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

IN RE: REQUEST FOR CERTIFICATION NEOL CHP, LLC.	**CASE NO.:** NEPR-CT-2021-0003 **SUBJECT:** Gross Revenue and Financial Statements Natural Year 2022.

ORDER TO SHOW CAUSE

I. Introduction

On October 26, 2021 the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution[1] through which it certified NEOL CHP, LLC. ("NEOL") as an Electric Service Company pursuant to Regulation 8701.[2]

II. Applicable Law and Analysis.

Act 57-2014[3] requires all electric service companies[4] to obtain a certification[5] and to file certain information under the terms established by the Energy Bureau. Section 4.02 of Regulation 8701, as amended, 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 Regulation 8701 establishes 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.)

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[1] See Resolution, *In re: Request for Certification NEOL CHP, LLC,* Case No. NEPR-CT-2021-0003, October 26, 2021.

[2] *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").

[3] Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

[4] 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."

[5] *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]."

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[...]

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 3.05 of Regulation 8701 empowers the Energy Bureau to 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.[6] 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, 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 amounts corresponding to the most recent taxable year shall be the fine.

[6] *See* Section 6.7(h) of Act 57-2014.

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(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).

(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.[7]

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

III. Conclusion.

The Energy Bureau **ORDERS** NEOL 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 and its financial statements pursuant to Section 4.02 of Regulation 8701, as amended; (ii) show cause why the Energy Bureau should not impose an administrative fine of five hundred ($500) for its failure to comply with Act 57-2014 and Regulation 8701. The Energy Bureau **WARNS** NEOL 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

Antonio Torres Miranda
Associate Commissioner

[7] *See* Section 6.36 of Act 57-2014.

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau agreed on March 29 2023. Also certify that on March 29 2023 I have proceeded with the filing of this Resolution and was notified by email to: pmatthews@enernetglobal.com.

I sign this in San Juan, Puerto Rico, today, March 29, 2023.

Sonia Seda Gaztambide
Clerk

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