

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

IN RE: REQUEST FOR CERTIFICATION
SUNNOVA ENERGY CORPORATION

CASE NO.: CEPR-CT-2016-0002

SUBJECT: Gross Revenue, Financial
Statements and Annual Operational Reports

RESOLUTION AND ORDER

I. Procedural Background

On December 14, 2022, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("December 14 Resolution") ordering Sunnova Energy Corporation ("Sunnova Energy") to: i) submit a certification, within **three (3) days** of the notification of the December 14 Resolution, of the amount that corresponds to the gross revenues presented in the Financial Documents 2021 for **electrical services** of Sunnova Energy and its conglomerate of subsidiaries as required in Article 4 of Regulation 9182; ii) submit within **twenty (20) days** of the notification of the December 14 Resolution, a detailed explanation with supporting documents to sustain the gross revenue calculated for the electrical services provided as defined in Regulation 8701 and as amended by Regulation 9182 and is utilized by Sunnova Energy to estimate the regulatory fee as presented in Attachment A of the July 14 Motion for the years 2014 up to year 2020; and iii) to show cause within **five (5) days** of the notification of the December 14 Resolution stating the reasons why the Energy Bureau should not DENY the request for confidential treatment to the Financial Documents 2021 since such Financial Documents 2021 are publicly available at Puerto Rico Department of State.

On December 16, 2022, Sunnova Energy filed before the Energy Bureau a document titled *Request for Extension to Comply with Resolution and Order dated December 14, 2022, and for Confidential Treatment of Information ("December 16 Request")*. Sunnova Energy request that the Energy Bureau provide it with an additional thirty (30) days from the December 16 Request to comply with the December 14 Resolution.

Also, Sunnova Energy request that December 16 Request should be granted confidential treatment pursuant to Section 6.15 of Act No. 57-2014¹ and Section 1.15 of Regulation 8701.² Sunnova argues that the information for which they request protection is of confidential nature and has business sensitive information and that disclosing said information will place Sunnova Energy at a competitive disadvantage regarding other market participants and cause it economic harm.³

II. Analysis

A. Regulated Services

Act 57-2014 requires that every Electric Service Company obtain a certification to provide services in Puerto Rico, in addition to presenting specific information in accordance with the requirements established by the Energy Bureau. Regulation 8701 establishes the

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

² *Amendment to Regulation No. 8618 on Certification, Annual Fees, and Operational Plans for Electric Services Companies in Puerto Rico*, February 17, 2016 ("Regulation 8701").

³ December 16 Request, p. 4, ¶6.



requirements that any electric service company must comply with, to provide electric services in Puerto Rico.

Section 4.02 of Regulation 9182 specifies the electric service companies' duty to report their gross revenues. Specifically, Section 4.02(A) establishes:

"Every Electric Service Company under operations in Puerto Rico before the effective date of this Regulation must report, along with its Personal Report, pursuant to Section 2.01 of this Regulation, their Annual Gross Revenues received during each Natural Year, also their Financial Statements, compiled or audited, if any, as applicable under subsections (E) and (F)⁴ of this Section. For subsequent periods, each Electric Service Company must report their Annual Gross Revenues within sixty (60) days after the closing of the Natural Year".

Section 4.02(C) and (D) of Regulation 9182 establishes respectively:

"If any Electric Service Company owns one (1) or more subsidiaries that provides any service as defined in Section 1.08(A)(5)(c)⁵ of this Regulation, the parent Electric Service Company must identify in their Annual Gross Revenues report, the portion of their revenues corresponding to the revenues generated by each of the subsidiaries. The parent Electric Service Company is responsible for the total payment of the corresponding regulatory fee, based on the aggregate of its gross revenues and their subsidiaries.

Notwithstanding with the establishment of the previous paragraph, if the subsidiaries companies file before the Energy Bureau their respectively individual Annual Gross Revenues reports, the parent Electric Service Company, when filing before the Energy Bureau their Annual Gross Revenues, can deduct the Annual Gross Revenues of those subsidiaries' companies. In such instance, the Annual Gross Revenue to be filed by the parent Electric Service Company should be its gross revenue after deducting the corresponding Annual Gross Revenue for the subsidiaries Electric Service Companies that had filed their Annual Gross Revenue before the Energy Bureau".

B. Request for Confidential Designation

Act No. 57-2014 shows that any person having the duty to submit information to the Energy Bureau, may request that any information considered privileged or confidential be treated in such fashion⁶. Specifically, Act 57-2014 requires from the Energy Bureau to treat as confidential the information submitted provided that "after the appropriate evaluation,

⁴ Section 4.02(F) establishes that if the Annual Gross Revenues of an Electric Service Company during a Natural Year exceed three million (\$3,000,000.00) dollars, the Annual Gross Revenues Report must be signed by an authorized representative of the Electric Service Company. The signature of the authorized representative constitutes a sworn statement, under penalty of perjury, that such information is correct and complete. Likewise, the company must file before the Energy Bureau copy of the Financial Statements corresponding to the Fiscal Year, audited by an Authorized Public Accountant, authorized to practice its profession in Puerto Rico or in any jurisdiction of the United States of America. Such Audited Financial Statements must be filed before the Energy Bureau with one hundred and twenty (120) days from the date of the Electrical Service Company's Fiscal Year ending. This paragraph's disposition does not apply to any successor of the PR Electric Power Authority.

⁵ Section 1.08(A)(5)(c) classifies the definition of an Electric Service Company to any natural or juridical person, that provide any of the following services: (i) Generation of energy for selling it in Puerto Rico by means of distributed generators interconnected to the PREPA's grid with an aggregate capacity of one megawatt (1 MW) or more, independently that such distributed generators or the customers to whom the energy is sold are or not participating of the PREPA's Net Metering Program, (ii) Storage of energy, when at least one unit of storage has the nominal capacity of one megawatt (1 MW) or more, (iii) Billing of electric energy or (iv) Re-selling of electric energy.

⁶ Section 6.15 of Act 57-2014.



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.

Section 1.15 of Regulation 8543 establishes:

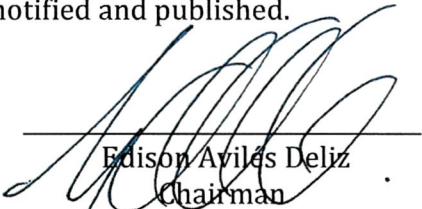
If in compliance with the provisions of this Regulation of any of the [Energy Bureau’s] orders, a person has the duty to disclose information to the Energy Bureau considered to be privileged, pursuant to the Rules of Evidence, said person shall identify the allegedly privilege information, request the [Energy Bureau] the protection of said information, and provide supportive arguments, in writing, for a claim of information of privileged nature. The [Energy Bureau] shall evaluate the petition and, if it understands the material merits protection, proceed according to what is set forth in Article 6.15 of Act 57-2014, as amended.

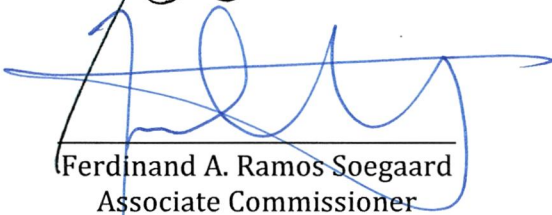
Upon examining Sunnova Energy arguments, pursuant to the provisions of Article 6.15 of Act 57-2014 the Energy Bureau **ORDERS** Sunnova to show cause within five (5) days of the notification of this Resolution and Order on why the energy Bureau should not DENY the request for confidential treatment to the December 16 Request since such document has no sensitive or financial information.

III. Conclusion

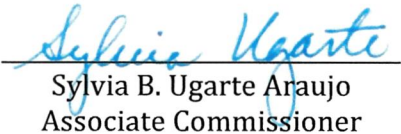
The Energy Bureau **DENIES** Sunnova Energy request for an extension of time of thirty (30) days and **Grants** Sunnova Energy **three business (3) days** from the date of the notification of this Resolution and Order, to submit the certification of the amount that corresponds to the gross revenues in the Financial Documents 2021 for **electrical services** of Sunnova Energy and its conglomerate of subsidiaries as required in Article 4 of Regulation 9182; **GRANTS** Sunnova Energy **thirty (30) days** from the December 16 Request to explain with supporting documents to sustain the gross revenue calculated for the electrical services provided as defined in Regulation 8701 and as amended by Regulation 9182 and is used by Sunnova Energy to estimate the regulatory fee as presented in Attachment A of the July 14 Motion for the years 2014 up to year 2020; and **ORDERS** Sunnova Energy to show cause within **five (5) days** of the notification of this Resolution and Order stating the reasons the Energy Bureau should not DENY the request for confidential treatment to: (i) the Financial Documents 2021 since such Financial Documents 2021 are publicly available at Puerto Rico Department of State and (ii) the December 16 Request, since such document does not contains any sensitive or financial information as presented.

Be it notified and published.


Edison Avilés Deliz
Chairman


Ferdinand A. Ramos Soegaard
Associate Commissioner


Lillian Mateo Santos
Associate Commissioner


Sylvia B. Ugarte Araujo
Associate Commissioner



⁷ Id. at Subsection (a).

⁸ Id.

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau agreed on December 21, 2022. Also certify that on December 21, 2022 I have proceeded with the filing of this Resolution and Order, and was notified by email to: tax@sunnova.com, ivc@mcvpr.com, cfl@mcvpr.com. Likewise, I certify that today I have sent, via regular mail a true and exact copy of the same to:

JEFF CLARK
SUNNOVA ENERGY CORPORATION
PO BOX 56229
HOUSTON, TX 77256-6229

For the record, signed in San Juan, Puerto Rico, today December 21, 2022.



Sonia Seda Gaztambide
Clerk

