

**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: Determination of HP Puerto Rico April 3 Motion and Compiled Financial Statements.

ORDER TO SHOW CAUSE

I. Introduction

Hewlett Packard Puerto Rico BV, LLC ("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, Puerto Rico. HP Puerto Rico entered into and Energy Services and Power Purchase Agreement ("PPA") with HP Caribe.¹

On November 12, 2022, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") certified² HP Puerto Rico as an electric service company.³

On March 29, 2023, the Energy Bureau issued an Order to Show Cause ("March 29 Order"), through which ordered Hewlett Packard Puerto Rico BV, LLC ("HP Puerto Rico") to, within five (5) days from the notification of the Order, (i) file its report on the gross revenue of the sales generated during Natural Year 2022 pursuant to Section 4.02 of Regulation 8701⁴ as amended; and (ii) show cause why the Energy Bureau should not impose an administrative fine of five hundred (\$500.00) for its failure to comply with Act 57-2014⁵ and Regulation 8701.

On April 3, 2023, HP Puerto Rico filed a letter with subject "NEPR-CT-2021-0004 – Response to Order to Show Cause", ("April 3 Letter") with the following attachments; and (i) *Exhibit A, Certificate, Annual Gross Revenue Certificate* ("Gross Revenue Certificate"), and (b) *Exhibit 1, Revised Certificate, Annual Gross Revenue Certificate* ("Revised Gross Revenue Certificate")

II. Applicable Law and Analysis

Act 57-2014 requires all electric service companies 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.

¹ See, *In re: Project for Hewlett-Packard Industrial Facility*, Case No.: NEPR-CT-2021-0004, Letter filed by Hewlett-Packard on May 11, 2021.

² 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]."

³ See, Resolution and Order, *In re: Project for Hewlett-Packard Industrial Facility*, Case No.: NEPR-CT-2021-0004, issued on November 12, 2022.

⁴ 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").

⁵ Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended ("Act 57-2014").



The Energy Bureau has the power to impose penalties on electric service companies for violations of Act 57-2014, its regulations, and orders.⁶ 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."

Under Section 6.36 of Act 57-2014, the Energy Bureau has the power to impose these penalties:

- 7AB
- OM
- SM
- (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).
 - (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

A. Compliance with March 29 Order

In the April 3 Motion, HP Puerto Rico (i) filed its report on the gross revenue of the sales generated during Natural Year 2022; and (ii) presented its justification of why the Energy Bureau should not impose an administrative fine of five hundred dollars (\$500.00) for its failure to comply with Act 57-2014 and Regulation 8701. HP Puerto Rico argued that since HP Puerto Rico has been conditionally authorized to operate

⁶ See Section 6.7(h) of Act 57-2014.

⁷ See Section 6.36 of Act 57-2014.



pending the Energy Bureau's review of some documents⁸, HP Puerto Rico was under the uncertainty of any modification that the Energy Bureau will require for their certification and/or operations and the uncertainty of the periodic period to be filed the reports.

The Energy Bureau **ACKNOWLEDGES** the information filed by HP Puerto Rico and **DETERMINES** it complies with the March 29 Order.

B. Compiled Financial Statements

Sections 4.02(E) of Regulation 8701, as amended, establish the following:

- 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.)

HP Puerto Rico had to file its financial statements for the Fiscal Year ended on October 31, 2022 **on or before** February 28, 2023. Such financial statements shall be 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. According to the administrative record, HP Puerto Rico has not filed its compiled Financial Statements for the Fiscal Year ended on October 31, 2022, compiled by a CPA authorized to practice such profession in Puerto Rico, or in any jurisdiction of the United States of America. The Energy Bureau **DETERMINES** that HP Puerto Rico has not complied with the requirements of Section 4.02(E) of Regulation 8701, as amended.

III. Conclusion

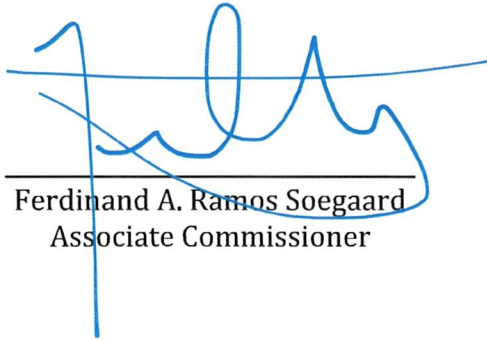
The Energy Bureau **ORDERS** HP Puerto Rico to, within five (5) days, from the notification date of this Order, (i) file its financial statements for the Fiscal Year ended on October 31, 2022 compiled by an authorized CPA pursuant to Section 4.02(E) of Regulation 8701 as amended; and (ii) show cause why the Energy Bureau should not impose an administrative fine of five hundred dollars (\$500.00) for its failure to comply with Act 57-2014 and Section 4.02(E) of 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.




⁸ See Resolution and Order, *In re: Project for Hewlett-Packard Industrial Facility*, Case No.: NEPR-CT-2021-0004, issued on December 30, 2022. 4



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 23, 2023. Chairman Edison Avilés Deliz and Associate Commissioner Lillian Mateo Santos did not intervene. I also certify that on May 23, 2023, a copy of this Order to Show Cause was notified by electronic mail to mfernandez@pmalaw.com and ecruz@pmalaw.com; and I have proceeded with the filing of the Order to Show Cause issued by the Puerto Rico Energy Bureau.

For the record, I sign this in San Juan, Puerto Rico, on May 23, 2023.



Sonia Seda Gaztambide
Clerk

