

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



IN RE: REQUEST FOR CERTIFICATION
LUMA ENERGY SERVCO, LLC.

CASE NO.: NEPR-CT-2020-0007

SUBJECT: Request for Certification as
Electric Service Provider.

RESOLUTION

I. Introduction

On September 21, 2020, LUMA Energy ServCo, LLC ("LUMA ServCo") filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") several documents and forms related to its Request for Certification as Electric Service Providers ("Request"), pursuant to the provisions of Regulation 8701.¹ LUMA ServCo included the following documents in its Request:

1. Personal Information Form and Complementary Sheet ("Personal Information");
2. Operational Report Form and Complementary Sheet ("Operational Report");
3. Request for Certification of Electric Power Companies Form and Complementary Sheet ("Request for Certification");
4. Checks no. 103139600022003 and 103139600022001 addressed to *Negociado de Energía de PR* for the amounts of one hundred dollars (\$100.00) and eight hundred dollars (\$800.00), respectively.

LUMA ServCo is a Limited Liability Company organized under the laws of Puerto Rico. Both, LUMA ServCo and its parent company LUMA Energy, LLC, were contracted to provide operations and maintenance services for the Puerto Rico Electric Power Authority's ("PREPA") transmission and distribution ("T&D") system, pursuant to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement ("OMA").² As part of the Request for Certification, LUMA ServCo establishes the services to be provided under the OMA, which include (1) administer and perform the T&D's system contracts, (2)

¹ Amendment to Regulation No. 8618, on Certifications, Annual Fees and Operational Plans of Electric Service Providers in Puerto Rico, February 5, 2016.

² Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement as of June 22, 2020, by and among PREPA, the Puerto Rico Public-Private Partnerships Authority, LUMA Energy, LLC and LUMA Energy ServCo, LLC.

perform all billing and collection services for the T&D system, (3) provide services related to the dispatch, scheduling or coordination of power and electricity from existing and future available generation assets, among other services.

II. Applicable Law, Regulation 8701 and Analysis

In addition to filing specific information pursuant to the requirements established by the Energy Bureau, Act 57-2014³ requires electric service companies⁴ to obtain a certification⁵ in order to provide services in Puerto Rico. Furthermore, specific to electric service companies that enter into a PREPA Transaction⁶ under Act 120-2018⁷, it is required that:

Every Contractor under a Partnership or Sales Contract executed in connection with a PREPA Transaction shall be deemed to be a Certified Electric Power Company (as defined in Act No. 57-2014, as amended, known as the "Puerto Rico Energy Transformation and RELIEF Act"). Any Contractor under a Partnership or Sales Contract executed in connection with a PREPA Transaction shall fill out and file with the [Energy Bureau] an application for an Electric Power Company certification within ninety (90) days after the appropriate Partnership or Sales Contract is executed. Once the application is filled and filed with the [Energy Bureau], such application shall be automatically approved without the need for the [Energy Bureau] to act on it. If a Contractor renders services or acts according to the Partnership or Sales Contract before the term for filing the application for certification expires, as provided in this Section, it shall not be deemed to be a violation of any law or regulations.

The Energy Bureau's Regulation 8701 specifies the requirements that any electric service company must comply with in order to provide electric services in Puerto Rico.

³ *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, 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."

⁵ See Section 6.13 of Act 57-2014. See, also, Section 1.3(h) which establishes that the term "Certified", "Shall mean every electric power service company that has been evaluated and authorized by the Energy Bureau."

⁶ Section 2(l) of Act 120-2018 defines the term "PREPA Transaction" as follows: Any and all transactions carried out in accordance with the provisions of Act No. 29-2009 and this Act, whereby PREPA or the Government of Puerto Rico establishes one or more Partnerships in connection with any of PREPA's functions, services, or facilities, or executes a Sales Contract for PREPA Assets related to electric power generation.

⁷ *Puerto Rico Electric Power System Transformation Act*.



Section 2.01 of Regulation 8701 establishes the information that all electric service companies intending to offer services in Puerto Rico must file with the Request for Certification. Section 2.02 of Regulation 8701 details the information that must be included in the Operational Report to be filed by electric service companies. Section 3.03 of Regulation 8701 establishes the information that shall be included in the Request for Certification.

A. Personal Information

As part of the Personal Information, LUMA ServCo informed that it submitted (i) a copy of the Company's Incorporation and Register Certificate and (ii) a copy of the Good Standing Certificate issued by the Puerto Rico State Department. The aforementioned information was presented pursuant to the requirements of Section 2.01 of Regulation 8701.

Additionally, LUMA ServCo filed a complementary sheet to the Personal Information, through which it requests clarification regarding the requirement to provide information on its secondary offices "as to whether or to what extent, once the O&M Services commence, ServCo would be required to update the PREB Personal Information Form to include the information on all of these PREPA offices."⁸

Section 2.01(D) of Regulation 8701 establishes a continuous duty to inform changes to the Personal Information by requiring that "[s]hould there be any change in the information that an electric service company has submitted to the Energy [Bureau] pursuant to this Section, said electric service company must alert the [Energy Bureau] to the referred change and submit the updated information within a period of ten (10) days following the occurrence of the change." Therefore, LUMA ServCo **must inform** the Energy Bureau of any changes to the information provided as part of its Personal Information, within the aforementioned period.

LUMA ServCo also provided information of the members of the Board of Directors, pursuant to Section 2.01(A)(11) of Regulation 8701. Specifically, LUMA ServCo requests the Energy Bureau to treat the mobile telephone numbers of its officers as confidential information. Furthermore, LUMA ServCo requests an exemption from providing personal information of the members of its Board of Directors. The information provided regarding the officers of LUMA ServCo complies with the requirements of Section 2.01 of Regulation 8701. Therefore, the Energy Bureau **EXEMPTS** LUMA ServCo from providing personal information of its officers.

B. Operational Report

As part of the Operational Report, filed pursuant to Section 2.02 of Regulation 8701, LUMA ServCo established that as of the date of the filing it is not providing any services. Additionally, LUMA ServCo informed that, pursuant to the OMA, it will provide O&M Services starting on the "Services Commencement Date".

⁸ Complementary Sheet for Personal Information, p. 1.



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LUMA ServCo provided information related to the provision of billing services, pursuant to the categories of services established in Regulation 8701, and to the services to be provided under the OMA. LUMA ServCo argues that it will not be providing wheeling services, since wheeling is conducted by power generators and LUMA ServCo will not be a power generator. Therefore, LUMA ServCo argues that it would only qualify as an electric service company under the category of billing services, as defined in Regulation 8701.

On the other hand, Section 2.02(E) of Regulation 8701 establishes that “[e]lectric service companies shall refer their Operational Report to the [Energy Public Policy Program (“EPPP”)] for review and comments prior to submitting it to the Energy [Bureau]. In submitting their Operational Reports before the [Energy Bureau], electric service companies shall indicate whether they referred it to the EPPP for review and comments.” Section 2.02(E)(2) of Regulation 8701 establishes that “[i]n cases where electric service companies have not referred their Operational Report to the EPPP prior to filing it before the [Energy Bureau], the electric service companies shall explain the reasons that justify not having made said referral.”

Even though LUMA ServCo informed that their operational report was referred to the EPPP, no evidence of said referral was presented before the Energy Bureau.

C. Request for Certification

As part of its Request for Certification, LUMA ServCo included (i) information regarding the contracts or legal transactions with PREPA or another electric power company, (ii) a statement certified by a Certified Public Accountant that attests the provisions of minimum financial resources of the company, (iii) a statement affirming the sufficiency of the company’s human resources, (iv) copy of permits, authorizations and endorsements obtained to operate, do business and provide services in Puerto Rico, and (v) a complementary sheet.

As stated above, LUMA ServCo states that once it commences operations, it will qualify as an electric service company under the category of billing services. However, upon review of the documents filed, LUMA ServCo did not provide payment for the applicable fee for the submission of the Request for Certification, pursuant to Section 3.07 of Regulation 8701. Based on the information provided, LUMA ServCo will act as the Transmission and Distribution Operator of PREPA’s electric grid. Therefore, it is reasonable to conclude that once operating, the annual amount of energy in megawatt-hours (MWh) to be billed by LUMA ServCo will be the same as the amount of energy projected to be sold by PREPA.

PREPA informed that the sales forecast for the period of July 1, 2020 to June 30, 2021 is 15,789,068,201 kWh.⁹ Therefore, the filing fee to be paid by LUMA ServCo, pursuant to Section 3.07(A)(1)(c) of Regulation 8701 is as follows:

⁹ Motion to Submit CILT, SUBA-HH and SUBA-NHH Reconciliations and Proposed Factors, Exhibit A, Attachment



Payable fee = minimum fee + (annual amount of megawatt – hours)x(applicable fee)

Payable fee = \$1,130.00 + (15,789,068.201 MWh)x(\$0.0001)

Payable fee = \$2,708.90

III. Evaluation of the Request

Upon review of the documents filed by LUMA ServCo, the Energy Bureau **CERTIFIES** LUMA ServCo as an Electric Service Company, pursuant to the provisions of Regulation 8701, **conditioned** to the compliance of LUMA ServCo with the following:

1. Presentation of evidence of the submission of the Operational Report to the EPPP, pursuant to Section 2.02(E) of Regulation 8701.
2. Payment of the applicable fee for the submission of the Request for Certification, pursuant to Section 3.07 of Regulation 8701, as established in Part II (C) above.

The Energy Bureau **GRANTS** LUMA ServCo a term of thirty (30) days, from the notification date of this Resolution, to comply with the aforementioned requirements.

IV. Request for Confidential Designation

As part of its Personal Information, LUMA ServCo requested the Energy Bureau to treat the mobile telephone numbers of its officers as confidential information. LUMA ServCo argued that the public disclosure of said information could pose a threat to its officers, in light of any controversies that may arise in relation to the OMA.

Act 57-2014 establishes that any person having the obligation to submit information to the Energy Bureau, can request privilege or confidential treatment to any information that the party submitting understands deserves such protection.¹⁰ Specifically, Act 57-2014 requires the Energy Bureau to treat as confidential the submitted information, provided that “the Energy Bureau, after the appropriate evaluation, believes such information should be protected”.¹¹ In such case, the Energy Bureau “shall grant such protection in a manner that least affects the public interest, transparency, and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted.”¹²

5 - CILT and SUBSIDIES RECONCILIATION - Filing 06052020.xlsx, Tab “Attachment 5”, Cell C19, Case No. NEPR-MI-2020-0001, *In Re: Puerto Rico Electric Power Authority Permanent Rate*, June 5, 2020.

¹⁰ Section 6.15 of Act 57-2014, as amended.


¹¹ *Id.*


¹² *Id.*




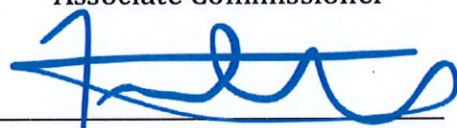
Upon examining LUMA ServCo's arguments, the Energy Bureau **GRANTS** confidential designation and treatment for the filed documents under Article 6.15 of Act 57-2014.

Be it notified and published.



Edison Aviles Deliz
Chairman

Ángel R. Rivera de la Cruz
Associate Commissioner

Lillian Mateo Santos
Associate Commissioner

Ferdinand A. Ramos Soegaard
Associate Commissioner

Sylvia B. Ugarte Araujo
Associate Commissioner

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on November 4, 2020. I also certify on November 4, 2020 a copy of the Resolution was notified by electronic mail sent to wayne.stensby@lumamc.com, mario.hurtado@lumamc.com and laura.rozas@dlapiper.com. I also certify that this is a true and exact copy of the Resolution issued by the Puerto Rico Energy Bureau and I have proceeded with the filling of this Resolution.

For the record, I sign this in San Juan, Puerto Rico, today, November 4, 2020.



Wanda L. Cordero Morales
Clerk