



**GOVERNMENT OF PUERTO RICO
PUBLIC SERVICE REGULATORY BOARD
PUERTO RICO ENERGY BUREAU**

IN RE: REQUEST FOR CERTIFICATION
HSEA PR ISLA SOLAR III, LLC.

CASE NO.: CEPR-CT-2016-0003

SUBJECT: Order to Show Cause.

ORDER

I. Introduction and Procedural Background.

The Company HSEA PR ISLA SOLAR III, LLC ("HSEA") is the owner of a solar photovoltaic generation project with capacity of 3.98MW ("Project"). The Project has a Power Purchase and Operation Agreement with a private client. On May 10, 2016, pursuant to the provisions of Regulation 8701,¹ the Puerto Rico Energy Bureau ("Energy Bureau") issued HSEA's certification as an Electric Service Provider.²

II. Applicable Law and Analysis.

Act 57-2014³ requires all electric service companies⁴ to obtain a certification⁵ as such, besides filing certain information pursuant to the terms established by the Energy Bureau.⁶ With regards to the information that an electric service company has the duty to file before the Energy Bureau, Section 2.02 of Regulation 8701 includes the presentation of the Operational Report of the companies and establishes the frequency in which it must be filed. In specific, Section 2.02(A)(1) of Regulation 8701 establishes the following:

- 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:

¹ Amendment to Regulation No. 8618, on Certifications, Annual Fees and Operational Plans of Electric Service Companies in Puerto Rico.

² See Certification of Electric Service Provider, Case No. CEPR-CT-2016-0003, May 10, 2016.

³ Known as the Puerto Rico Energy Transformation and RELIEF Act, as amended.

⁴ Section 1.3 (l) of Act 57-2014 defines the term "Electric Power Company" or "Electric Power Service Company" as follows: "Shall mean any natural or juridical person or entity engaged in the generation, billing, or resale of electric power. In the case of PREPA, it shall also include transmission and distribution."

⁵ See Section 6.3(o) of Act 57-2014. See also Section 1.3(h) of Act 57-2014 which defines the term "Certified" as follows: "Shall mean every electric power service company that has been evaluated and authorized by the Energy Commission."

⁶ See Section 2.02 of Regulation 8701.

Handwritten signatures and initials in blue ink, including what appears to be 'JHP' and 'JMC'.

- 1) 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:
 - 1) Specify (i) the charges and rates it charges customers who purchase electric power and (ii) what each of those charges and rates represents;
 - 2) 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.⁷ (Emphasis Supplied).

According to the administrative file of the instant case, HSEA filed the documents related to the Operational Report on April 1, 2016.⁸ Despite the fact that, according to the provisions of Regulation 8701, HSEA has the duty to present its Operational Report annually, it has not filed its Operational Report for 2017 or 2018.

Regarding the compliance mechanisms available to the Energy Bureau, Section 3.05 of Regulation 8701 empowers the Energy Bureau to, among other things, issue a cease and desist order, revoke and annul any decision, ruling or order issued in relation to the process of any Request for Certification, when an electric service company "... has failed to comply with its duty to provide or update the information required under Law 57-2014, as amended, or this Regulation."

On the other hand, the Energy Bureau has the power to impose penalties on electric service companies for violations of Act 57-2014, its regulations and orders.⁹ In accordance with the provisions of Section 6.36 of Act 57-2014, the Energy Bureau has the power to impose the following penalties:

(a) The Commission shall impose administrative fines for violations of this Act, or the regulations and orders issued thereunder, committed by any person or electric power company subject to its jurisdiction, of up to a maximum of twenty-five thousand dollars (\$25,000) per day. Said fines shall in no event exceed five percent (5%) of the gross sales, fifteen percent (15%) of the net income, or ten percent (10%) of the net worth of the sanctioned person or the electric power company. The greater of the aforementioned amounts corresponding to the most recent taxable year shall be the amount of the fine.

⁷ (Emphasis Supplied). Section 2.02(D) establishes: "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."

⁸ See HSEA PR ISLA SOLAR III, LLC *Operational Report Form*, Case No. CEPR-CT-2016-0003, April 1, 2016.

⁹ See Section 6.7(h) of Act 57-2014.

(b) If the person or certified electric power company commits a subsequent violation of this Act, the Commission may impose penalties of up to a maximum of twenty-five thousand dollars (\$25,000) per day. In such case and by unanimous determination of the Commission, it may impose fines up to twice the limitations on the basis of sales, income or assets set forth in subsection (a) of this Section and up to five hundred thousand dollars (\$500,000).

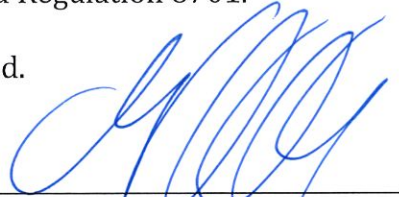
(c) Any claim or cause of action authorized by law filed by any person with legal standing shall not affect the powers granted under this Section to impose administrative sanctions.

(d) Any person who intentionally violates any provision of this Act, omits, disregards, or refuses to obey, observe, and comply with any rule or decision of the Commission shall be punished by a fine of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) at the discretion of the Commission. In the event of recurrence, the established penalty shall increase to a fine of not less than ten thousand dollars (\$10,000) nor greater than twenty thousand dollars (\$20,000), at the discretion of the Commission.¹⁰

III. Conclusion.

Based on HSEA's noncompliance, it is **ORDERED** to show cause, within a period of ten (10) days, from the date of notification of this Order, why the Energy Bureau should not impose an administrative fine of five thousand dollars (\$5,000) for its failure to comply with the provisions of Act 57-2014 and Regulation 8701.

Be it notified and published.



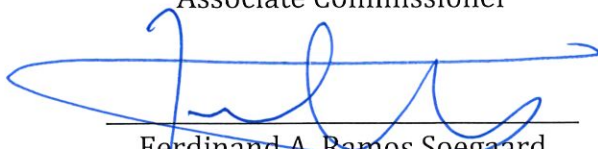
Edison Avilés Deliz
Chairman



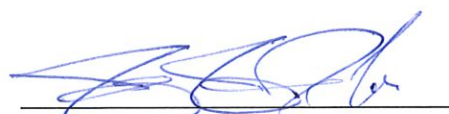
Ángel R. Rivera de la Cruz
Associate Commissioner



Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner



José J. Palou Morales
Associate Commissioner

¹⁰ See Section 6.36 of Act 57-2014.



CERTIFICATION

I hereby certify that the Puerto Rico Energy Bureau has so agreed on December 17, 2018 and on this date a copy of the Order was notified by electronic mail sent to bryan.gibson@us.q-cells.com. I also certify that this is a true and exact copy of the Order issued by the Puerto Rico Energy Bureau and I have proceeded with the filling of this Resolution and I have sent a copy thereof to:

HSEA PR ISLA SOLAR III, LLC

Sr. Bryan Gibson
300 Spectrum Center Drive, Ste 1250
Irvine, CA 92618

For the record, I sign this in San Juan, Puerto Rico, today, December 17, 2018.

María del Mar Cintrón Alvarado
Clerk