



**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 a capacity of 2.66 MW ("Project"). DG Solar has a Power Purchase Agreement with a private client. On July 19, 2016, under Regulation 8701,¹ 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 from the Energy Bureau. Act 57-2014 also requires electric service companies to file certain information under the terms established by the Energy Bureau, and to pay the Energy Bureau an annual fee based on annual gross income earned from the provision of energy services in Puerto Rico.

Article 4 of Regulation 8701 establishes the annual fees electric service companies must pay the Energy Bureau. Said article details the procedures for (i) informing gross revenue; (ii) determining the amount of the annual fee; and (iii) the terms by which the companies must pay the appropriate annual fee. Specifically, Section 4.04 of Regulation 8701 establishes:

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 [Bureau]."

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 within sixty (60) days after the [Energy Bureau] 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 thirty (30) days from the end date of the quarter corresponding to the payment. The due dates for the payment of installments shall be:

<u>Quarter</u>	<u>Due Date</u>
January – March	April 30
April – June	July 30
July – September	October 30
October – December	January 30

Regarding the compliance mechanisms available to the Energy Bureau, Section 3.05 of Regulation 8701 empowers the Energy Bureau to issue a cease 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."

The Energy Bureau has the power to impose penalties on electric service companies for violations of Act 57-2014, its regulations and orders.⁶ Under Section 6.36 of Act 57-2014, the Energy Bureau has the power to impose these penalties:

(a) The Energy Bureau shall impose administrative fines for violations of this Act, or the regulations and orders issued, 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 never 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 amounts corresponding to the most recent taxable year shall be 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

⁶ See Section 6.7(h) of Act 57-2014.

and by unanimous determination of the Energy Bureau, it may impose fines up to twice the limitations based on sales, income or assets 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 commit a misdemeanor and upon conviction shall be punished by imprisonment for a term not to exceed six (6) months, or by a fine of not less than five hundred dollars (\$500) nor over five thousand dollars (\$5,000), at the discretion of the Energy Bureau. If recurrence occurs, the established penalty shall increase to a fine of not less than ten thousand dollars (\$10,000) nor more than twenty thousand dollars (\$20,000), at the discretion of the Energy Bureau.

(e) The Energy Bureau may resort to the pertinent forums to seek any remedy, including account garnishment, to ensure compliance with the penalties imposed.⁷

On May 7, 2019, the Energy Bureau notified by electronic mail, copy of the annual fee to be paid by DG Solar for fiscal year 2018. On May 8, 2019, the Energy Bureau sent the notification through certified mail. As of the date of this Order, DG Solar has not complied with the payment of its annual fee, as required by Regulation 8701.

III. Conclusion.

Based on DG Solar's noncompliance with the deadline for the payment of its annual regulatory fee, DG Solar is **ORDERED** to, **on or before 12:00 p.m. on August 23, 2019**, show cause for which the Energy Bureau should not impose an administrative fine of five thousand dollars (\$5,000) per day for its failure to comply with Act 57-2014 and Regulation 8701. Non-compliance with Energy Bureau's orders and regulations may result in the imposition of additional administrative fines.

Be it notified and published.

⁷ See Section 6.36 of Act 57-2014.



Edison Avilés Deliz
Chairman

Ángel R. Rivera de la Cruz
Associate Commissioner

Lillian Mateo Santos
Associate Commissioner

Ferdinand A. Ramos Soegaard
Associate Commissioner

CERTIFICATION

I hereby certify that the Puerto Rico Energy Bureau has so agreed on August 21, 2019. I also certify on August 21, 2019 a copy of the Order regarding the Case No. CEPR-CT-2016-0017 was notified by electronic mail sent to jeff.lewis@terraform.com, ivc@mcvpr.com and cfl@mcvpr.com. I also certify that this on August 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

Jeff Lewis

Terra Form Power
200 Liberty Street 14th Floor
New York, NY 10281

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

Wanda I. Cordero Morales
Clerk