

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

**EDWARD A. GODOY ALTAMIRA  
PETITIONER**

**CASE NO.: NEPR-RV-2021-0006**

vs.

**PUERTO RICO ELECTRIC POWER  
AUTHORITY  
RESPONDENT**

**SUBJECT: Final Resolution and Order of  
Formal Revision of Electric Bill.**

**FINAL RESOLUTION AND ORDER**

**I. Introduction**

On January 15, 2021, the Petitioner, Edward A. Godoy Altamira, filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") a complaint against the Puerto Rico Electric Power Authority ("PREPA"), regarding the formal revision of an electric bill issued on October 5, 2020. The Petitioner filed the complaint in accordance with the provisions established in Act 57-2014<sup>1</sup> and Regulation 8543<sup>2</sup> of the Energy Bureau.<sup>3</sup> The complaint requested that PREPA be ordered to eliminate the charge of \$2,036.56 described as "Corrected Bill" in the October 5, 2020, bill or, that PREPA be ordered to provide a detailed breakdown of the charges that appear on the disputed bill.<sup>4</sup>

After multiple procedural incidents, on August 23, 2021, the Petitioner filed a *Motion for Summary Judgement*. The Petitioner argued, in short, that PREPA did not comply with multiples legal provisions imposed by Regulation 8863<sup>5</sup> of the Energy Bureau. The Petitioner argued that PREPA is prevented from collecting the objected-to electric bill.

On October 18, 2021, PREPA filed a motion to oppose the Petitioner's request for summary judgment. PREPA argued about the existence of controversies in substantial factual matters in the case that don't allow it to be resolve summarily.

On November 8, 2021, the Petitioner files a reply to the opposition to motion for summary judgement filed by PREPA. The Petitioner requested, among other arguments, that some of PREPA's exhibits presented to oppose the Petitioner's request for summary judgment be stricken as inadmissible evidence.

On December 15, 2021, an Argumentative Hearing was held to allow the parties to deliver oral arguments related to the Motion for Summary Judgement presented by the Petitioner, as well as the oppositions filed thereafter. After evaluating the testimonies and evidence presented during the Argumentative Hearing, as well as the entire record, the Energy Bureau is in a position to adjudicate the dispute in the proceeding.

<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.

<sup>3</sup> Because the Petitioner initiated the proceeding of caption as a summary proceeding, PREPA has not filed a written response to the complaint.

<sup>4</sup> See Complaint, p. 3.

<sup>5</sup> Known as *Regulation on the Procedure for Bill Review and Suspension of Electric Service Due to Failure to Pay*, November 23, 2016.



## II. Applicable Law and Analysis

Section 6.02 of Regulation 8563 of the Energy Bureau states that “[a]t any time after the period of twenty (20) days from the date on which respondent is duly served with summons, a petitioner may move for summary judgment based on sworn statements or evidence that demonstrates the nonexistence of a genuine controversy as to any material fact. The Commission may summarily dictate a final resolution in favor of petitioner on the totality of or any part of the claim.”

A Petitioner is entitled to summary judgment if “there is no genuine dispute as to any material fact and the Petitioner is entitled to judgment as a matter of law”.<sup>6</sup> “An issue is genuine if it can be resolved in favor of either party, and a fact is material if it has the potential of affecting the outcome of the case.”<sup>7</sup>

In the proceeding of caption, the following facts are undisputed:

1. The Petitioner received the Oct-5-2021 bill which contained a “Corrected Bill” amount of \$2,036.56 and a total amount due of \$2,073.90.
2. PREPA did not sent to the Petitioner a written notice of any calculation errors in the charges, including dates and specific amounts, regarding the “Corrected Bill” amount of \$2,036.56 contained in the Oct-5-2021 bill.
3. PREPA did not sent to the Petitioner a written notice regarding a calculation error in the charges offering him a payment plan of up to 24 months and describing his rights with respect to a payment.
4. The Petitioner’s meter is not visible to PREPA’s reader.

Section 3.03 of Regulation 8863 of the Energy Bureau states that:

[...]

The written notice regarding a calculation error in the charges that the Company sends a residential Customer shall include the following information:

1. An offer to the Customer of a reasonable payment plan, which shall have a maximum term of twenty-four (24) months during which the entire debt resulting from the calculation error in the charges must be paid in full.
2. ...
3. ...
4. ...
5. ...
6. Additionally, the Company shall include all the necessary information required to fully and opportunely file an objection to the calculation errors identified.

The provisions of this Section shall not be applicable to Bills issued based on estimates: (1) in those cases where those Customers who do not have digital meters keep their meters in places that are not visible to the personnel that takes readings; or (2) where force majeure events, such as hurricanes, among others, have occurred which prevent the reading of meters of any kind. **In these cases, the Electric Service Company must point out those adjustments in its notice of any calculation errors in the charges, including dates and specific amounts, that correspond to reading errors based on force majeure events or the fact that the meter was not visible to the personnel taking the reading.** (Emphasis supplied)

The before quoted rule is very clear in that, regardless of whether the Petitioner’s meter is accessible or not, he’s entitled to a written notice of any calculation errors in the charges, including dates and specific amounts, regarding the “Corrected Bill” amount of \$2,036.56

<sup>6</sup> Fed. R. Civ. P. 56(a).

<sup>7</sup> Tang v. Citizens Bank, N.A., 821 F.3d 206, 215 (1st Cir. 2016) (internal quotation marks omitted) (quoting Pérez-Cordero v. Wal-Mart P.R., Inc., 656 F.3d 19, 25 (1st Cir. 2011)).



contained in the Oct-5-2021 bill. He's also entitled to an offer of a payment plan of up to 24 months and a description of his rights with respect to the payment of those corrected charges.

As stated before, PREPA did not comply with those obligations. Specifically, PREPA did not send to the Petitioner a written notice of any calculation errors in the charges, including dates and specific amounts, regarding the "Corrected Bill" amount of \$2,036.56 contained in the October 5, 2021, bill; and did not send to the Petitioner a written notice regarding a calculation error in the charges offering him a payment plan of up to 24 months and describing his rights with respect to a payment. This caused the Petitioner to be in a defenseless state regarding his rights, that also prevented him from requesting specific legal remedies from the Energy Bureau.

It is hornbook law that "the notification requirement has, among others, the purpose of communicating to the parties the decision taken and the opportunity to determine whether or not they exercise the remedies available by law. Similarly, the term to exercise these rights does not begin to run if the entity breaches its obligation. However, the term will be subject to the doctrine of laches, that is, "carelessness or negligence in claiming a right, which together with the passage of time and other circumstances that cause damage to the adverse party, operates as an impediment in a court of equity".

The Petitioner has been diligent in the claims of his rights. He specifically requested in the claim presented before the Energy Bureau that PREPA be ordered to provide a detailed breakdown of the charges that appear on the disputed bill. Therefore, complying with all the steps of the informal administrative process before PREPA of the objected bill, the Petitioner's request should be granted, as opportunely requested.

### III. Conclusion

In accordance with the Findings of Fact and Conclusions of Law contained in Attachment A, the Energy Bureau **ORDERS** PREPA and/or LUMA Energy ServCo, LLC. ("LUMA") to provide the Petitioner with a detailed breakdown of the charges that appear as "Corrected Bill" in the October 5, 2020, bill in accordance with Section 3.03 of Regulation 8863 of the Energy Bureau.

Any party adversely affected by this Final Resolution and Order may file a motion for reconsideration before the Energy Bureau, pursuant to Section 11.01 of Regulation 8543 and the applicable 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 motion for reconsideration must be filed at the Energy Bureau Clerk's Office, located at the Seaborne Building, 268 Muñoz Rivera Ave., San Juan, PR 00918. 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 herein.

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 said 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 fails to take any action with respect to 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 said 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.





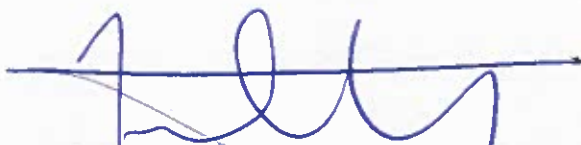
In the alternative, any affected party may file a petition for review before the Court of Appeals within a term of thirty (30) days from the date a copy of the notice of this Final Resolution and Order was notified and copy of such notice was filed by the Energy Bureau's Clerk. Filing and notice of a petition for review before the Court of Appeals shall be made pursuant to the applicable 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 March 17, 2022. I also certify that on March 21, 2022, I have proceeded with the filing of this Final Resolution and Order in relation to the Case NEPR-RV-2021-0006 and a copy of this Resolution and Order was notified by electronic mail to [adiaz@diazvaz.law](mailto:adiaz@diazvaz.law), [rgonzalez@diazvaz.law](mailto:rgonzalez@diazvaz.law), [egodoy@prtc.net](mailto:egodoy@prtc.net) and by regular mail to:

**PR ELECTRIC POWER AUTHORITY**  
**DÍAZ VÁZQUEZ LAW FIRM PSC**  
Lic. Arturo Díaz Angueira  
Lic. Rafael E. González Ramos  
PO Box 11689  
San Juan, PR 00922-1689

**EDWARD A. GODOY ALTAMIRA**  
7401 W. Washington Ave.  
Apt 2112  
Las Vegas, NV 89128-4316

For the record, I sign this in Juan, Puerto Rico, today, March 21, 2022.

  
Sonia Segá Gaztambide  
Clerk



## ATTACHMENT A

### I. Findings of Facts

1. On January 15, 2021, the Petitioner, Edward A. Godoy Altamira, filed before the Energy Bureau a complaint against PREPA to request, among other things, that PREPA be ordered to provide a detailed breakdown of the charges that appear as "Corrected Bill" in the Oct-5-2020 bill.
2. The Petitioner received the Oct-5-2021 bill which contained a "Corrected Bill" amount of \$2,036.56 and a total amount due of \$2,073.90.
3. PREPA did not sent to the Petitioner a written notice of any calculation errors in the charges, including dates and specific amounts, regarding the "Corrected Bill" amount of \$2,036.56 contained in the Oct-5-2021 bill.
4. PREPA did not sent to the Petitioner a written notice regarding a calculation error in the charges offering him a payment plan of up to 24 months and describing his rights with respect to a payment.
5. The Petitioner's meter is not visible to PREPA's readers.

### II. Conclusions of Law

1. Section 6.02 of Regulation 8563 of the Energy Bureau states that "[a]t any time after the period of twenty (20) days from the date on which respondent is duly served with summons, a petitioner may move for summary judgment based on sworn statements or evidence that demonstrates the nonexistence of a genuine controversy as to any material fact. The Commission may summarily dictate a final resolution in favor of petitioner on the totality of or any part of the claim."
2. A Petitioner is entitled to summary judgment if "there is no genuine dispute as to any material fact and the Petitioner is entitled to judgment as a matter of law". "An issue is genuine if it can be resolved in favor of either party, and a fact is material if it has the potential of affecting the outcome of the case."
3. Section 3.03 of Regulation 8863 of the Energy Bureau states that "regardless of whether the Petitioner's meter is accessible or not, he's entitled to a written notice of any calculation errors in the charges, including dates and specific amounts, regarding the "Corrected Bill" amount of \$2,036.56 contained in the Oct-5-2021 bill. He's also entitled to an offer of a payment plan of up to 24 months and a description of his rights with respect to the payment of those corrected charges.
4. PREPA did not comply with the obligations established in Section 3.03 of Regulation 8863 of the Energy Bureau. Specifically, PREPA did not send to the Petitioner a written notice of any calculation errors in the charges, including dates and specific amounts, regarding the "Corrected Bill" amount of \$2,036.56 contained in the Oct-5-2021 bill; and did not send to the Petitioner a written notice regarding a calculation error in the charges offering him a payment plan of up to 24 months and describing his rights with respect to a payment. This caused the Petitioner to be in a defenseless state regarding his rights, that also prevented him from requesting specific legal remedies from the Energy Bureau.
5. It is hornbook law that "the notification requirement has, among others, the purpose of communicating to the parties the decision taken and the opportunity to determine whether or not they exercise the remedies available by law. Similarly, the term to exercise these rights does not begin to run if the entity breaches its obligation. However, the term will be subject to the doctrine of laches, that is, "carelessness or negligence in claiming a right, which together with the passage of time and other circumstances that cause damage to the adverse party, operates as an impediment in a court of equity".



6. The Petitioner has been diligent in the claims of his rights. He specifically requested in the claim presented before the Energy Bureau that PREPA be ordered to provide a detailed breakdown of the charges that appear on the disputed bill. That after complying with all the steps of the informal revision before PREPA of the objected bill. Therefore, the Petitioner's request should be granted, as opportunedly requested.

