

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



BRIAN HEALY
PETITIONER

vs.

PUERTO RICO ELECTRIC POWER
AUTHORITY
RESPONDENT

CASE NO.: CEPR-RV-2018-0065

SUBJECT: Final Resolution and Order

FINAL RESOLUTION AND ORDER

I. Introduction and Background

On August 16, 2018, the Petitioner, Brian Healy filed a petition for a Formal Billing Revision ("Formal Revision") with the Puerto Rico Energy Bureau ("Energy Bureau") against the Puerto Rico Electric Power Authority, the ("PREPA") regarding an invoice dated December 11, 2017.¹ On August 21, 2018, the Energy Bureau notified the Petitioner that, as established in Section 3.02 (B) of Regulation 8543², any filing by which an action is commenced before the Energy Bureau must contain at a minimum: physical address, postal address, telephone number, and email address of all the respondents. The Energy Bureau also notified the Petitioner that the Formal Revision did not contain the referenced information, therefore it was necessary for him to provide the information in order to cure the Formal Revision.

Notwithstanding the foregoing, on August 21, 2018, the Energy Bureau issued the corresponding Citation, pursuant to Section 3.03, Subparagraph (1) and (4) of Regulation 8543. However, the Petitioner did not comply with Section 3.05 of Regulation 8543, which establishes that on or before fifteen (15) days after having submitted the filing that initiated the action or adjudicative proceeding before the Energy Bureau, the citation issued by the Energy Bureau, along with a copy of the filing, will be sent to PREPA by certified mail, and

¹ The Formal Revision was dated August 15, 2018.

² *Regulation of Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings*, December 18, 2014.

that within ten (10) days of having notified PREPA, the Petitioner shall file a motion before the Energy Bureau informing his compliance with the notification.



On October 3, 2018, the Energy Bureau issued an Order to the Petitioner to show cause, on or before October 8, 2018, as to why his Formal Revision should not be dismissed, in accordance with the provisions of Section 12.01 of Regulation 8543.

II. Applicable Law and Analysis

Section 3.05 (A) of Regulation 8543 provides that:

- 1) On or before fifteen (15) days after having filed the claim giving rise to the adjudicative action or proceeding before the Commission, the summons issued by the Commission shall be sent to the petitioned company via certified mail along with a true and exact copy of the failed claim, including all annexes if any.
- 4) On or before the period of ten (10) days of having notified the petitioned electric service company of the claim initiated against them, petitioner shall inform the Commission of this through a motion. Petitioner shall attach to the motion proof that it effected said notice.

Section 12.03 (C) of Regulation 8543 provides that:

If a party, officer or managing agent of a party, or a person designated to testify on their behalf, fails to comply with an order to perform or permit disclosure of evidence, the Commission may issue all orders as are just, among which the Commission may:

- C) Issue an order to write down the default, remove pleadings or part thereof, suspend all further proceedings until the order is satisfied, dismiss the case or proceeding or any part thereof, or issue a default judgment against the party in breach.

In the present case, the Petitioner did not comply with Section 3.05 of Regulation 8543 nor with the order issued on October 3, 2018 by the Energy Bureau. If a party fails to comply with the orders issued by the Energy Bureau, the latter may issue all those orders that are fair, including dismissing the revision.

Given the Petitioner's lack of response to the Energy Bureau's orders and his noncompliance with the applicable regulations, the Formal Revision is dismissed without prejudice, in accordance with the provisions of Section 12.01 of Regulation 8543.



III. Conclusion

For all these reasons, the Formal Revision is **DISMISSED**, without prejudice.


Any party adversely affected by this Final Resolution and Order may file a motion for reconsideration before the Energy Bureau, pursuant to Section 11.01 of Regulation 8543 and the applicable provisions of Act 38-2017, as amended, known as the Uniform Administrative Procedure Act of the Government of Puerto Rico ("LAPU", for its Spanish acronym) said motion must be filed within twenty (20) days from the date in which copy of his Final Resolution and Order is notified and such notice is filed in the case docket by the Energy Bureau Clerk. Any motion for reconsideration must be filed at the Energy Bureau Clerk's Office, located at the World Plaza Building, 268 Muñoz Rivera Ave., San Juan, PR 00918. Copy of the motion as filed must be sent by email to all parties notified of this Final Resolution and Order within the twenty (20) days established herein.


The Energy Bureau shall have fifteen (15) days from the date in which such motion is filed to consider it. If the Commission rejects it forthright or fails to consider it within said period of fifteen (15) days, the term to seek judicial review shall begin on the date in which the Energy Bureau notifies its rejection or the date in which said fifteen (15) days expire, whichever occurs first. If the Energy Bureau considers the motion, the term to seek judicial review shall commence from the date a copy of the notice of the Energy Bureau resolution definitively resolving the motion for reconsideration is notified and copy of such notice is filed by the Energy Bureau Clerk. The Energy Bureau shall have ninety (90) days from the date the motion of reconsideration was filed to issue a final determination. If the Energy Bureau considers the motion of reconsideration but fail to take any action with respect to such motion within ninety (90) days of its filing, it shall lose jurisdiction and the term to seek judicial review shall commence upon the expiration of such ninety (90) day term, unless the Energy Bureau, for just cause and within those ninety (90) days, extends the term to resolve for a period that shall not exceed thirty (30) days.


In the alternative, any affected party may file a petition for review before the Court of Appeals within a term of thirty (30) days form the date a copy of the notice of this Final Resolution and Order was notified and copy of such notice was filed by de Energy Bureau Clerk. Filing and notice of a petition for review before the Court of Appeals shall be made pursuant to the applicable provisions of Regulation 8543, the LPAU and the Rules of the Puerto Rico Court of Appels.

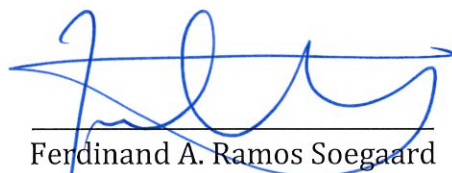
Be it notified and published.




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

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on January 29, 2019. I also certify that on this date a copy of this Final Resolution and Order was notified by electronic mail to the following: astrid.rodriguez@prepa.com and jorge.ruiz@prepa.com. The Petitioner does not have email address. I also certify that today, January 29, 2019, I have proceeded with the filing of the Final Resolution and Order issued by the Puerto Rico Energy Bureau and I have sent a true and exact copy to the following:


Puerto Rico Electric Power Authority

Attn.: Astrid I. Rodríguez Cruz
Jorge R. Ruíz Pabón
PO Box 364267
Correo General
San Juan, PR 00936-4267

Brian Healy

PO Box 16068
San Juan, P.R. 00908

For the record, I sign this in San Juan, Puerto Rico, today January 29, 2019.


María del Mar Cintrón Alvarado
Clerk