

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



IN RE: REQUEST FOR CERTIFICATION
PATTERN SANTA ISABEL, LLC.

CASE NO.: CEPR-CT-2016-0011

SUBJECT: Order to Show Cause.

ORDER

I. Introduction and Procedural Background.

Pattern Santa Isabel, LLC ("Pattern") is the owner of a wind generation project with aggregate capacity of 101.2MW ("Project"). The Project has a Power Purchase and Operating Agreement with the Puerto Rico Electric Power Authority ("PREPA").¹ On June 2, 2016, under Regulation 8701,² the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued Pattern's certification as an Electric Service Provider.³

II. Applicable Law and Analysis.

Act 57-2014⁴ requires all electric service companies⁵ to obtain a certification⁶ as such. Act 57-2014 also requires electric service companies to file certain information under the terms established by the Energy Bureau. Regarding the information that an electric service company must 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:

¹ See Contract No. 2010-P00047 awarded on June 11, 2010.

² Amendment to Regulation No. 8618, on Certifications, Annual Fees and Operational Plans of Electric Service Companies in Puerto Rico, Regulation 8701, February 17, 2016.

³ See Certification of Electric Service Provider, Case No. CEPR-CT-2016-0011, June 2, 2016.

⁴ Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

⁵ 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, energy cooperative, engaged in the provision of generation services, transmission and distribution services, billing, wheeling, grid services, energy storage, resale of electric power as well as any other electric power service as defined by the Bureau. The Electric Power Authority or its successor as well as any Contractor under a Partnership or Sales Contract executed in relation to PREPA Transactions conducted by virtue of Act No. 120-2018 shall be deemed Electric Power Service Companies for purposes of this Act."

⁶ See Section 6.13 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) 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 their fiscal year.** (Emphasis supplied.)

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:

- 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.)



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."

Furthermore, the Energy Bureau has the power to impose penalties on electric service companies for violations of Act 57-2014, its regulations and orders.⁷ 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 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 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 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 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 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 more than twenty thousand dollars (\$20,000), at the discretion of the Energy Bureau.

⁷ See Section 6.7(h) of Act 57-2014.



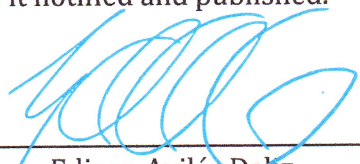
(e) The Energy Bureau may resort to the pertinent forums to seek any remedy, including account garnishment, to ensure compliance with the penalties imposed.⁸

In accordance with the above-mentioned legal provisions, Pattern had to inform the information related to its gross revenue during Fiscal Year 2019 on or before February 29, 2020. According to the administrative file, Pattern has not complied with the provisions of Regulation 8701 regarding the presentation of the gross revenues generated during Fiscal Year 2019 and its corresponding financial statements, as applicable.

III. Conclusion.

Based on the foregoing, the Energy Bureau **ORDERS** Pattern to, **within ten (10) days from the date of notification of this Order**, (i) submit its gross revenue report for the sales generated during Fiscal Year 2019 pursuant to the provisions of Section 4.02 of Regulation 8701; and (ii) show cause why the Energy Bureau should not impose an administrative fine of five thousand dollars (\$5,000) for its failure to comply with Act 57-2014 and Regulation 8701. The Energy Bureau **WARNS** Pattern that non-compliance with Energy Bureau's orders and regulations may carry the imposition additional administrative fines.

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



⁸ See Section 6.36 of Act 57-2014.

CERTIFICATION

I hereby certify that the Puerto Rico Energy Bureau has so agreed on April 21, 2020. I also certify on April 21, 2020 a copy of the Order was notified by electronic mail sent to sergio.gonsales@patternenergy.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 Order.

For the record, I sign this in San Juan, Puerto Rico, today, April 21, 2020.


Wanda I. Cordero Morales
Clerk

