

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

**IN RE:** REQUEST FOR CERTIFICATION  
PR SOLAR D1, LLC.

**CASE NO.:** NEPR-CT-2021-0002

**SUBJECT:** Order to Show Cause.

**ORDER**

**I. Introduction**

On March 23, 2021 PR Solar D1 LLC ("PR Solar") filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") a document titled *Motion to Submit Application for Certification and Related Documents and Request for Confidential Treatment*. Through the Motion, PR Solar presented the documents to comply with the requirements needed to be certified as and Electric Service Company pursuant to Regulation 8701.<sup>1</sup>

On April 22, 2021 the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution<sup>2</sup> through which conditioned the certification of PR Solar as an Electric Service Company to (i) the presentation of a copy of the Solar Power Purchase Agreement ("SPPA") entered between PR Solar and its Client, and (ii) the clarification of the aggregated capacity of the distributed generation system to be installed at the Client's facility in the municipality of Sabana Grande.

On May 18, 2021, PR Solar filed before the Energy Bureau a document titled *Motion in Compliance with Resolution* through which submitted the SPPA executed between PR Solar and its client and clarified that the final system's capacity may be modified from 1.7 MW AC based on the design and engineering process.

On June 30, 2021, the Energy Bureau issued a Resolution (June 30 Resolution) through which determined that PR Solar complied with the conditions established in the April 22 Resolution for its certification as an Electric Service Company.

**II. Applicable Law and Analysis.**

Act 57-2014<sup>3</sup> requires all electric service companies<sup>4</sup> to obtain a certification<sup>5</sup> and to file certain information under 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), (B), (E), (F) of

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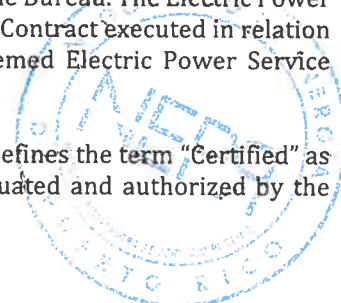
<sup>1</sup> *Amendment to Regulation No. 8618, on Certifications, Annual Fees and Operational Plans of Electric Service Providers in Puerto Rico*, February 5, 2016. Regulation 8701 was amended by Regulation 9182, *Amendment to Regulation No. 8701, on Certifications, Annual Fees and Operational Plans of Electric Service Providers in Puerto Rico*, June 8, 2020.

<sup>2</sup> See Resolution, *In re: Request for Certification PR Solar D1, LLC*, Case No. NEPR-CT-2021-0002, April 22, 2021.

<sup>3</sup> Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

<sup>4</sup> 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."

<sup>5</sup> 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]."



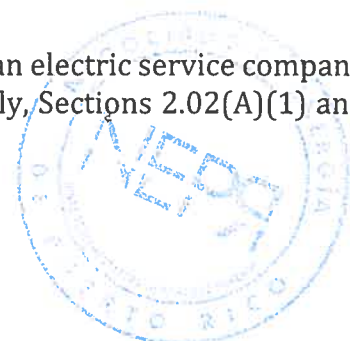
Regulation 8701 establish:

- 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.)

[...]

- E) When the Annual Gross Revenue of an Electric Service Company during a Calendar Year is equal to or less than three million dollars (\$3,000,000.00), the Annual Gross Revenue report must be signed by the authorized representative of the Electric Service Company. The signature of the authorized representative shall constitute a certificate under oath, under penalty of perjury, that such information is correct and complete. In addition, the Electric Utility Company shall submit to the Energy Bureau its financial statements for each Fiscal Year compiled by an Authorized Public Accountant (CPA) authorized to practice such profession in Puerto Rico, or in any jurisdiction of the United States of America. **Such compiled financial statements shall be submitted to the Energy Bureau within one hundred and twenty (120) days, counted from the date on which the Electric Service Company's Fiscal Year ends.** The provisions of this paragraph shall apply to any successor to the Puerto Rico Electric Power Authority. (Emphasis supplied.)
- 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.** The provisions of this paragraph shall apply to any successor to the Puerto Rico Electric Power Authority. (Emphasis supplied.)

Section 2.02 of Regulation 8701 establishes the requirement for an electric service company to file to the Energy Bureau their operational reports. Specifically, Sections 2.02(A)(1) and (D) of Regulation 8701 establish the following:



A) In accordance with the provisions of this Section, the following electric utilities shall submit to the Commission an Operational Report containing the following information:

- 1) Persons who offer power generation services for sale in Puerto Rico through distributed generators interconnected to the PREPA grid with an aggregate capacity of one megawatt (1 MW) or more, regardless of whether or not such distributed generators or the customers to whom the energy is sold are participating in PREPA's Net Metering Program; or

Persons who generate energy through the use of fossil fuels or renewable energy sources, with an aggregate capacity equal to or less than one hundred megawatts (100 MW), to sell it to PREPA or another electric service company under a power purchase agreement.

[...]

The electric service companies identified in this subsection (A)(1) **shall submit an Annual Operational Report**, in accordance with the provisions of this sub-paragraph and subsection (D) of this Section. (Emphasis supplied.)

[...]

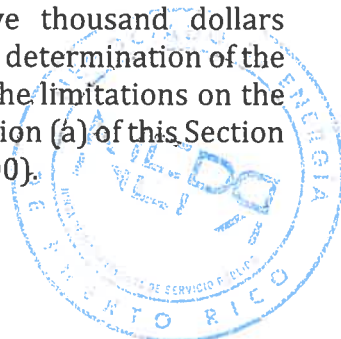
D) Notwithstanding the provisions of paragraph (A) of this Section regarding the frequency with which each class of electric service company must submit the Operational Report, it must be submitted to the Commission **on or before the month of March of the year** in which its filing corresponds. Likewise, the Commission may order any electric service company to submit at any time all or part of the information required in the Operational Report.

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.<sup>6</sup> 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).

<sup>6</sup> See Section 6.7(h) of Act 57-2014.



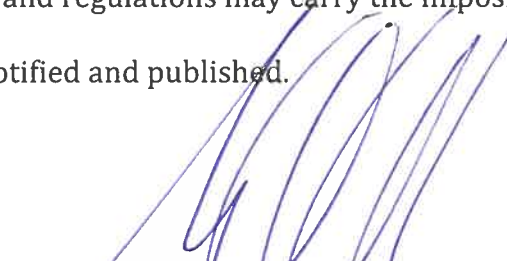
- (c) Any claim or cause of action authorized by law filed by any person with legal standing shall not affect the powers granted under this Section to impose administrative sanctions.
- (d) Any person who intentionally violates any provision of this Act, omits, disregards, or refuses to obey, observe, 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.<sup>7</sup>

Under the above-mentioned legal provisions, PR SOLAR had to inform its gross revenue during the Natural Year 2021 on or before March 1, 2022; had to file its financial statements on or before May 1, 2022;<sup>8</sup> and had to file its operational report on or before March 1, 2022. According to the administrative file, PR SOLAR **has not complied** with Sections 2.02 and 4.02 of Regulation 8701.

### III. Conclusion.

The Energy Bureau **ORDERS** PR SOLAR to, **within five (5) days**, from the notification date of this Order, (i) file its report on the gross revenue of the sales generated during Natural Year 2021 and its financial statements pursuant to the provisions of Section 4.02 of Regulation 8701; (ii) file its annual operational report pursuant the provisions of Section 2.02; and (iii) 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. The Energy Bureau **WARNS** PR SOLAR that non-compliance with Energy Bureau's orders and regulations may carry the imposition additional administrative fines.

Be it notified and published.

  
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Edison Avilés Deliz  
Chairman

  
\_\_\_\_\_  
Ferdinand A. Ramos Soegaard  
Associate Commissioner

  
\_\_\_\_\_  
Lillian Mateo Santos  
Associate Commissioner

  
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Sylvia B. Ugarte Araujo  
Associate Commissioner



<sup>7</sup> See Section 6.36 of Act 57-2014.

<sup>8</sup> 120 days after the end of its Fiscal Year. PR SOLAR Fiscal Year ends on December 31<sup>st</sup>.



## 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: [OrigisManagement@origisenergy.com](mailto:OrigisManagement@origisenergy.com); [alfredo.gracian@origisenergy.com](mailto:alfredo.gracian@origisenergy.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.

  
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Sonia Seda Gaztambide  
Clerk

