

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

**IN RE:** PROJECT FOR HEWLETT-  
PACKARD INDUSTRIAL FACILITY

**CASE NO.:** NEPR-CT-2021-0004

**SUBJECT:** Certification as an Electric  
Service Company. Gross Revenue for the  
Natural Year 2022.

**ORDER TO SHOW CAUSE**

**I. Introduction**

On November 12, 2022 the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued<sup>1</sup> a Resolution and Order ("November 12 Resolution"). In the November 12 Resolution, the Energy Bureau order, among other things, Hewlett Packard Puerto Rico BV, LLC ("HP Puerto Rico") to amend its Request for Certification as an Electrical Service Company to reflect that it will also provide electric power billing services, in compliance with Section 3.03 (A)(1) of Regulation 8701<sup>2</sup>.

On December 2, 2022, HP Puerto Rico filed an amended Request for Certification as an Electric Service Company (Form NEPR-B04). In the Part A, Line 2 (*Type of Electric Services*) of Form NEPR-B04, HP Puerto Rico applied under the following categories:

- ☒ Distributed Generators with aggregated capacity of one (1) MW or more.
- ☒ Energy Storage.
- ☒ Electric Power Billing.

On December 30, 2022, the Energy Bureau issued<sup>3</sup> a Resolution and Order ("December 30 Resolution") through which certified HP Puerto Rico as an Electric Service Company<sup>4</sup> pursuant to Regulation 8701, subject to the following conditions:

- (1) HP Puerto Rico must submit its amended Operational Report to the Energy Public Policy Program of the DEDC<sup>5</sup> for review and comments and provide evidence of such submittal to the Energy Bureau.
- (2) HP Puerto Rico must submit any comments the DEDC's comments on its amended Operational Report to the Energy Bureau.

<sup>1</sup> See, *In Re: Project for Hewlett-Packard Industrial Facility*, Docket No. NEPR-CT-2021-0004, Resolution and Order, November 12, 2022. ("November 12 Resolution")

<sup>2</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>3</sup> See, *In Re: Project for Hewlett-Packard Industrial Facility*, Docket No. NEPR-CT-2021-0004, Resolution and Order, December 30, 2022. ("December 30 Resolution")

<sup>4</sup> Section 1.3(l) of Act 57-2014 defines the term "Energy Company" or "Electric Service Company" as "any person or entity, natural or legal, energy cooperative, dedicated to offering generation services, transmission and distribution, billing, energy wheeling, network services ("grid services"), energy storage, resale of electricity, as well as any other electrical service as defined by the Bureau. The Electric Power Authority or its successor, as well as any Contractor under an Alliance Contract or Sales Contract granted in relation to PREPA Transactions entered into by virtue of Act 120-2018, shall be considered as Electric Service Companies for the purposes of this Law".

<sup>5</sup> Department of Economic Development and Commerce.



On December 30, 2022, HP Puerto Rico filed before the Energy Bureau the evidence of the Operational Report's submittal to the DEDC.

The DEDC has not commented about the amended Operational Report of HP Puerto Rico.

HP Puerto Rico developed a Combined Heat and Power Project ("CHP Plant") to supply electric power to one of its affiliates, Hewlett Packard Caribe BV, LLC ("HP Caribe") in Aguadilla, PR. HP Puerto Rico affirms it has entered into an Energy Services and Power Purchase Agreement with HP Caribe, after an arms-length negotiation between the parties ("PPA").<sup>6</sup>

## II. Applicable Law and Analysis

Act 57-2014<sup>7</sup> requires all electric service companies to obtain a certification<sup>8</sup> and to file certain information under the terms established by the Energy Bureau. Sections 2.01, 2.02, 2.03, 3.03 and 4.02 of Regulation 8701 establish the requirements each electric service company must comply.

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.<sup>9</sup>

### A. Gross Income and Financial Statements

Specifically, Sections 4.02(A), (B), (E), (F) of Regulation 8701, as amended, 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.)

C) ...

<sup>6</sup> See, May 11, 2021 Letter, Docket No. NEPR-CT-2021-0004.

<sup>7</sup> Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

<sup>8</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]."

<sup>9</sup> See Section 6.7(h) of Act 57-2014.





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, HP Puerto Rico had to inform its gross revenue during the Natural Year 2022 on or before March 1, 2023. According to the administrative record, HP Puerto Rico **has not filed** its gross revenue for Natural Year 2022. HP Puerto Rico **has not complied** with the requirements of Section 4.02 of Regulation 8701, as amended.

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.<sup>10</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

<sup>10</sup> See Section 6.7(h) of Act 57-2014.



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).
- (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>11</sup>

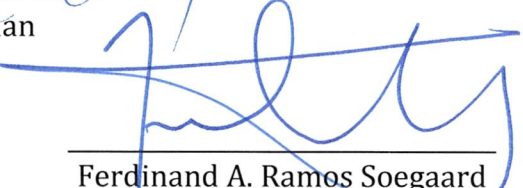
### III. Conclusion


The Energy Bureau **ORDERS** HP Puerto Rico 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 Section 4.02 of Regulation 8701 as amended; and (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** HP Puerto Rico 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

<sup>11</sup> 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 March 29, 2023. I also certify that on March 29, 2023 a copy of this Resolution was notified by electronic mail to mfernandez@pmalaw.com and ecruz@pmalaw.com; and I have proceeded with the filing of the Resolution issued by the Puerto Rico Energy Bureau.

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

  
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Sonia Seda Gaztambide  
Clerk

