

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

**IN RE:** Solicitud de Certificación Empire Gas Company, Inc.

**CASE NO.:** NEPR-CT-2020-0002

**SUBJECT:** Gross Revenue, Financial Statements and Operational Report Year 2022.

**ORDER TO SHOW CAUSE**

**I. Introduction**

On February 14, 2020, Empire Gas Company, Inc. ("EMPIRE GAS ") 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") pursuant to Regulation 8701.<sup>1</sup>

On June 25, 2020, the Energy Bureau issued a Resolution<sup>2</sup> ("June 25 Resolution") through which conditioned the certification of EMPIRE GAS as an Electric Service Company to (i) the presentation of a copy of the Power Purchase Agreement ("PPA") entered between EMPIRE GAS and its Client, and (ii) copy of the Data Sheets of the equipment used to provide the electrical services.

On July 1 and 2, 2020, EMPIRE GAS filed all the data requested by the Energy Bureau in the June 25 Resolution.<sup>3</sup> On November 4, 2020, the Energy Bureau stated that Empire Gas complied with all the requirements to be certified as an Electric Service Company.<sup>4</sup>

On February 28, 2023, EMPIRE GAS filed a Motion ("February 28 Motion") requesting ten (10) additional days to present its Operational Report for the Natural Year 2022.

On March 8<sup>th</sup>, 2023, EMPIRE GAS filed before the Energy Bureau its Operational Report for the Natural Year 2022.

**II. Applicable Law and Analysis.**

Act 57-2014 requires all electric service companies to obtain a certification 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.

**A. Gross Income and Financial Statements**

Specifically, Sections 4.02(A), (B), (E), (F) of Regulation 8701, as amended, establish the following:

<sup>1</sup> Amendment to Regulation No. 8618, on Certifications, Annual Fees and Operational Plans of Electric Service Providers in Puerto Rico, February 17, 2016 ("Regulation 8701"), as amended by Regulation No. 9182, Amendment to Regulation No. 8701, on Certifications, Annual Fees and Operational Plans of Electric Service Providers in Puerto Rico, June 24, 2020 ("Regulation 9182").

<sup>2</sup> See Resolución, *In re: Solicitud de Certificación Empire Gas Company, Inc.* Case No. NEPR-CT-2020-0002, June 25, 2020.

<sup>3</sup> See Resolución, *In re: Solicitud de Certificación Empire Gas Company, Inc.* Case No. NEPR-CT-2020-0002, November 4, 2020.

<sup>4</sup> *Id.*



- 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.)
- C) ...
- D) ...
- 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.)

Under the above-mentioned legal provisions, EMPIRE GAS had to inform its gross revenue during the Natural Year 2022 on or before March 1, 2023. According to the administrative record, EMPIRE GAS **has not filed** its gross revenue for Natural Year 2022. EMPIRE GAS **has not complied** with the requirements of Section 4.02 of Regulation 8701, as amended.





**B. Operational Report**

Section 2.02(A), (D) and (E) of Regulation 8701 establish the following:

- A) Pursuant to the provisions of this Section, the following electric service companies must file before the Commission an Operational Report that includes the information required below [...]

The electric service companies identified in this Subsection (A)(1) must file an Operational Report every year, as provided in this Subsection and in Subsection (D) of this Section.

[...]

- D) The provisions of Subsection (A) regarding the frequency with which every class of electric service company must file their Operational Report notwithstanding, said Report must be submitted before the Commission on or before the month of March of the year it is to be filed. Similarly, the Commission may order any electric service company to submit all or part of the information required in the Operational Report at any time.

- E) Electric service companies **shall refer** their Operational Report to the CEPPPO<sup>5</sup> for review and comments prior to submitting it to the Energy Commission. In submitting their Operational Reports before the Commission, electric service companies shall indicate whether they referred it to the CEPPPO for review and comments. (Emphasis supplied.)

Section 2.03 of Regulation 8701 establishes the following:

- A) All electric service companies **shall pay** the Energy Commission **the fees** established below upon submission of the following forms, documents, or information: (Emphasis supplied.)

[...]

2) Operational Report:

- a) Companies identified in Subsections (A)(1), (A)(3), and (A)(4) of Section 2.02 of this Regulation: **eight hundred dollars (\$800.00)**; (Emphasis supplied.)

According to the Administrative Record, EMPIRE GAS filed its Operational Report for the Natural Year 2022 on March 8<sup>th</sup> 2023 before the Energy Bureau, **but did not include** the payment fee of eight hundred dollars (\$800). EMPIRE GAS **did not refer** its Operational Report to the Energy Public Policy Program (EPPP) of the Department of Economic Development and Commerce. EMPIRE GAS **did not comply** with Sections 2.02(E) and 2.03(A)(2)(a) of Regulation 8701.

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:

<sup>5</sup> Now known as, the Energy Public Policy Program (EPPP) of the Department of Economics Development and Commerce.

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



- Handwritten: 7/14*
- (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).
- Handwritten: Lmr*
- (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.
- Handwritten: 2014*
- (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.
- Handwritten: 2014*
- (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, EMPIRE GAS had to inform its gross revenue during the Natural Year 2022 on or before March 1, 2023. EMPIRE GAS has not filed its gross revenue for Natural Year 2022. According to the administrative file, EMPIRE GAS **has not complied** with the requirements of Section 4.02 of Regulation 8701, as amended.

### III. Conclusion.

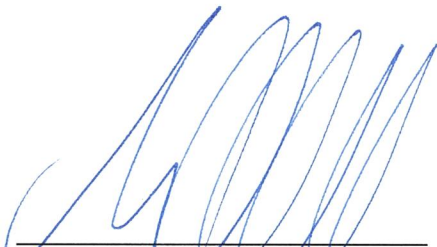
The Energy Bureau **ORDERS** EMPIRE GAS to, **within five (5) days**, from the notification date of this Order, (i) file its report on the gross revenue of the sales generated during Natural Year 2022 pursuant to the provisions of Section 4.02 of Regulation 8701 as amended; (ii) refer its Operational Report to the EPPP; (iii) pay the fee of eight hundred dollars (\$800) for the annual filing of the Operational Report; (iv) show cause why the Energy Bureau should not impose an administrative fine for its failure to comply with Act 57-2014 and Regulation 8701. The Energy Bureau **WARNS** EMPIRE GAS that non-compliance with Energy Bureau's orders and regulations may carry the imposition additional administrative fines.

Be it notified and published.

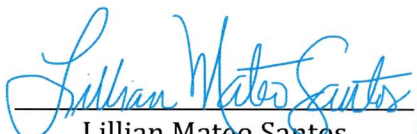
<sup>7</sup> See Section 6.36 of Act 57-2014.



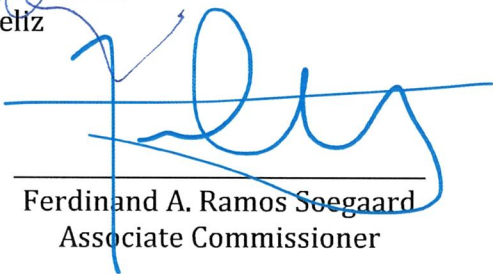




Edison Avilés Deliz  
Chairman



Lillian Mateo Santos  
Associate Commissioner



Ferdinand A. Ramos Soegaard  
Associate Commissioner



Sylvia B. Ugarte Araujo  
Associate Commissioner



Antonio Torres Miranda  
Associate Commissioner

**CERTIFICATION**

I certify that the majority of the members of the Puerto Rico Energy Bureau agreed on March 20, 2023. Also certify that on March 20, 2023 I have proceeded with the filing of this Order to Show Cause and was notified by email to: rgonzalez@empigaspr.com, manuelgabrielfernandez@gmail.com.

I sign this in San Juan, Puerto Rico, today, March 20, 2023.

  
Sonia Seda Gaztambide  
Clerk