

**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: Order to Show Cause.**

**ORDER**

**I. Introduction and Procedural Background.**

LUMA Energy, LLC (“LUMA”) is a Limited Liability Company organized under the laws of Puerto Rico. LUMA, as well as LUMA Energy ServCo, LLC, was contracted to provide operations and maintenance services for the Puerto Rico Electric Power Authority’s (“PREPA”) transmission and distribution system, pursuant to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (“OMA”).<sup>1</sup> On November 4, 2020, the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) issued a Resolution<sup>2</sup> through which it certified LUMA as an Electric Service Company pursuant to the provisions of Regulation 8701.<sup>3</sup>

**II. Applicable Law and Analysis.**

Act 57-2014<sup>4</sup> requires all electric service companies<sup>5</sup> to obtain a certification<sup>6</sup> as

<sup>1</sup> 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.

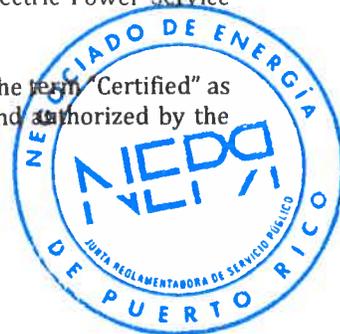
<sup>2</sup> See Resolution, Case No. NEPR-CT-2020-0008, November 4, 2020.

<sup>3</sup> *Amendment to Regulation No. 8618, on Certifications, Annual Fees and Operational Plans of Electric Service Companies in Puerto Rico*, Regulation 8701, February 17, 2016.

<sup>4</sup> Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

<sup>5</sup> 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.”

<sup>6</sup> 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].”



such, and to file certain information pursuant to the terms established by the Energy Bureau. Section 4.02 of Regulation 8701, as amended by Regulation 9182,<sup>7</sup> establishes the requirement for an electric service company to inform to the Energy Bureau their gross revenue. Specifically, Section 4.02(A) of Regulation 8701 establishes the following:

- 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 Annual Gross Revenue generated during each Natural Year, as well as the latest compiled or audited financial statements, if any, as is applicable in accordance with Subsections (E) and (F) of this Section. **For the following periods, electric service companies must inform their Annual Gross Revenue within a period of sixty (60) days following the conclusion each Natural Year.** (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."

The Energy Bureau has the power to impose penalties on electric service companies for violations of Act 57-2014, its regulations and orders.<sup>8</sup> 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

<sup>7</sup> Regulation 9182, Amendment to Regulation No. 8701, on Certification, Annual Fees and Operational Plans of Electric Service Companies in Puerto Rico, June 24, 2020.

<sup>8</sup> See Section 6.7(h) of Act 57-2014.



*[Handwritten signatures in blue ink, including 'Jm', 'M', 'S', and 'JA']*

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.
- (e) The Energy Bureau may resort to the pertinent forums to seek any remedy, including account garnishment, to ensure compliance with the penalties imposed.<sup>9</sup>

In accordance with the above-mentioned legal provisions, LUMA had to inform the information related to its gross revenue during the Natural Year 2020 on or before March 1, 2021. According to the administrative file, LUMA has not complied with the provisions of Regulation 8701 regarding the presentation of the gross revenues generated during Natural Year 2020.

### III. Conclusion.

Based on the above, the Energy Bureau **ORDERS** LUMA to, **within five (5) days**, from the notification date of this Order, (i) file its report on the gross revenue of the sales generated during Natural Year 2020 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** LUMA that non-compliance with Energy Bureau's orders and regulations may carry the imposition additional administrative fines.

<sup>9</sup> See Section 6.36 of Act 57-2014.



Be it notified and published.



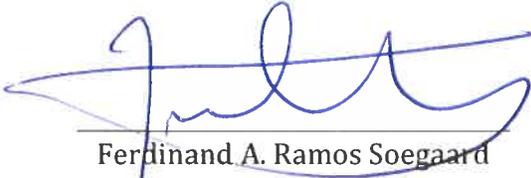
Edison Avilés Deliz  
Chairman



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

#### CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on March 31, 2021. I also certify that on April 5, 2021 a copy of this Resolution and Order was notified by electronic mail to the following: legal@lumamc.com; wayne.stensby@lumamc.com; mario.hurtado@lumamc.com; Ashley.engbloom@lumamc.com. I also certify that today, April 5, 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, April 5, 2021.



Sonia Seda Castañedo  
Clerk

