

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

ZOILA RIVERA BETANCOURT  
**PLAINTIFF**

vs.

SUNNOVA ENERGY CORPORATION  
**DEFENDANT**

**CASE NO.:** NEPR-QR-2021-0001

**SUBJECT:** Final Resolution and Order of Complaint of a Power Purchase Agreement.

**FINAL RESOLUTION AND ORDER**

**I. Introduction and Procedural Tract**

On December 30, 2020, the Plaintiff, Zoila Rivera Betancourt, filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") a complaint against Sunnova Energy Corporation ("Sunnova"), regarding controversies related to a Power Purchase Agreement ("PPA") agreed by the parties. The Plaintiff filed the complaint under Act 57-2014<sup>1</sup> and Regulation 8543<sup>2</sup>.

The Plaintiff argued that the photovoltaic panel system installed by Sunnova on her property was not generating the energy expected and that Sunnova had not provided the adequate maintenance to keep the system functioning properly. The Plaintiff requested that the Energy Bureau order Sunnova to repair the system installed in her property, among other related matters.

On January 28, 2021, Sunnova appeared through its legal representation and filed a motion titled *Motion for Dismissal*. Sunnova argued, that the dismissal proceeded because the PPA agreed by the parties contained a provision that obligated said parties to resolve disputes arising from the contract through a compulsory arbitration procedure. By said argument, Sunnova argued that the Energy Bureau lacked jurisdiction to resolve the complaint.

On March 11, 2021, the Plaintiff moved to oppose Sunnova's request for dismissal. The Plaintiff argued that Sunnova had not met the terms of the PPA regarding the maintenance of the equipment installed, which resulted in low production and a substantial increase in the cost of energy. The Plaintiff added that she had complied with the PPA until

<sup>1</sup> Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended ("Act 57-2014").

<sup>2</sup> Known as *Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Procedure*, December 18, 2014, as amended.



Handwritten blue ink signatures and initials on the left margin of the page.

she was left with no other option but to seek the Energy Bureau's legal recourse to help protect her interests.

On March 16, 2021, the Energy Bureau issued a Resolution and Order denying Sunnova's request for dismissal. Sunnova was granted a term of twenty (20) days to submit its response. Sunnova filed the corresponding *Answer to Complaint* on March 26, 2021.

On March 30, 2021, the Plaintiff moved to request the voluntary dismissal. Sunnova was granted fifteen (15) days to submit its response to the request for voluntary dismissal filed by the Plaintiff. Sunnova filed its response on April 12, 2021, stating that it had no objection to the Plaintiff's request for voluntary dismissal.

## II. Applicable Law and Analysis

Regarding the request of the Plaintiff, Section 4.03 (A)(2) of Regulation 8543 of the Energy Bureau states that "[p]etitioners may renounce their claim...[b]y stipulation, signed by all parties to the case, at any time during the proceedings. It also states that the "[v]oluntary dismissal shall be without prejudice unless the motion or stipulation states otherwise".

Upon examining a request for voluntary dismissal, the Supreme Court of Puerto Rico has stated that a court may allow the plaintiff to withdraw from a lawsuit "under the terms and conditions that it deems appropriate". Under this postulate, the Supreme Court has also expressed that the discretion of the sentencing forum to grant this voluntary dismissal is apparent.<sup>3</sup>

Before us, the Plaintiff has stated the desire to renounce its claim and Sunnova expressed that they have no objection to the request for voluntary dismissal. Therefore, considering that both parties agree that we should proceed with the dismissal, the request is granted. The dismissal is without prejudice since the parties did not request otherwise.

## III. Conclusion

For the reasons stated, and under the Findings of Fact and Conclusions of Law in Attachment A, the Energy Bureau **GRANTS** the request for voluntary dismissal of the Complaint and **ORDERS** the closing and filing without prejudice.

Any party adversely affected by this Final Resolution and Order may move for reconsideration before the Energy Bureau, under Section 11.01 of Regulation 8543 and the provisions of Act 38-2017, as amended, known as the Uniform Administrative Procedure Act of the Government of Puerto Rico ("LPAU", for its Spanish acronym). Said motion must be filed within twenty (20) days from the date in which copy of this Final Resolution and Order is notified and such notice is filed in the case docket by the Energy Bureau's Clerk. Any

<sup>3</sup> *Ramos Báez v. Bossolo López*, 143 D.P.R. 567, 571 (1997).

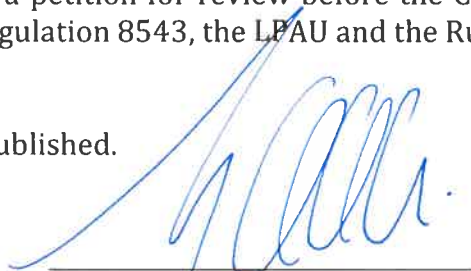


motion for reconsideration must be filed at the Energy Bureau Clerk's Office, at the World Plaza Building, 268 Muñoz Rivera Ave., San Juan, PR 00918. The motion for reconsideration can also be submitted using the electronic filing system of the Energy Bureau at the following address <https://radicacion.energia.pr.gov>. Copy of the motion as filed must be sent by email to all the parties notified of this Final Resolution and Order within the twenty (20) days established.

The Energy Bureau shall have fifteen (15) days from the date in which such motion is filed to consider it. If the Energy Bureau rejects it forthright or fails to consider it within the period of fifteen (15) days, the term to seek judicial review shall begin on the date in which the Energy Bureau notifies its rejection or the date in which said fifteen (15) days expire, whichever occurs first. If the Energy Bureau considers the motion, the term to seek judicial review shall commence from the date a copy of the notice of the Energy Bureau's resolution definitively resolving the motion for reconsideration is notified and copy of such notice is filed by the Energy Bureau Clerk. The Energy Bureau shall have ninety (90) days from the date the motion for reconsideration was filed to issue a final determination. If the Energy Bureau considers the motion for reconsideration but takes no action regarding such motion within ninety (90) days of its filing, it shall lose jurisdiction and the term to seek judicial review shall commence upon the expiration of the ninety (90) day term, unless the Energy Bureau, for just cause and within those ninety (90) days, extends the term to resolve for a period that shall not exceed thirty (30) days.

In the alternative, any affected party may file a petition for review before the Court of Appeals within a term of thirty (30) days from the date a copy of the notice of this Final Resolution and Order was notified and copy of such notice was filed by the Energy Bureau's Clerk. Filing and notice of a petition for review before the Court of Appeals shall be made under the provisions of Regulation 8543, the LPAU and the Rules of the Puerto Rico Court of Appeals.

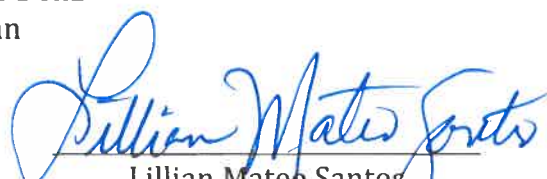
Be it notified and published.



Edison Avilés Deliz  
Chairman



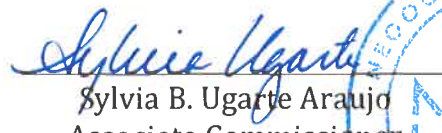
Angel R. Rivera de la Cruz  
Associate Commissioner



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 May 11, 2021. I also certify that on May 13, 2021 I have proceeded with the filing of this Final Resolution and Order in relation to the Case NEPR-QR-2021-0001 and a copy of this Resolution and Order was notified by electronic mail to: [ivc@mcvpr.com](mailto:ivc@mcvpr.com), [gnr@mcvpr.com](mailto:gnr@mcvpr.com), and [zoilariverabetancourt@gmail.com](mailto:zoilariverabetancourt@gmail.com). A copy was also sent to:

**Sunova Energy Corporation**  
McConnell Valdés LLC  
Lic. Germán A. Novoa Rodríguez  
Lic. Ignacio J. Vidal Cerra  
PO Box 364225  
San Juan, PR 00936-4225

**Zoila Rivera Betancourt**  
Barrio Islote  
2 Camino Los Delgado  
Arecibo, PR 00612

For the record, I sign this in San Juan, Puerto Rico, today May 13, 2021.

  
\_\_\_\_\_  
Sonia Seda Gaztambide  
Clerk



## ATTACHMENT A

### I. Findings of Fact

1. On December 30, 2020, Zoila Rivera Betancourt (“Plaintiff”) filed before the Energy Bureau a complaint against Sunnova under the provisions established in Act 57-2014 and Regulation 8543 of the bureau.
2. On March 30, 2021, the Plaintiff moved to request the voluntary dismissal.
3. On April 12, 2021, Sunnova moved to state that it had no objection to the Plaintiff’s request for voluntary dismissal.

### II. Conclusions of Law

1. Section 4.03 (A)(2) of Regulation 8543 of the Energy Bureau states that “[p]etitioners may renounce their claim...[b]y stipulation, signed by all parties to the case, at any time during the proceedings. It also states that the “[v]oluntary dismissal shall be without prejudice unless the motion or stipulation states otherwise”.
2. Upon examining a request for voluntary dismissal, the Supreme Court of Puerto Rico has stated that a court may allow the plaintiff to withdraw from a lawsuit “under the terms and conditions that it deems appropriate”. Under this postulate, the Supreme Court has also expressed that the discretion of the sentencing forum to grant this voluntary dismissal is apparent.
3. In this complaint, the Plaintiff stated the desire to renounce its claim and Sunnova expressed that they have no objection to the request for voluntary dismissal. Therefore, considering that both parties agree that we should proceed with the dismissal, the request is granted. The dismissal is without prejudice since the parties did not request otherwise.

