

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

IN RE: REQUEST FOR CERTIFICATION
SUNEDISON PUERTO RICO, LLC.

CASE NO.: CEPR-CT-2016-0014

SUBJECT: March 31 Motion.

RESOLUTION

I. Introduction and Background

On March 31, 2023, SunEdison Puerto Rico, LLC ("SunEdison") filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") a *Motion to Request Confidential Treatment of 2023 Operational Report and Other Remedies* ("March 31 Motion") and the attached documents: (i) *Operational Report Electric Power Companies* (Form NEPR-B03) and (ii) *2023 Operational Report Annexes* ("Annexes"), (collectively "Confidential Documents")

In the March 31 Motion, SunEdison argues the information for which they requested protection is of confidential nature and is not publicly available, therefore its public dissemination will place SunEdison at a competitive disadvantage with respect to other market participants and cause SunEdison economic harm.¹

In the March 31 Motion, SunEdison also requests the Energy Bureau to waive the fee payment of eight hundred dollars (\$800) for the filing of its Operational Report, pursuant Section 2.03(B) of Regulation 8701², alleging, among other things (i) it has been out of operation since June of 2021, (ii) did not generate revenues during fiscal year 2022, (iii) has not generated revenues during the present fiscal year.³

II. Applicable Law and Analysis

Act 57-2014⁴ requires every *electric service company*⁵ obtain a certification⁶ to provide services in Puerto Rico, besides presenting specific information under the requirements 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.

¹ March 31 Motion, p. 4, ¶7.

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 See also, *IN RE: REQUEST FOR CERTIFICATION SUNEDISON PUERTO RICO, LLC*, Case No. CEPR-CT-2016-0014, Energy Bureau Resolution, April 17, 2023 ("April 17 Resolution").

⁴ Known as the *Transformation and Energetic RELIEF Act of Puerto Rico*, as amended ("Act 57-2014")

⁵ 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".

⁶ See Section 6.13 of Act 57-2104. Also see, Section 1.3(h) of Act 57-2014, which define "Certified" as "any electric service company which have been evaluated and authorized by the Energy Bureau."



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A. 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.

Section 2.03(A)(2) establishes the fees every electric service company shall pay upon the submission of its Operational Report.

Section 2.03(B) of Regulation 8701 establishes the following:

- B) In cases where, pursuant to the provisions of Subsection (D) of Section 2.02 of this Regulation, the Commission orders an electric service company to submit information to the Commission and said company believes that the payment of the amount corresponding to the fee for the submission of the Operational Report would be onerous, the company in question may request that the Commission waive the requirement to pay the fee for the submission of the Operational Report. In such cases, the company must file, together with the information required by the Commission, a motion wherein it sets forth the facts and explains the legal basis that justifies said waiver of payment.

SunEdison requested the Energy Bureau to waive the fee payment of eight hundred dollars (\$800) for the filing of its Operational Report and justified its request as described in Part I of this Resolution. Upon the examination of the arguments presented in the March 31 Motion and other data of confidential nature previously submitted⁷, the Energy Bureau **WAIVES** the payment of eight hundred dollars (\$800) fee for the filing of its year 2023 Operational Report.

III. Confidential Treatment

Act No. 57-2014 establishes that any person having the obligation to submit information to the Energy Bureau, may request that any information deemed privileged or confidential be treated in such fashion⁸. Specifically, Act 57-2014 requires from the Energy Bureau to treat as confidential the information submitted provided that "after the appropriate evaluation, believes such information should be protected"⁹. In such case, "the Energy Bureau shall grant such protection in a manner that least affects the public interest, transparency, and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted"¹⁰.

SunEdison requested Confidential Treatment for the Confidential Documents described in Part I of this Resolution.

The Energy Bureau **DETERMINES** SunEdison's request complied with the requirements of Article 6.15 of Act 57-14 and Section 1.15 of Regulation 8701.

IV. Conclusion

Upon a thorough examination of the arguments brought forth by SunEdison, the Energy Bureau (i) **GRANTS** confidential designation and treatment to Confidential Documents described in Part I, under Article 6.15 of Act 57-2014 and Section 1.15 of Regulation 8701; (ii) **WAIVES** the payment of eight hundred dollars (\$800) fee for the filing of its year 2023 Operational Report.

⁷ For more details, see April 17 Resolution.

⁸ Section 6.15 of Act 57-2014, *Rules of Confidentiality*. See also, Section 1.15 of Regulation 8701.

⁹ *Id.* at (a).

¹⁰ *Id.*



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 certify that the majority of the members of the Puerto Rico Energy Bureau agreed on June 27 2023. Also certify that on June 30 2023 I have proceeded with the filing of this Resolution and was notified by email to: kedgar@tortoiseadvisors.com , ivc@mcvpr.com . Likewise, I certify that today I have sent a true and exact copy of the same to:

KATELYN EDGAR
SUNEDISON PUERTO RICO, LLC
5100 W 115TH PLACE
LEAWOOD, KS 66211

For the record, signed in San Juan, Puerto Rico, today June 30 2023.



Sonia Seda Gaztambide
Clerk

