

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

IN RE: REQUEST FOR CERTIFICATION
SUNE WMT PR2, LLC.

CASE NO.: CEPR-CT-2016-0015

SUBJECT: Gross Revenue, Financial Statements, and Operational Report Natural Year 2022. Administrative Fine Determination.

RESOLUTION AND ORDER

I. Introduction

On June 19th 2016, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") certified SUNE WMT PR2, LLC. ("SUNE PR2") as an electric service company¹ pursuant to Regulation 8701.²

On March 29, 2023, Energy Bureau issued an Order to Show Cause ("March 29 Order"), through which it order SUNE PR2 to within five (5) days, from the notification date, (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 dollars (\$500) for its failure to comply with Act 57-2014³ and Regulation 8701.

SUNE PR2 is the owner of multiple solar photovoltaic generation projects with aggregated capacity of 1.139 MW. SUNE PR2 has Power Purchase Agreements (PPAs) with several private clients.

II. Applicable Law and Analysis.

Act 57-2014 requires all electric service companies to obtain a certification⁴ and to file certain information under the terms established by the Energy Bureau.

A. Compliance with March 29 Order (Gross Revenue and Financial Statements)

The Due Date to comply with the March 29 Order was April 3, 2023. According to the administrative record, SUNE PR2 **has not filed** its report on the gross revenue of the sales generated during Natural Year 2022; and **has not shown** good cause why the Energy Bureau should not impose an administrative fine.

¹ 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."

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 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]."



The Energy Bureau **DETERMINES** that SUNE PR2 **has not complied** with the March 29 Order.

B. Operational Report

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

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.⁵ 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.

⁵ See Section 6.7(h) of Act 57-2014.



- (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 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.⁶

Under the above-mentioned legal provisions, SUNE PR2 had to file its operational report for the year 2022 on or before March 31, 2023. According to the administrative record, SUNE PR2 **did not file** its operational report. SUNE PR2 **did not comply** with Section 2.02 of Regulation 8701.

III. Conclusion.

The Energy Bureau **DETERMINES** that SUNE PR2 has not complied with the March 29 Order. Accordingly, pursuant to Act 57-2014, the Energy Bureau **IMPOSES** upon SUNE PR2 a fine of five hundred dollars (\$500). The Energy Bureau **ORDERS** SUNE PR2 to, **within five (5) days** of the notification of this Resolution and Order, (i) pay the fine with the Energy Bureau's Clerk; (ii) file its report on the gross revenue of the sales generated during Natural Year 2022; (iii) file its annual operational report pursuant Section 2.02 of Regulation 8701; and (iv) show cause why the Energy Bureau should not impose an administrative fine of five hundred dollars (\$500) for its failure to file the annual operational report. The Energy Bureau **WARNS** SUNE PR2 that non-compliance with Energy Bureau's orders and regulations may carry the imposition additional administrative fines.

Be it notified and published.




⁶ See Section 6.36 of Act 57-2014.



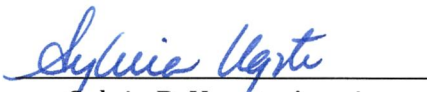
Edison Avilés Deliz
Chairman



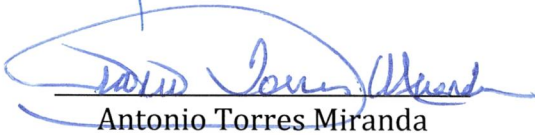
Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner



Sylvia B. Ugarte Araujo
Associate Commissioner



Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on May 5, 2023. I also certify that on May 5, 2023 a copy of this Resolution and Order was notified by electronic mail to: meghan.semiao@longroadenergy.com, ivc@mcvpr.com. I also certify that today, May 5, 2023, I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau.

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



Sonia Seda Gaztambide
Clerk

