Court of Appeals by way of a writ of judicial review in accordance with the provisions of the LPAU.

Section 3.05.- Fines, Cease and Desist Orders, Modification or Revocation of Certifications.

- A) The Commission may issue a cease and desist order, modify a certification, revoke and annul any certification that has been issued to an electric service company, or revoke and annul any decision, ruling, or order issued in relation to the process of any Request for Certification, Amendment to a Request for Certification, or Request to Amend Certification in the following instances:
 - 1) Where the electric service company has provided false information, made fraudulent statements, or has mislead or attempted to mislead the Commission;
 - 2) Where the company has substantially or repeatedly failed to comply with one or more of the Commission's orders, the Commission's regulations, or with the provisions of Law 57-2014, as amended;
 - 3) Where the operations of the company threaten the safety and reliability of the electrical infrastructure;
 - 4) Where the company has breached or is in breach of the terms and conditions of the certification issued by the Commission;
 - 5) Where the company has failed to comply with its duty to provide or update the information required by the Commission under Law 57-2014, as amended, or this Regulation;

- 6) Where the company has not paid the annual fee, or the installments thereof, or payment is more than ninety (90) days past due; or
 - 7) Where the company has refused or refuses to provide services to any citizen for reasons of race, color, sex, sexual orientation, gender identity, birth, origin, social condition, physical or mental disability, political or religious ideals, military service or veteran status, or for being a victim or being perceived as a victim of domestic violence, sexual assault, or stalking.
- B) Jointly with or as an alternative to the modification or revocation of a certification, decision, ruling, or order, the Commission may, at its discretion, levy a sanction or fine upon the electric service company for any of the causes established in Subsection (A) of this Section.
- 1) Where the cause is the failure to comply with an order, a regulatory provision, or a provision of Law 57-2014, as amended, the Commission may levy the sanction or fine that it considers appropriate even where the noncompliance is not substantial or repeated.
- C) Where the Commission has knowledge or reason to believe that an electric service company is committing any of the behaviors that, pursuant to this Section or Article 6.14 of Law 57-2014, may lead to the modification or revocation of a certification, the Commission shall issue and give notice to said company of an Order to Show Cause through which it shall:
- 1) State the behavior subject to the Order that the company has committed, or the behavior that the Commission has reason to believe the company is committing;
 - 2) State the sanction, fine, or consequence the electric service company is at risk of incurring;
 - 3) The Commission may require that the company appear in writing within a period of time determined by the Commission in order to set forth the reasons and defenses for which the company believes the Commission should not levy the stated sanction, fine, or consequence;
 - 4) Set the date, time, and place the electric service company must appear for a hearing before the Commission to submit the evidence it has in its defense. The date so set for this appearance shall be on or subsequent to the term of ten (10) days following the date of notice of the Order to Show Cause, except where there is a risk to life or property that warrants the abbreviation of said period; and

- 5) Make any other determination or decision it deems necessary.
- 6) In cases where the only consideration is whether to levy a fine of no more than five thousand dollars (\$5,000.00), the Commission shall not require the physical appearance of the company; rather, it shall be sufficient for the company to have the opportunity to present its defenses in writing and attach the relevant documentary evidence.
- D) After having given the company the opportunity to be heard, and having evaluated the arguments and the evidence said entity has developed and presented, if any, the Commission shall determine whether it is appropriate to levy a fine, order the cease and desist of the behavior, modify the certification, or revoke and annul the certification issued to the company, and it shall issue a ruling to that effect.
- E) In its ruling, the Commission must formulate its findings of fact and conclusions of law and comply with the requirements established in Section 3.14 of Law No. 170 of August 12, 1988, as amended, known as the Uniform Administrative Procedure Act.
- F) Notice of the ruling shall be given on or before ten (10) days have elapsed from the date of issuance.

Section 3.06.- Summary Suspension of Certification.

- A) Where, in the judgment of the Energy Commission, the actions or omissions of an electric service company have placed in grave or imminent danger the life of one or more persons, the safety of one or more persons, or the integrity and safety of property the protection of which is in harmony with public interest, the Commission may summarily order the following:
 - 1) That the company cease and desist an action or omission;
 - 2) That the company carry out one or more specific acts; and/or
 - 3) The suspension of certification.

In said order, the Commission must summon the electric service company to a hearing before the Commission, to be held on or before a period of ten (10) days -- excluding Saturdays, Sundays and holidays -- from the date on which the summary order was issued, wherein the persons summoned may submit evidence and arguments in their own defense.

- B) The order issued by the Commission to that effect shall state the grounds for it, and notice of it must immediately be given to the electric service company

and any other interested person. The summary order shall be effective for a period of ten (10) days, excluding Saturdays, Sundays, and holidays, except where the electric service company has requested to postpone the hearing, in which case, the summary order may be effective until the date on which the hearing is held.

- C) After having held the hearing, the Commission shall determine if it is appropriate to levy a fine, order the company to cease and desist the behavior permanently or for a fixed period of time, modify the certification, or revoke and annul the certification issued to the company, and it shall issue a ruling to that effect. In said ruling, the Commission must formulate its findings of fact and conclusions of law, and comply with the requirements established in Section 3.14 of Law No. 170 of August 12, 1988, as amended, known as the Uniform Administrative Procedure Act.

Section 3.07.- Payable Fees.

- A) All electric service companies shall pay the Energy Commission the fees that are established below upon submission of the following forms, documents, or information:

- 1) Request for Certification or Request to Amend Certification:

- a) Companies that offer electric power generation services for sale in Puerto Rico through distributed generators that are interconnected with PREPA’s grid with an aggregate capacity of one megawatt (1 MW) or more;

Companies that offer electric power generation services through the use of fossil fuels or renewable energy sources for sale to PREPA or any other electric service company pursuant to a power purchase agreement;

Companies that offer electric power transmission (wheeling) services:

With an aggregate generation capacity of:	Applicable fee:
1 MW to less than 5 MW	\$2,500.00
5 MW to less than 10 MW	\$4,000.00
10 MW to less than 20 MW	\$6,000.00
20 MW to less than 30 MW	\$8,000.00

30 MW to less than 50 MW	\$10,000.00
50 MW to less than 100 MW	\$12,000.00
100 MW to less than 500 MW	\$15,000.00
500 MW to less than 1,000 MW	\$20,000.00
1,000 MW or more	\$25,000.00

b) Companies that offer energy storage services:

With unit storage capacity of:	Applicable fee:
1 MW to less than 5 MW	\$2,500.00
5 MW to less than 10 MW	\$4,000.00
10 MW to less than 20 MW	\$6,000.00
20 MW to less than 30 MW	\$8,000.00
30 MW to less than 50 MW	\$10,000.00
50 MW to less than 100 MW	\$12,000.00
100 MW to less than 500 MW	\$15,000.00
500 MW to less than 1,000 MW	\$20,000.00
1,000 MW or more	\$25,000.00

c) Companies that offer electric power billing services:

Annual amount of megawatt-hours (MWh):	Applicable fee per megawatt-hour:	Minimum fee payable:
Equal to or less than 250,000 MWh	\$0.0020	\$30.00
250,001 MWh to 1,500,000 MWh	\$0.0004	\$530.00
More than 1,500,000 MWh	\$0.0001	\$1,130.00

- i) For the purposes of the fee for a Request for Certification or Request to Amend Certification that is applicable to companies that offer electric power billing services, the annual projected amount of megawatt-hours (MWh) shall be taken as a baseline for new companies. In the case of certified companies or companies already in existence at the time that this Regulation comes into force, the greater of the following shall be taken as the baseline: (1) annual billing in megawatt-hours (MWh) during the fiscal year prior to the request, or (2) average billing in megawatt-hours (MWh) for the three years prior to the date of the request.
- ii) The fee payable by the company shall be calculated using the following formula:

$$\text{Payable fee} = \text{minimum fee} + (\text{annual amount of megawatt-hours}) \times (\text{applicable fee})$$

d) Companies that offer electric power resale services:

Annual amount of megawatt-hours (MWh):	Applicable fee per megawatt-hour:	Minimum fee payable:
Equal to or less than 250,000 MWh	\$0.0200	\$300.00
250,001 MWh to 1,500,000 MWh	\$0.0040	\$5,300.00
More than 1,500,000 MWh	\$0.0008	\$11,300.00

- i) For the purposes of the fee for a Request for Certification or Request to Amend Certification that is applicable to companies that offer electric power resale services, the annual projected amount of megawatt-hours (MWh) shall be taken as a baseline for new companies. In the case of certified companies or companies already in existence at the time this Regulation comes into force, the greater of the following shall be taken as the baseline: (1) annual generation in megawatt-hours (MWh) during the fiscal year prior to the request, or (2) average generation in

megawatt-hours (MWh) for the three years prior to the date of the request.

- ii) The fee payable by the company shall be calculated using the following formula:

Payable fee = minimum fee + (annual amount of megawatt-hours) x (applicable fee)

2) Amended Request for Certification: one hundred dollars (\$100.00).

- B) If upon submission of a Request to Amend Certification the petitioning electric service company believes that payment of the amount for the submission fee for a Request to Amend Certification is onerous due to the fact that the change subject to the Request is minimal, said company may request that the Commission waive the requirement to pay the fee in question. In such cases, the company must submit, together with its Request to Amend Certification, a motion wherein it sets forth the facts and explains the legal basis to justify the waiver of payment.

Section 3.08.- Development of Operations; Changes in Company Category

Should changes occur in the operation of an electric service company such that they would have the effect of placing it in a different line within the category for which it obtained its Certification, or in a new category that is different from the category for which it obtained its Certification, said electric service company must file a new Request for Certification before the Commission—and obtain the appropriate Certification—in order to operate in the new line within its category or in the new category it intends to join prior to commencing operations relative to the new line within its category or the new category.

In obtaining Certification to operate under a new or different category, companies must comply with all other obligations established in this Regulation for said category.

ARTICLE 4.- ANNUAL FEES

Section 4.01.- Applicability of the Provisions of this Article.

The provisions of this Article shall apply to all electric service companies that generate revenue from the provision of electric services in the jurisdiction of the Commonwealth of Puerto Rico, with the exception of PREPA.

For the purposes of this Article, “gross revenue” shall refer to the volume of business generated by an electric service company as a result of the provision of

electric services in the jurisdiction of the Commonwealth of Puerto Rico prior to any deduction for operational, administrative or any other expenses of any sort.

Section 4.02.- Duty to Inform Gross Revenue.

- A) All electric service companies operating in Puerto Rico before this Regulation entered into force must inform, along with their Personal Information filing under Section 2.01 of this Regulation, the gross revenue generated during the preceding fiscal year, as well as the latest compiled or audited financial statements, if any, as is applicable in accordance with Subsections (D) and (E) of this Section. For the following fiscal years, electric service companies must inform their annual gross revenue within a period of sixty (60) days following the conclusion of the their fiscal year.
- B) All electric service companies that had not been operating in Puerto Rico at the time that this Regulation entered into force and to whom the Commission has issued a Certification, must inform the Energy Commission of their annual gross revenue within a period of sixty (60) days following the conclusion of the their fiscal year, beginning on the year that the company began operating in Puerto Rico.
- C) In cases where an electric service company has one or more subsidiaries that are electric service companies subject to the payment of the annual fee, the parent electric service company must identify in its gross revenue report the portion of their revenue that corresponds to the revenue generated by the subsidiary electric service companies and discount said amount from the revenue subject to the annual fee calculation. In this way, the gross revenue to be reported by a parent electric service company shall be its gross revenue after discounting the revenue from the operation of its subsidiaries that are electric service companies and that have paid the appropriate annual fee.
- D) Where the gross revenue of an electric service company for a given fiscal year is equal to or less than three million dollars (\$3,000,000.00), the gross revenue report must be signed by an authorized representative of the electric service company. The signature of the authorized representative shall constitute a sworn certification, under penalty of perjury, that said information is correct and complete. Furthermore, the electric service company must file before the Commission its financial statements as compiled by a Certified Public Accountant (CPA) authorized to practice said profession in Puerto Rico.
- E) Where the gross revenue of an electric service company for a given fiscal year exceeds three million dollars (\$3,000,000.00), the gross revenue report must be signed by an authorized representative of the electric service company. The signature of the authorized representative shall constitute a sworn certification, under penalty of perjury, that said information is correct

and complete. Similarly, the company must file before the Commission a copy of the financial statements for the corresponding fiscal year as audited by a Certified Public Accountant (CPA) authorized to practice said profession in Puerto Rico. Said audited financial statements must be filed with the Commission within a period of one hundred and twenty (120) days, from the end date of the fiscal year that the Company generated the gross income in question.

- F) In cases where there is a discrepancy between the information provided on the gross income report and that provided in the compiled or audited financial statements, whatever the case may be, the Commission shall grant the electric service company the opportunity to explain said discrepancy and it may require whichever additional information it deems necessary prior to:
- 1) Determining the amount that the company must pay as the annual fee, in cases where the discrepancy is in relation to the compiled financial statements and it has to do with a company with gross income that is equal to or less than three million dollars (\$3,000,000.00).
 - 2) Correcting the amount that the company must pay as the annual fee, in cases where the discrepancy is in relation to the audited financial statements and it has to do with a company with gross income that is equal to or greater than three million dollars (\$3,000,000.00).

Section 4.03.- Amount of the Annual Fee.

- A) The Energy Commission shall calculate and collect from all electric service companies an annual fee equal to zero point twenty-five percent (0.25%) of the gross revenue they has generated during each fiscal year.
- B) Within a period of sixty (60) days from the date on which electric service companies file their Gross Revenue Report, the Commission shall inform each electric service company of the total amount it must pay as the annual fee.
- 1) Nevertheless, for the purposes of the 2014-2015 or 2015 fiscal year, whatever the case may be, the Commission shall inform each company of the total amount it must pay as the annual fee within a period of forty-five (45) days from the date on which electric service companies file their Gross Revenue Report.
- C) No electric service company that enters into or has entered into a power purchase agreement, an electrical interconnection agreement, or an electric power transmission (wheeling) agreement with PREPA may claim from PREPA the reimbursement of expenses corresponding to the annual fee payable to the Commission, or include said expenses in the calculation of its

rates, capacity fee, energy fee, or any other fee or amount of money that said electric service company charges PREPA under the referred agreements.

- 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 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.
- 2) Should any dispute arise between PREPA and any electric service company in relation to the appropriateness of a reimbursement of the expenses for the annual fee, on the grounds that the company believes that the prohibition of the reimbursement would constitute an unconstitutional infringement of its agreement with PREPA, the company interested in the reimbursement must file an action before the Commission, to which it must attach a true and exact copy of its agreement with PREPA, and set forth its arguments in support of the appropriateness of the reimbursement.

Section 4.04.- Installments and Due Dates.

- A) Each electric service company may opt to pay the appropriate annual fee in one lump sum or in quarterly installments.
 - 1) Should a company opt to pay the annual fee in one lump sum, the payment must be made no later than sixty (60) days after the Commission has notified the electric service company of the amount it must pay as the annual fee.
 - 2) Companies that opt to pay the annual fee in quarterly installments must pay the appropriate installment within a period of thirty (30) days from the end date of the quarter corresponding to the payment. The due dates for the payment of installments shall be as follows:

Quarter	Due Date
January – March	April 30
April – June	July 30
July – September	October 30
October – December	January 30

- B) Nevertheless, for the purposes of the annual fee for the 2014-2015 or 2015 fiscal year, whatever the case may be, electric service companies that opt to pay the appropriate annual fee in one lump sum must make said payment on or before June 30, 2016. Companies that opt to make their payments in quarterly installments must pay their first and second installments on or before June 30, 2016, their third installment must be paid on or before September 30, 2016, and the fourth installment must be paid on or before December 30, 2016.

Section 4.05.-Reimbursement of the Commission's Expenses.

The Commission may order any electric service company to reimburse the Commission for the fees, extraordinary expenses, and unforeseen expenses that the Commission incurred in carrying out an investigation for the purposes of corroborating the information submitted by said electric service company regarding its gross revenue, or due to a reasonable suspicion that the information provided was not correct.

Section 4.06.- Past Due Fees.

All electric service companies that do not opportunely satisfy payment of the annual fee or the payment of the installments thereof, shall be obligated to pay interest and past due penalties in accordance with this Section.

- A) Where the electric service company has paid the annual fee within a period of thirty (30) days beginning on the due date or date of expiry, it shall also pay interest at the current rate set by the Financial Board and certified by the Commissioner of Financial Institutions of Puerto Rico.
- B) Where the electric service company has paid the annual fee after more than thirty (30) days but before sixty (60) days have elapsed following the due date or date of expiry, in addition to the interest at the current rate set by the Financial Board and certified by the Commissioner of Financial Institutions of Puerto Rico, it shall also pay a penalty equal to five percent (5%) of the total amount owed.
- C) Where the electric service company has paid the annual fee after more than sixty (60) days have elapsed following the due date or date of expiry, in addition to the interest at the current rate set by the Financial Board and certified by the Commissioner of Financial Institutions of Puerto Rico, it shall also pay a penalty equal to ten percent (10%) of the total amount owed.
- D) After ninety (90) days have elapsed following the due date or date of expiry without payment of the appropriate annual fee by the electric service

company, the Commission may initiate a process for the modification or revocation of its certification pursuant to Section 3.05 of this Regulation.

ARTICLE 5. REQUESTS FOR EXTENSION

Section 5.01.- Requirements

- A) All electric service companies or persons who are obligated under this Regulation to file any information or document with the Commission, may request that the Commission grant them an additional period of time during which to file the document or information, so long as there is adequate justification for granting the extension.
- B) Requests for extension must be filed prior to the date on which the document or information is due in accordance with this Regulation.
- C) Requests must specify the facts and set forth the grounds that, in the petitioner's judgment, justify the granting of the requested extension. The Commission shall evaluate the request opportunely and determine whether or not it will grant an extension for the filing of the information or documents.

ARTICLE 6.- REQUEST FOR RECONSIDERATION AND JUDICIAL REVIEW

Section 6.01.- Request for Reconsideration.

Except as provided in Section 3.04, any person that is dissatisfied with a decision of the Commission under this Regulation may file a request for reconsideration before the Commission wherein the person sets forth in detail the grounds that support the request and the decision that, in the opinion of the petitioner, the Commission should have issued.

Requests for reconsideration shall be submitted and processed in accordance with the terms and provisions established in Law No. 170 of August 12, 1988, as amended, known as the Uniform Administrative Procedure Act.

Section 6.02.- Judicial Review.

Except as provided in Section 3.04, any person that is dissatisfied with a final decision of the Commission under this Regulation may appear before the Court of Appeals by way of a writ of judicial review in accordance with the provisions of Law No. 170 of August 12, 1988, as amended, known as the Uniform Administrative Procedure Act.

So agreed upon by the Commission in San Juan, Puerto Rico, on February 5,
2016.

Signed: Agustín F. Carbó Lugo
Chairman

Signed: Ángel R. Rivera de la Cruz
Associate Commissioner

Signed: José H. Román Morales
Associate Commissioner