

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

IN RE: REQUEST FOR CERTIFICATION
GASNA 18P, LLC.

CASE NO.: CEPR-CT-2016-0008

SUBJECT: Motion in Compliance with the
May 10 Order.

RESOLUTION AND ORDER

I. Introduction and Background

On March 20, 2023, Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued an Order to Show Cause ("March 20 Order"), in which it ordered GASNA 18P LLC ("GASNA"), within five (5) days, from the notification date of the March 20 Order, to (i) file its report on the gross revenue of the sales generated during Natural Year 2022 pursuant to the provisions of Section 4.02 of Regulation 8701¹; and (ii) show cause why the Energy Bureau should not impose an administrative fine of five hundred (\$500) dollars for its failure to comply with Act 57-2014² and Regulation 8701.

On April 3, 2023, GASNA filed a Letter ("April 3 Letter") with the following attachments: (i) Copy of a paycheck no. 12496 for eight hundred dollars (\$800); (ii) Evidence of the referral of the Operational Report to the Public Energy Policy Program ("PEPP"); (iii) *Operational Report Electric Power Companies* (Form NEPR-B03); and (iv) *GASNA 18P Anejos Informe Operacional*; (collectively, "Attachments").

On April 11, 2023, the Energy Bureau's Clerk notified GASNA to inform that the March 20 Order was notified to the previous GASNA legal representatives, as a result of an unintentional error. The Order was notified again to the updated GASNA legal representatives. A term of five days was granted to answer the March 20 Order. The due date to comply with the March 20 Order was modified to April 16, 2023.

On May 10, 2023, the Energy Bureau issued a Resolution and Order ("May 10 Order") in which among other things, imposed upon GASNA an administrative fine in the amount of five hundred dollars (\$500) for its failure to comply with Act 57-2014 and Regulation 8701; and ordered GASNA to, within five (5) days of the notification date of the May 10 Order, to (i) pay the aforementioned fine with the Energy Bureau's Clerk; and (ii) file its report on the gross revenue of the sales generated during Natural Year 2022.

On May 15, 2023, GASNA filed a document titled *Motion in Compliance with Order* ("May 15 Motion"). In the May 15 Motion, GASNA attached two documents: (i) *Gross Revenue and Financial Statement Report Electrical Power Companies (Form NEPR-B05)*; and (ii) *ANNEX 1 Income Statement as of December 31, 2022*.

In the May 15 Motion, GASNA requests the PREB waive the administrative fine of five hundred (\$500) imposed by the May 10 Order. In its justification, GASNA alleges that, among other things: (i) Failure to file the report "*was due to unexpected operational issues which delay the accounting process of compiling the corresponding financial information and, consequently, preparing and completing the report*"³; (ii) "[...] *neither undersigned counsel nor other GASNA representatives received the March 20 Order nor the April 11 Order. As such,*

¹ 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").

² Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

³ May 15 Motion, p.2, ¶5.



Gasna was unaware of the requirements made by PREB therein, the term granted to comply with such requirements and the penalty imposed for noncompliance”⁴.

II. Applicable Law and Analysis

Act 57-2014 requires all electric service companies to obtain a certification⁵ and to file certain information under the terms established by the Energy Bureau.

Regulation 8701 establishes the requirements that any electric service company must comply with to provide electric services in Puerto Rico.

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.”

A. Compliance with the May 10 Order

Through the May 15 Motion, GASNA filed its report on the gross revenue of the sales generated during Natural Year 2022 as required by the May 10 Order.

GASNA did not pay the five hundred dollars (\$500) administrative fine imposed by the Energy Bureau. Instead, GASNA requested the Energy Bureau to waive the administrative fine and presented the justification described in Part I of this Resolution and Order. In its justification GASNA did not explain why it is not receiving the Energy Bureau notifications and did not explain the measures it has taken to correct or prevent this issue. According to the administrative record, on September 1, 2022, GASNA updated its *Personal Information Form* (Form NEPR-B01) to designate Johan Torres as the new person in charge of receiving the Energy Bureau’s notifications and changing the email address from fortiz@reichardescalera.com to jtorres@reichardescalera.com. As an Energy Bureau courtesy gesture, the May 10 Order was also sent to GASNA representatives Juan C. Mendez (jcmendez@reichardescalera.com) and Viviana Currais (vcurrais@reichardescalera.com). The Energy Bureau notes that the previous and updated legal representatives are part of the same law firm. The law firm should take measures to ensure that a change of its attorneys does not impact legal notifications.

The Energy Bureau **DETERMINES** that GASNA’s justification does not persuade the Energy Bureau to cancel the imposed fee of five hundred dollars (\$500). Therefore, GASNA’s is once again **ORDERED** to pay the fine imposed in the May 10 Order.

B. Personal Information Update

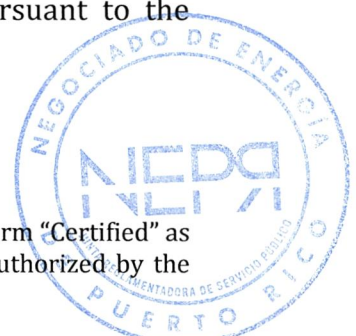
Section 2.01(D) of Regulation 8701 establishes the following:

Should there be any change in the information that an electric service company has submitted to the Energy Commission pursuant to this Section, said electric service company must alert the Commission of the referred change and submit the updated information within a period of ten (10) days following the occurrence of the change.

If GASNA designated a new person in charge of receiving the Energy Bureau’s notifications, it **shall file** an *Updated Personal Information Form* (Form NEPR-B01) pursuant to the requirements of Section 2.01(D).

⁴ May 15 Motion, p.2, ¶6.

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].”



C. 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.)

GASNA filed a copy of its unaudited Financial Statements. GASNA **did not file** evidence its Financial Statements were compiled by a CPA authorized to practice such profession in Puerto Rico, or in any jurisdiction of the United States of America. GASNA **did not comply** with the requirements of Section 4.02(E) of Regulation 8701. GASNA **shall file** the Financial Statements for the year ending December 31, 2022, compiled by a CPA authorized to practice such profession in Puerto Rico, or in any jurisdiction of the United States of America.

III. Conclusion

The Energy Bureau evaluated the documents filed by GASNA and found several deficiencies. The deficiencies are described in Part II of this Resolution and Order.

The Energy Bureau **DETERMINES** GASNA partially complied with the May 10 Order. The Energy Bureau **ORDERS** GASNA, **within five (5) days** of the notification of this Resolution and Order, to (i) pay the five hundred dollars (\$500) of the aforementioned fine with the Energy Bureau's Clerk;; (ii) update its Personal Information (Form NEPR-B01) if needed; and (iii) file its compiled Financial Statements for the year ended December 31, 2022, compiled by a CPA authorized to practice such profession in Puerto Rico, or in any jurisdiction of the United States of America.

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



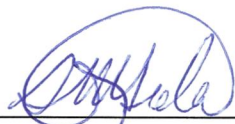
Antonio Torres Miranda
Associate Commissioner



CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on June 16, 2023. I also certify that on June 21, 2023 a copy of this Resolution and Order was notified by electronic mail to: jtorres@reichardescalera.com; jcmendez@reichardescalera.com; vcurrais@reichardescalera.com I also certify that today, June 21, 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, June 21, 2023.



Sonia Seda Gaztambide
Clerk

