

**GOVERNMENT OF PUERTO RICO
PUBLIC SERVICE REGULATORY BOARD
PUERTO RICO ENERGY COMMISSION**

**IN RE: REQUEST FOR CERTIFICATION
PUNTA LIMA WIND FARM, LLC**

CASE NO.: CEPR-CT-2016-0007

SUBJECT: Motion in Compliance with Resolution and Order Dated March 21, 2019, and Request for Confidential Treatment of Information.

RESOLUTION AND ORDER

I. Introduction

On March 21, 2019, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("March 21 Order") through which it determined that, based on the specific circumstances endured by Punta Lima Wind Farm, LLC ("Punta Lima") after the passing of the Hurricane María through Puerto Rico, Punta Lima had to submit specific information until it resumes operations. Specifically, the Energy Bureau ordered Punta Lima to present:

1. Regarding its operations, a document with the following operational information: (i) a list of permits (state and/or federal) required for the reconstruction of the project; (ii) a detailed description of the efforts made by Punta Lima to obtain the permits; and (iii) a schedule for the reconstruction of the project with estimated dates for each phase. An updated version of the schedule shall be submitted every two (2) months until the project resumes operations.
2. Regarding its finances, a duly notarized affidavit by its Chief Executive Officer stating that Punta Lima has generated no gross income (as defined in Regulation 8701¹) for the applicable fiscal year and detailing the sources from which the funds to rebuild the project will be acquired, as well as the anticipated or available funds. Also, Punta Lima must present to the Energy Bureau a certified copy of the tax returns filed during the period of cessation of operations.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 See Resolución y Orden, Informe de Ingresos Brutos y Estados Financieros y el Informe Operacional para el año 2019, Case No. CEPR-CT-2016-0007, March 21, 2019, p. 6.



After some procedural incidents, on May 22, 2020, Punta Lima filed before the Energy Bureau a document titled *Informative Motion and Request for Extension of Term* (“May 22 Motion”). Through its Motion, Punta Lima informs the Energy Bureau that, effective July 15, 2019 there was a change of ownership of the wind farm project.³ To that effect, Punta Lima submitted its updated Personal Information, under the requirements of Section 2.01 of Regulation 8701.

Additionally, Punta Lima stated that it recently retained new legal counsel “after discovering that the [Energy] Bureau had issued a Resolution and Order on March 21, 2019”.⁴ Punta Lima alleged that the current owner and officers did not have access to information previously submitted in response to the March 21 Order, if any. Therefore, Punta Lima requested the Energy Bureau to (i) provide a copy to Punta Lima of the information previously submitted in response to the March 21 Resolution and Order, if any, and (ii) grant an extension of thirty (30) days to comply with the March 21 Resolution and Order.

II. Motion in Compliance

On February 3, 2021, Punta Lima filed before the Energy Bureau a document titled *Motion in Compliance with Resolution and Order Dated March 21, 2019, and Request for Confidential Treatment of Information* (“Motion in Compliance”). As part of the Motion in Compliance, Punta Lima included Exhibits A through E, for which it requested confidential treatment.

Exhibit A contains the information related to Punta Lima’s operation. Regarding its finances, Punta Lima included (i) a sworn statement, attached as Exhibit B; (ii) a certified copy of the 2017 tax returns, attached as Exhibit C; (iii) a date-stamped tax return for the year 2018, attached as Exhibit D; and (iv) the e-filing form of the 2019 tax returns, attached as Exhibit E. Regarding the 2018 and 2019 tax returns, Punta Lima requests that the date-stamped 2018 tax return, and the e-filing of the 2019 tax returns be considered instead of a certified copy of said documents. Punta Lima alleges that the Covid-19 situation has made obtaining such certified tax returns very difficult.

Upon review of Punta Lima’s Motion in Compliance, the Energy Bureau **TAKES NOTICE** of the information contained. The Energy Bureau **ORDERS** Punta Lima to submit an updated version of the operational information in the Motion in Compliance **on or before April 3, 2021, and every two-months thereafter** until Punta Lima restarts its operations, as determined in the March 21 Order. The Energy Bureau determines that the May 22 Motion is **MOOT**.

³ Motion, pp. 1-2.

⁴ Motion, p. 2.



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The Energy Bureau **WARNS** that noncompliance with the Energy Bureau orders and Regulations is sufficient cause for imposing fines and other administrative penalties, under Act 57-2014⁵ and any regulations.

III. Request for Confidential Designation

Punta Lima requested confidential designation and treatment for the Exhibits included as part of the Motion in Compliance. Regarding Exhibit A, Punta Lima argued that the information contained therein contains confidential technical information of sensitive nature and not available to the public. Further, Punta Lima alleged that if disclosed, the information could be used by third parties in a detrimental manner against Punta Lima.

Regarding Exhibits B through E, Punta Lima argued that the financial information contained therein is confidential, of sensitive nature, and not available to the public. Also, Punta Lima states that the information related to its taxes and the reconstruction of the wind farm would place Punta Lima at a competitive disadvantage and can cause economic harm.

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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.⁶ Specifically, Act 57-2014 requires the Energy Bureau to confidentially treat the submitted information provided that “the Energy Bureau, after the appropriate evaluation, believes such information should be protected.”⁷ 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.”⁸

Upon examining Punta Lima’s arguments, the Energy Bureau **GRANTS** confidential designation and treatment to the Exhibits attached to the Motion in Compliance, under Article 6.15 of Act 57-2014.

Be it notified and published.

⁵ Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

⁶ Section 6.15 of Act 57-2014, as amended.

⁷ *Id.*

⁸ *Id.*





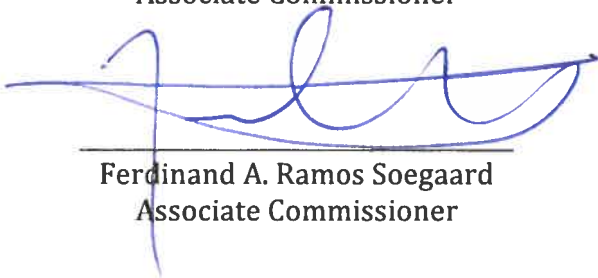
Edison Avilés Deliz
Chairman



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

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on March 25, 2021. I also certify that on March 26, 2021 a copy of this Resolution and Order was notified by electronic mail to the following: cfl@mcvpr.com and ivc@mcvpr.com. I also certify that today, March 26, 2021, I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, today, March 26, 2021.



Sonia Seda Gaztambide
Clerk