

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

IN RE: REQUEST FOR CERTIFICATION CEN
JUNCOS SOLAR, LLC

CASE NO.: NEPR-CT-2019-0003

ASUNTO: *Gross Income Reports and
Financial Statements*

RESOLUTION AND ORDER

I. Introduction

On March 1, 2022, CEN Juncos Solar, LLC (“CEN Juncos Solar”) filed before the Puerto Rico Energy Bureau (“Energy Bureau”) of the Puerto Rico Public Service Regulatory Board its *Gross Revenue and Financial Statements Report* (Form NEPR-B05) and a request for the confidential treatment of the financial documents filed.

On March 31, 2022, CEN Juncos Solar filed a request for an extension of time until April 30, 2022 to file its 2022 Operational Report. On April 28, 2022, CEN Juncos Solar filed the Operational Report for the Year 2022 and request these reports treated as confidential stating, among other things, that the disclosure of certain business information would have CEN Juncos Solar suffer economic harm and would place the company in a disadvantageous position before its competitors.

II. Applicable Laws and Regulations

A. Applicability of Act No. 57-2014

Act 57-2014¹ clearly establishes the Puerto Rico Energy Bureau (“Energy Bureau”) and defines its jurisdiction to intervene in matters that pertain the regulation and implementation under Government of Puerto Rico’s public policy regarding energy matters². The statute also establishes the obligation of all electric service companies to provide relevant information for regulating the electric industry as established by the Government of Puerto Rico’s energy policy³. In this instance, the statute provides as follows:

(a) **Every electric power service company shall submit** the following information to the Energy Commission, subject to the terms provided by the latter:

- (1) Plans that establish the parameters and goals of the company to meet the electricity needs of the Commonwealth of Puerto Rico within a reasonable period;
- (2) Future operating budgets during the time determined by the Commission through regulations;
- (3) Studies on service costs that show the relation between the current costs of the company and the income earned because of rates or charges;
- (4) Energy demand, efficiency, and/or conservation management plans and goals; load management programs and technologies; gas emission or environmental pollutants reduction; resource diversification; and use of renewable energy sources, as applicable;
- (5) Reliability reports on the system’s average frequency;

¹ *Puerto Rico Energy Transformation and RELIEF Act, May 27, 2014. Laws of P. R. Ann., tit. 22, §§ 1051 et seq.*

² *Id.*, Arts. 6.3, 6.4. Laws of P. R. Ann., tit. 22, §§ 1054 b, c.

³ *Id.*, Art. 6.22. Laws of P. R. Ann., tit. 22, §§ 1054 u.



(6) Reports describing applications for wheeling filed with PREPA and the results of the applications; and

(7) Any other specific information, data, document, or report that the Commission may deem necessary in the exercise of its duties, as applicable to the electric power company.

The statute further establishes the electric companies' obligation to pay an annual fee based on its gross income⁴.

In addition, Act No. 57-2014 establishes that any person having the obligation to submit information to the Energy Bureau, may request that any information deemed privileged or confidential be treated in such fashion⁵. Specifically, Act 57-2014 includes certain rules regarding confidentiality of the information and/or documents filed with the Bureau. The above-referred statute provides:

If any person who is required to submit information to the Energy Commission believes that the information to be submitted has any confidentiality privilege, such person may request the Commission to treat such information as such, subject to the following:

(a) If the Energy Commission, after the appropriate evaluation, believes such information should be protected, it 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.

(b) To such purposes, the Energy Commission shall provide access to the document or the privileged portion of the document only to the lawyers and external consultants involved in the administrative process after the execution of a confidentiality agreement.

(c) The Energy Commission shall keep the documents submitted for its consideration out of public reach only in exceptional cases. In these cases, the information shall be duly safeguarded and delivered exclusively to the personnel of the Energy Commission who needs to know such information under nondisclosure agreements. However, the Energy Commission shall direct that a non-confidential [*sic.*] copy be furnished for public review.

(d) The Energy Commission shall swiftly act on any privilege and confidentiality claim made by a person subject to its jurisdiction by means of a resolution to such purposes before any allegedly confidential information is disclosed.⁶

It is the Energy Bureau's obligation to treat as confidential the information submitted provided that "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.

⁴ *Id.*, Art. 6.16 -. Laws of P. R. Ann., tit. 22, §§ 1054 o.

⁵ Section 6.15 of Act 57-2014, *Rules of Confidentiality*.

⁶ *Id.*

⁷ *Id.* at (a).

⁸ *Id.*



B. Applicability of Regulation 9182

Regulation 9182⁹ provides the electric service companies' obligation to report its annual gross income as defined in the regulation. Regarding the term *gross income*, the Regulation states:

"... *gross income* refers to business volume generated by an electric service company as a result of providing electric service within the jurisdiction of Puerto Rico prior to any deduction for operational, administrative or any other kind of expense"¹⁰.

In addition, the Regulation requires from the electric service companies to submit financial statements according to their business volume¹¹. It is therefore an indispensable requirement for electric service companies to file their yearly gross income for determining the regulatory fee established by law.

The above-cited Regulation establishes that *[w]hen an electric service company's gross annual income during the calendar year is equal to or less than three million dollars (\$3,000,000.00), the annual gross income reports shall be signed by electric Service Company's authorized representative. The signing by the authorized representative will constitute a certification under oath, under penalty of perjury, that the information contained is correct and complete. In addition, the electric service company shall file before the Energy Bureau its financial statements for each fiscal year compiled by a Certified Public Accountant (CPA) authorized to practice this profession in Puerto Rico, or in any other jurisdiction of the United States. These compiled financial statements shall be filed with the Energy Bureau within one hundred and twenty (120) days starting from the date the electric service company ends its fiscal year. The provisions in this paragraph will apply to any successor of the Electric Power Authority.*¹²

Besides the above, CEN Juncos Solar has filed an obsolete form NEPR-B05 which makes reference to Section 4.02 (D) of Regulation 8701¹³. This provision was amended by Regulation 9182, assigning the applicable Section as 4.02 (E).

After reviewing the financial documents filed by CEN Juncos Solar, these do not comply with the provisions of Regulation 9182, and therefore should be amended or re-submitted.

III. Conclusion

The Energy Bureau **ORDERS** CEN Juncos Solar to file financial documents that comply with the requirements contained in the applicable Laws and Regulations within **five (5)** days from notice of this Resolution and Order and to file all documents regarding its business operation as required by Law and the applicable Regulations¹⁴.

Upon consideration of CEN Juncos Solar's to have the financial information and its Operating Reports submitted treated as confidential both are **GRANTED**.

CEN Juncos Solar is **ADVISED** that non-compliance with the Laws and Regulations under the jurisdiction of the Energy Board is cause for the imposition of fines and other administrative sanctions pursuant to Act 57-2014 and applicable regulations.

⁹ See note above.

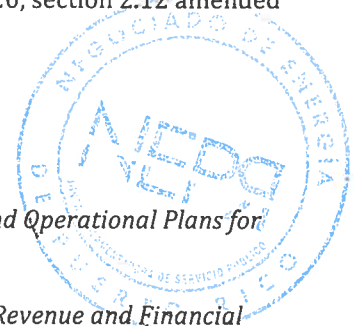
¹⁰ Regulation 9182 titled *Amendment to Regulation 8701, Regarding Certifications, Annual Fees and Operational Plans for Electric Service Companies in Puerto Rico* enacted June 24, 2020, section 2.12 amended section 4.01 of Regulation 8701.

¹¹ *Id.*

¹² *Id.* Section 4.02 (E).

¹³ Known as the *Amendment to Regulation No. 8618 on Certification, Annual Fees, and Operational Plans for Electric Service Companies in Puerto Rico*, enacted on February 17, 2016.

¹⁴ Must provide all information and documents required in Form NEPR-B05 *Gross Revenue and Financial Statements Report - Electric Power Companies*.



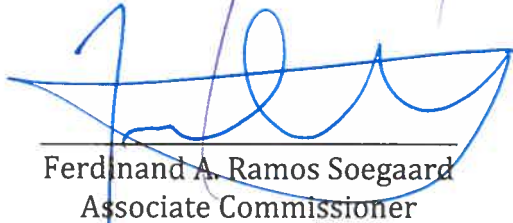
Be it notified and published.



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 8, 2022. Associate Commissioner Ángel R. Rivera de la Cruz did not intervene. I also certify that on June 13, 2022 a copy of this Resolution and Order was notified by electronic mail to the following: joaquin@cleanenergynexus.com; cfl@mcvpr.com and ivc@mcvpr.com. I also certify that today, June 13, 2022, I have proceeded with the filing of the Resolution and 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

