

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



IN RE: REQUEST FOR CERTIFICATION
DG SOLAR LESSEE II, LLC.

CASE NO.: CEPR-CT-2016-0017

SUBJECT: Order to Show Cause.

ORDER

I. Introduction and Procedural Background.

DG Solar Lessee II, LLC ("DG Solar") is the owner of a solar photovoltaic generation project with aggregate capacity of 2.66 MW ("Project"). DG Solar has a Power Purchase Agreement with a private client. On July 19, 2016, pursuant to the provisions of Regulation 8701¹ the Puerto Rico Energy Bureau of the Public Service Regulatory Board ("Energy Bureau") issued DG Solar'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. Act 57-2014 also requires electric service companies to file certain information pursuant to the terms established by the Energy Bureau. With regards to the information that an electric service company has the duty to file before the Energy Bureau, Section 4.02 of Regulation 8701 establishes the requirement to inform to the Energy Bureau their gross revenue. Specifically, Section 4.02(A) of Regulation 8701 establishes the following:

- 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

¹ Amendment to Regulation No. 8618, on Certifications, Annual Fees and Operational Plans of Electric Service Companies in Puerto Rico, Regulation 8701, February 17, 2016.

² See Certification of Electric Service Provider, Case No. CEPR-CT-2016-0017, July 19, 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."

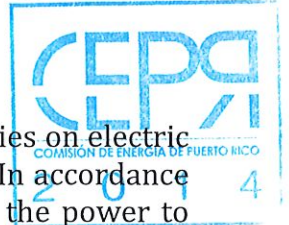
compiled or audited financial statements, if any, as is applicable in accordance with Subsections (D) and (E) of this Section. **For the following fiscal years, electric service companies must inform their annual gross revenue within a period of sixty (60) days following the conclusion of their fiscal year.** (Emphasis supplied.)



On the other hand, the aforementioned section establishes the requirements for the presentation of audited or compiled financial statements, depending on the volume of business that the company has generated during the fiscal year in question. Specifically, paragraphs (D) and (E) of Section 4.02 establish the following:

- 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 [Energy Bureau] 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 [Energy Bureau] 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 [Energy Bureau] **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.** (Emphasis supplied.)

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.⁶ 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 [Energy Bureau] 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.

(b) If the person or certified electric power company commits a subsequent violation of this Act, the [Energy Bureau] 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 [Energy Bureau], 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 [Energy Bureau] 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 [Energy Bureau]. 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 [Energy Bureau].⁷

DG Solar was required to inform its gross revenue during Fiscal Year 2018 on or before March 1, 2019. According to the administrative file, DG Solar has not complied with the provisions of Regulation 8701 regarding the presentation of its gross revenues generated during Fiscal Year 2018 and its corresponding financial statements, as applicable.

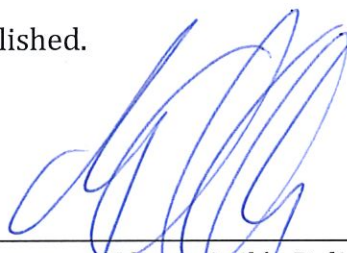
⁶ See Section 6.7(h) of Act 57-2014.

⁷ See Section 6.36 of Act 57-2014.

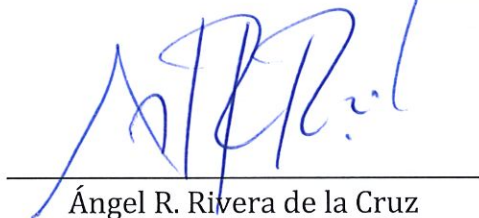
III. Conclusion.

Based on DG Solar's noncompliance with the requirement of filing its gross revenue report for the sales generated during Fiscal Year 2018, DG Solar 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. In addition, DG Solar is **ORDERED** to submit its gross revenue report for the sales generated during Fiscal Year 2018 and its compiled financial statement, if applicable, within the aforementioned ten-day term. Furthermore, non-compliance with Energy Bureau's orders and regulations may result in additional administrative fines.

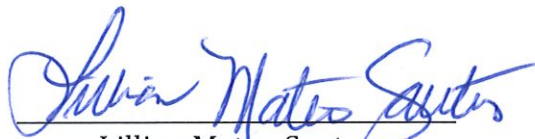
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Edison Avilés Deliz
Chairman



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 Puerto Rico Energy Bureau has so agreed on March 21, 2019 and on this date a copy of this Order regarding the Case No. CEPR-CT-2016-0017 was notified by electronic mail sent to ivc@mcvpr.com. I also certify that this on March 21, 2019, I have proceeded with the filling of this Order and I have sent a true and exact copy thereof to:

McConnell Valdés, LLC
Lcdo. Ignacio J. Vidal Cerra
PO Box 364225
San Juan, P.R. 00936



For the record, I sign this in San Juan, Puerto Rico, today, March 21, 2019.



María del Mar Cintrón Alvarado
Clerk