



SESA SOLAR AND ENERGY STORAGE
ASSOCIATION
OF PUERTO RICO

NEPR

Received:

Jan 15, 2021

10:59 PM

January 15, 2021

VIA EMAIL comments@energia.pr.gov

Hon. Edison Avilés Deliz
President,
Puerto Rico Energy Bureau

World Plaza Building
268 Ave. Muñoz Rivera
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Hato Rey, PR 00918

RE: Amendment to Regulation No. 8543, Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Procedures, NEPR-MI-2019-0018

Comes now SESA-PR, the Solar and Energy Storage Association of Puerto Rico, to comment on the captioned matter.

The Energy Bureau of the Puerto Rico Public Service Regulatory Board ("the Bureau"), under Act 57-2014, as amended, known as the Puerto Rico Energy Transformation and RELIEF Act, Act 147-2019, known as the Special Law on Expedited Administrative Procedures for Seniors, and Act 38-2017, as amended, known as the Uniform Administrative Procedures Act of the Government of Puerto Rico, proposes to amend Regulation No. 8543, Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Procedures.

On October 11, 2019, the Bureau published a proposed Amendment to Regulation No. 8543 ("Proposed Amendment") in order to temper certain provisions to organizational changes under the Reorganization Plan of the Public Service Regulatory Board of Puerto Rico and Act 211-2018 known as the Law for the Execution of the Reorganization Plan of the Puerto Rico Public Service Regulatory Board. In addition, the Proposed Amendment contained provisions to ensure that administrative procedures for seniors are completed within shorter periods of time. Subsequently, in light of certain amendments introduced to Act 38-2017, on December 16, 2020,

the Bureau published a Proposed Revised Amendment. This has the purpose of, among other matters, to temper regulations to the amendments introduced to Act 38-2017, "as well as to adopt more flexible regulations that guarantee easy access " to the Bureau.

SESA-PR actively participated at the public hearing held virtually on this matter on January 11, 2021.

General Comments

In general, SESA-PR reiterates its oral comments during the virtual hearing. SESA-PR supports the Bureau's fundamental objective of adopting "more flexible rules that guarantee easy access" to its processes, to "facilitate access to the administrative forum", and guarantee that the proceedings are conducted in a manner that's "fast, just, and economical".

SESA-PR also supports the comments of fellow stakeholder ICSE to set a liberal threshold of intervention for stakeholders during rate cases and complaints, and other administrative processes, as required by applicable law, specifically the pro-participatory mandates of Act 17.

Procedural Rulemaking Concerns

The current proposal, described as an "amendment" of Regulation No. 8543, is really a substantial overhaul whose final deliverable is a total a repeal of the current regulation (Article 1.18) and the enactment of a new one with the same name, but presumably different regulation number.

SESA-PR posits, as it did in the oral commentary, that in order for stakeholders to provide effective detailed feedback on regulatory proposals, easily accessible documents be provided that clearly show the specific changes proposed. The *Anejo A* shows a section-by-section comparison between existing rule & proposed rule, but not the text comparison. As SESA-PR mentioned in the hearing, a "track-changes" version that compares the text of the current rule with the exact language of what is being being proposed would be extremely helpful to all stakeholders, and would afford the Bureau with better, more in-depth commentary.

Also, PREB PDF files are normally non-searchable. A searchable-PDF version of the existing rule, for example, would not make Bureau incur in any additional costs, but would greatly alleviate the resources needed by stakeholders to effectively perform their functions in

administrative processes. Similarly, easily accessible written transcripts of all processes, searchable if possible, would enhance stakeholders' positive impact in proceedings. Perhaps the Bureau could spell out all these administrative (including rule making) best practices in an Order, after an engagement process to hear stakeholder's concerns and suggestions.

In regards to the current regulatory proposal, SESA-PR supports ICSE's suggestion that a new Article be added, clearly establishing that **all** documents filed at the Bureau's Office of the Clerk (*Secretaría*), as well as **all** documents housed and kept by the Clerk, and emitted and published by the Clerk, including Complaints, and other party documents, will be presumed public and will be available on the Internet page in PDF searchable format. Documents that according to the law or Bureau Order are not considered public must also be published, but in redacted versions, protecting any privileged information.

Concerns Regarding Ratemaking Language in Proposal

Rate Cases focus on utilities, and a utilities' lack of power to unilaterally spend resources without an independent regulator's approval. In that sense PREPA/LUMA should not be able to spend \$1 that is not forward-looking- pre-Approved by the Bureau, or backward-looking- subject to denial of recovery based on prudence review. In PREPA/LUMA's case that means all funds received by and spent by PREPA/LUMA - not only ratepayer funds, but also FEMA funds, CDBG funds and others.

However, Section 13.02 of the regulatory proposal focuses Bureau rate making power on electric service companies and third-party microgrids, as if they were PREPA/LUMA. SESA-PR supports ICSE's comments to the effect that the Bureau's regulatory rate-making powers and time focus on PREPA/LUMA.

Yours,

[signed]

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SESA-PR