

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



IN RE: REQUEST FOR CERTIFICATION
LUMA ENERGY, LLC.

CASE NO.: NEPR-CT-2020-0008

SUBJECT: Request for Certification as
Electric Service Provider.

RESOLUTION

I. Introduction

On September 21, 2020, LUMA Energy, LLC ("LUMA") 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 In its Request, LUMA included the following documents:

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. Check No. 103139600022004 addressed to *Negociado de Energía de PR* for the amount of one hundred dollars (\$100.00).

LUMA is a Limited Liability Company organized under the laws of Puerto Rico. Both LUMA and LUMA Energy ServCo, 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 establishes that it is providing "Front-End Transition Services", which do not involve any operation and maintenance services, and it has no responsibility over the

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.

T&D system. LUMA states that the "Front-End Transition Services" commenced on the OMA's effective date and will continue until the Service Commencement Date, as defined in the OMA. As part of its request, LUMA argues that it will not perform any of the categories of services considered to qualify as an electric service company pursuant to Regulation 8701, and therefore does not constitute an electric service company under Regulation 8701. LUMA states that it has filed the Request for Certification pursuant to the requirements established in Act 120-2018.³

II. Applicable Law, Regulation 8701 and Analysis

In addition to filing specific information pursuant to the requirements established by the Energy Bureau, Act 57-2014⁴ requires electric service companies⁵ to obtain a certification⁶ in order to provide services in Puerto Rico. Furthermore, specific to electric service companies that enter into a PREPA Transaction⁷ under Act 120-2018, 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

³ *Puerto Rico Electric Power System Transformation Act.*

⁴ *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) which establishes that the term "Certified" "Shall mean every electric power service company that has been evaluated and authorized by the Energy Bureau."

⁷ 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.



certification expires, as provided in this Section, it shall not be deemed to be a violation of any law or regulations.

As stated by LUMA in its Request for Certification, under the provisions of the OMA, LUMA will not provide electric services in Puerto Rico. Notwithstanding, Act 120-2018 requires that any entity that is a party to a contract related to a PREPA Transaction shall file a request for certification as an electric service company before the Energy Bureau, which shall be automatically approved once the application is filed. To that effect, such entity will be considered a *de jure* electric service company.

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. 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.

Although LUMA will not provide electric services in Puerto Rico, since Act 120-2018 requires it to submit a request for certification as an electric service company, LUMA must comply with the applicable requirements of Regulation 8701. Therefore, LUMA must comply with the provisions of Section 2.01 of Regulation 8701, related to the presentation of its personal information.

As part of the Personal Information, LUMA 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.

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

III. Evaluation of the Request

Upon review of the documents filed by LUMA, the Energy Bureau **DETERMINES** that the Request is complete. Pursuant to the provisions of Act 120-2018, the Request is considered automatically approved. As such, the Energy Bureau **CERTIFIES** LUMA as an Electric Service Company.



IV. Request for Confidential Designation

As part of its Personal Information, LUMA requested the Energy Bureau to treat the mobile telephone numbers of its officers as confidential information. LUMA 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.⁸ 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".⁹ 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."¹⁰

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

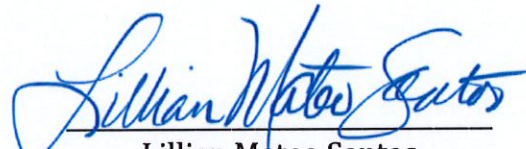
Be it notified and published.



Edison Avilés 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

⁸ Section 6.15 of Act 57-2014, as amended.

⁹ *Id.*


¹⁰ *Id.*



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 I. Cordero Morales
Clerk

