

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

IN RE: REQUEST FOR CERTIFICATION
AES ILUMINA, LLC.

CASE NO.: NEPR-CT-2016-0010

SUBJECT: Order to Show Cause.

ORDER

I. Introduction

On March 10, 2022 AES ILUMINA, LLC. ("AES Ilumina") filed the following documents before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau"):

- (1) *Form Operational Report Electric Power Companies* (Form NEPR-B03).
- (2) *Supplementary Sheet to 2021 Operational Report – Annexes, March 2022.*
- (3) *Form Gross Revenue and Financial Statement Report Electric Power Companies* (Form NEPR-B05)
- (4) *Payment D06222432843 Details.*

II. Applicable Law

Act 57-2014¹ requires all electric service companies² to obtain a certification³ and to file certain information under the terms established by the Energy Bureau. Section 4.02 of Regulation 8701⁴, as amended, establishes the requirement for an electric service company to inform to the Energy Bureau their gross revenue. Specifically, Sections 4.02(F), of Regulation 8701 establish the following:

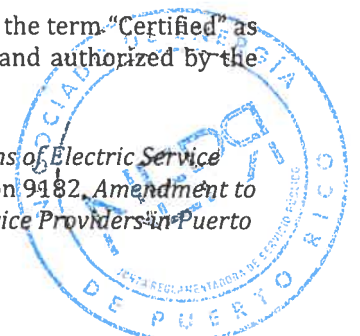
- F) When the Annual Gross Revenue of an Electric Power Company during a Calendar Year exceeds three million dollars (\$3,000,000.00), the gross revenue report must be signed by the Authorized Representative of the Electric Power Company. The signature of the authorized representative shall constitute a certificate under oath, under penalty of perjury, that such information is correct and complete. Likewise, the company must submit to the Energy Bureau a copy of the financial statements corresponding to the Fiscal Year, audited by an Authorized Public Accountant (CPA) authorized to practice said profession in Puerto Rico, or in any jurisdiction of the United States of America. **Such audited financial statements shall be submitted to the Energy Bureau within a term of one hundred and twenty (120) days, counted from the date on which the Electric Power Company's Fiscal Year ends.**

¹ Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

² 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."

³ 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]."

⁴ *Amendment to Regulation No. 8618, on Certifications, Annual Fees and Operational Plans of Electric Service Providers in Puerto Rico*, February 5, 2016. Regulation 8701 was amended by Regulation 9182, *Amendment to Regulation No. 8701, on Certifications, Annual Fees and Operational Plans of Electric Service Providers in Puerto Rico*, June 8, 2020.



[Handwritten signatures in blue ink]

The provisions of this paragraph shall apply to any successor to the Puerto Rico Electric Power Authority. (Emphasis supplied.)

Section 3.05 of Regulation 8701 empowers the Energy Bureau to 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.⁵ 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 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.⁶

AES Ilumina reported gross revenues of \$7,986,000.00 for the year 2021. AES Ilumina is subject to the requirements of Section 4.02(F) of Regulation 8701. AES Ilumina **has not** filed its audited financial statements for the fiscal year 2021, which due date⁷ was April 30th 2022. AES Ilumina **did not comply** with the requirements of Section 4.02(F) of Regulation 8701, as amended.

⁵ See Section 6.7(h) of Act 57-2014.

⁶ See Section 6.36 of Act 57-2014.

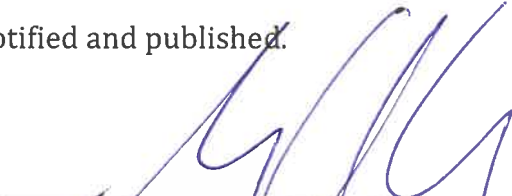
⁷ AES ILUMINA fiscal year ends on December 31st.



III. Conclusion.

The Energy Bureau **ORDERS** AES Ilumina to, **within five (5) days**, from the notification date of this Order, (i) file its audited financial statements; and (ii) show cause why the Energy Bureau should not impose an administrative fine of five hundred dollars (\$500.00) for its failure to comply with Act 57-2014 and Regulation 8701, as amended. The Energy Bureau **WARNS** AES Ilumina that non-compliance with Energy Bureau's orders and regulations may carry the imposition additional administrative fines.


Be it notified and published.




Edison Avilés Deliz
Chairman



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 June 10, 2022. Associate Commissioner Ángel R. Rivera de la Cruz did not intervene. I also certify that on June 13, 2022 a copy of this Order was notified by electronic mail to obed.santos@aes.com. I also certify that today, June 13, 2022, I have proceeded with the filing of the Order issued by the Puerto Rico Energy Bureau.

For the record, I sign this in San Juan, Puerto Rico, today June 13, 2022.



Sonia Seda Gaztambide
Clerk

