

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

IN RE: REQUEST FOR CERTIFICATION
SAN FERMIN SOLAR FARM, LLC.

CASE NO.: CEPR-CT-2016-0012

SUBJECT: Operational Report Year 2022.

ORDER TO SHOW CAUSE

I. Introduction

On June 2, 2016, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution¹ through which it certified SAN FERMIN SOLAR FARM, LLC. ("SAN FERMIN") as an electric service company² pursuant to Regulation 8701.³

SAN FERMIN owns a solar photovoltaic generation project ("Project") with aggregate capacity of 20 MW.

II. Applicable Law and Analysis.

Act 57-2014⁴ requires all electric service companies to obtain a certification⁵ and to file certain information under the terms established by the Energy Bureau.

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 establishes 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

¹ See *Certificación de Compañía de Servicio Eléctrico, In re: Solicitud de Certificación San Fermin Solar Farm, LLC.*, Caso Núm. CEPR-CT-2016-0003, 2 de junio de 2016.

² 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."

³ *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").

⁴ Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

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]."



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 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.
- (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 cases 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

⁶ See Section 6.7(h) of Act 57-2014.



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.

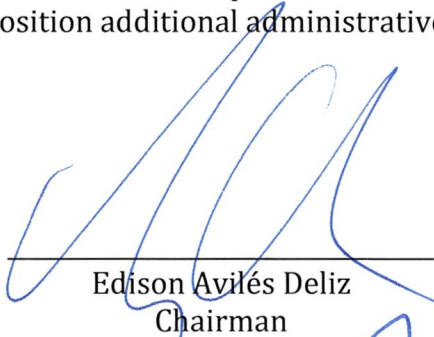
- (e) The Energy Bureau may resort to the pertinent forums to seek any remedy, including account garnishment, to ensure compliance with the penalties imposed.⁷


Pursuant to the above-mentioned legal provisions, SAN FERMIN had to file its operational report for the year 2022 on or before March 31, 2023. According to the administrative record, SAN FERMIN **did not file** its operational report. SAN FERMIN **has not complied** with Section 2.02 of Regulation 8701.

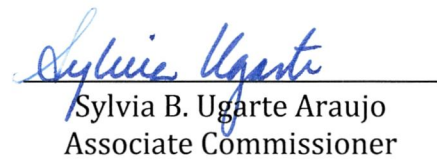
III. Conclusion.

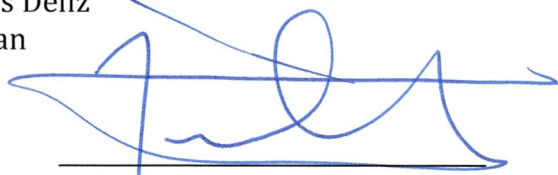
The Energy Bureau **ORDERS** SAN FERMIN to, **within five (5) days**, from the notification date of this Order, (i) file its annual operational report pursuant Section 2.02; and (ii) show cause why the Energy Bureau should not impose an administrative fine of five hundred dollars (\$500) for its failure to comply with Act 57-2014 and Regulation 8701. The Energy Bureau **WARNS** SAN FERMIN 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


Sylvia B. Ugarte Araujo
Associate Commissioner


Ferdinand A. Ramos Soegaard
Associate Commissioner


Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau agreed on May 5 2023. Also certify that in May 5 2023. I have proceeded with the filing of this Order to Show Cause and was notified by email to: rbullock@camstex.com.

I sign this in San Juan, Puerto Rico, today, May 5, 2023.


Sonia Seda Gaztambide
Clerk



⁷ See Section 6.36 of Act 57-2014.