

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

IN RE: REQUEST FOR CERTIFICATION
LUMA Energy ServCo, LLC.

CASE NO.: NEPR-CT-2020-0007

SUBJECT: Order to Show Cause.

ORDER

I. Introduction and Procedural Background.

LUMA Energy ServCo, LLC (“LUMA SERVCO”) is a Limited Liability Company organized under the laws of Puerto Rico. LUMA SERVCO, as well as LUMA Energy, LLC, was contracted to provide operation and maintenance services for the Puerto Rico Electric Power Authority (“PREPA”) transmission and distribution system, pursuant to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (“OMA”).¹

On September 21, 2020 LUMA SERVCO filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) a Request for Certification as an Electric Service Company (“Request for Certification”).

On November 4, 2020 the Energy Bureau issued a Resolution² (“November 4 Resolution”) through which conditioned the certification of LUMA SERVCO as an Electric Service Company to (i) the presentation of evidence of submission of the Operational Report to the EPPP pursuant to Section 2.02(E) of Regulation 8701³ (ii) payment of the applicable fee for the submission of the Request for Certification, pursuant Section 3.07 of Regulation 8701.

On November 16, 2020 LUMA SERVCO filed all the data requested by the Energy Bureau in the November 4 Resolution.⁴

Finally, on November 20, 2020 the Energy Bureau stated LUMA SERVCO complied with the conditions established in the November 4 Resolution, and certified LUMA SERVCO as an Electric Service Company pursuant to the provisions of Regulation 8701.⁵

¹ 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.

² See Resolution, *In re: Request for Certification LUMA Energy ServCo, LLC*. Case No. NEPR-CT-2020-0007, November 4, 2020.

³ *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.

⁴ See Resolution, *In re: Request for Certification LUMA Energy ServCo, LLC*. Case No. NEPR-CT-2020-0007, November 20, 2020.

⁵ *Id.*



II. Applicable Law and Analysis.

Act 57-2014⁶ requires all electric service companies⁷ to obtain a certification⁸ as such, and to file certain information pursuant to the terms established by the Energy Bureau. Section 4.02 of Regulation 8701 establishes the requirement for an electric service company to inform to the Energy Bureau their gross revenue. Specifically, Sections 4.02(A) and 4.02(B) of Regulation 8701 establish 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.)
- B) Any Electric Service Company that has not been operating in Puerto Rico prior to the entry into force of these Regulations and to whom the Energy Bureau has issued a Certification, **must report its Annual Gross Income to the Energy Bureau within sixty (60) days after the end of the Calendar Year, starting in the year in which it has started its operations in Puerto Rico.** (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.⁹ 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

⁶ Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

⁷ 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."

⁸ 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]."

⁹ See Section 6.7(h) of Act 57-2014.



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).

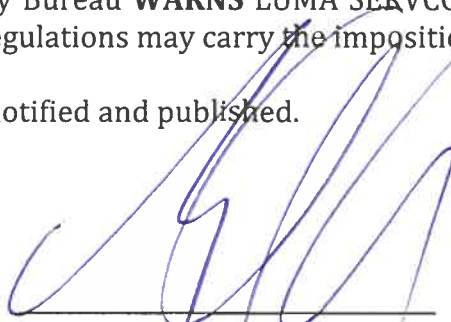
- (c) Any claim or cause of action authorized by law filed by any person with legal standing shall not affect the powers granted under this Section to impose administrative sanctions.
- (d) Any person who intentionally violates any provision of this Act, omits, disregards, or refuses to obey, observe, 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.¹⁰

Under the above-mentioned legal provisions, LUMA SERVCO had to inform its gross revenue during the Natural Year 2021 on or before March 1, 2022. According to the administrative file, LUMA SERVCO **has not complied** with the provisions of Regulation 8701 regarding the presentation of the gross revenues generated during Natural Year 2021.

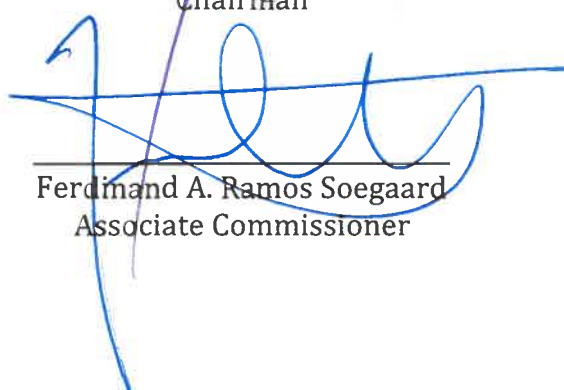
III. Conclusion.

The Energy Bureau **ORDERS** LUMA SERVCO to, **within five (5) days**, from the notification date of this Order, (i) file its report on the gross revenue generated during Natural Year 2021; and (ii) show cause why the Energy Bureau should not impose an administrative fine of five hundred dollars (\$500) for its failure to comply with Act 57-2014 and Regulation 8701. The Energy Bureau **WARNS** LUMA SERVCO 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



¹⁰ See Section 6.36 of Act 57-2014.

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. Also certify that on June 13 2022 I have proceeded with the filing of this Resolution and was notified by email to: legal@lumamc.com, wayne.stensby@lumamc.com, mario.hurtado@lumamc.com, Ashley.engbloom@lumamc.com.

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



Sonia Seda Gaztambide
Clerk

