

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

**IN RE:** REQUEST FOR CERTIFICATION  
ENEL X ARECIBO, LLC

**CASE NO.:** NEPR-CT-2023-0006

**SUBJECT:** Request for Certification

**RESOLUTION AND ORDER**

**I. Introduction**

On November 28, 2023, ENEL X ARECIBO, LLC ("ENEL X") filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") the following documents (collectively "Nov 28 Motion"):

- (i) *Request for Certification Electric Power Companies – Form NEPR-B04* ("Request for Certification")
- (ii) *Certification of filing of Personal Information Form and Payment of Filing Fees* ("Request for Certification Form Annex")
- (iii) *Motion to Request Confidential Treatment* ("Nov 28 Motion")
- (iv) *Personal Information Electric Power Companies – Form NEPR-B01* ("Personal Information Form")
- (v) *Copy of State of Delaware, Certificate of Formation [...]* ("Certificate of Formation")
- (vi) *Copy of Certificate of Good Standing, Department of State [...]* ("Certificate of Good Standing")
- (vii) *Copy of Certificate of Authorization to do Business of a Foreign Corporation* ("Certificate of Authorization to do Business")
- (viii) *Copy of Certificate of Existence, Department of State [...]* ("Certificate of Existence")
- (ix) *Operational Report Electric Power Companies – Form NEPR-B03* ("Operational Report Form")
- (x) *Enel X Arecibo LLC, 2023 Operational Report Annexes* ("Operational Report Annexes")
- (xi) *Oriental Bank ACH Transaction Details 11/28/2023* ("Evidence for Payment of Filing Fees")

In the Nov 28 Motion, ENEL X requests the information presented in all the filed documents be kept confidential, alleging this information is of sensitive nature, it is not available to the public, and its disclosure would place ENEL X at a competitive disadvantage and cause it economic harm.<sup>1</sup>

- (i) On December 19, 2023, ENEL X filed a document title *Amended Request for Certification* ("December 19 Motion"). Through the December 19 Motion, ENEL X included as attachments: *Request for Certification Electric Power Companies – Form NEPR-B04* ("Amended Request for Certification")
- (ii) *Certification of Filing of Personal Information Form and Payment of Filing Fees*
- (iii) *Oriental Bank ACH Transaction Details 12/19/2023* ("Evidence of Payment of Filing Fees")

ENEL X also included a *Motion to Request Confidential Treatment* ("Confidential Treatment Request") for all the documents filed on December 19, 2023, with the same arguments presented in the Nov 28 Motion.

<sup>1</sup> See Nov 28 Motion, p.3, ¶5.



## II. Applicable Law and Analysis

Act 57-2014<sup>2</sup> requires all electric service companies<sup>3</sup> to obtain a certification<sup>4</sup> and to file certain information under the terms established by the Energy Bureau.

Sections 2.01 and 3.03 of Regulation 8701<sup>5</sup> describe the information that every electric service company that intends to offer services in Puerto Rico, must submit with its Request for Certification<sup>6</sup>.

Section 2.02 of Regulation 8701 establishes the requirement for an electric service company to file within the Energy Bureau their operational reports.

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 Act 57-2014, as amended, or this Regulation."

### A. Personal Information

In Part A of Form NEPR-B01, ENEL X provides the dates for the beginning and the end of its Fiscal Year.

In Part D of Form NEPR-B01, ENEL X provides the name and contact data of the person authorized to receive notifications and the designated contact before the Energy Bureau.

In Part G of Form NEPR-B01, ENEL X provides the name of the Shareholders or Owners of the company.

The Energy Bureau **TAKES NOTICE** of all the data presented by ENEL X on Form NEPR-B01.

### B. Amended Request for Certification

In Part A of Form NEPR-B04, ENEL X provides (i) the type of electric service, (ii) the amount of aggregated capacity and (iii) the type of energy source.

In Part B, Line 1 (page 2), ENEL X specified the title or legal business it possesses as *Solar Power Purchase and Energy Storage Agreement*. ENEL X did not check the category *Energy Storage* in Line 2 of Part A, and it did not provide information about the total capacity (in MW) of its energy storage units. ENEL X **shall** (i) clarify if it will provide Energy Storage services; (ii) review and amend again its Request for Certification to include the Energy Storage services, if applicable.

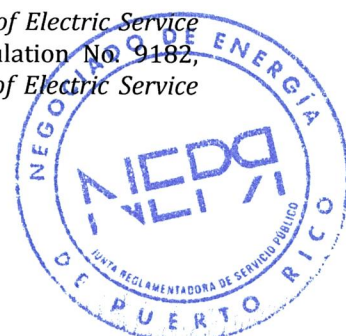
<sup>2</sup> Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

<sup>3</sup> 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."

<sup>4</sup> 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]."

<sup>5</sup> *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").

<sup>6</sup> As defined in Regulation 8701.





In Part B, Line 1, ENEL X provides the location of its facility.

ENEL X did not include the following information in its Request for Certification:

- (i) Statement certified by a Certified Public Accountant that attests minimum financial resources of the company (Section 3.03 (A)(3)).
- (ii) Statement affirming the sufficiency of the company's human resources (Section 3.03 (A)(4)).
- (iii) Copy of permits, authorizations and endorsements obtained to operate, do business, and provide services in Puerto Rico (Section 3.03 (A)(5)).
- (iv) A certification stating that the company has obtained all necessary permits, from the proper public entities, for the construction of new facilities (Section 3.03 (B)(1)(b)).
- (v) A certification that attests that the company has the financial capacity and solvency to finance the construction and operation of new or under renovation facilities (Section 3.03 (B)(1)(b)).
- (vi) Description of technical specifications of units and equipment, among others, used for the provision of the service (Section 3.03 (B)(1)(c)).
- (vii) Number of installed systems installed capacity and number of clients by electric service region (Section 3.03 (B)(2)(b)).
- (viii) List of equipment used for the provision of services (Section 3.03 (B)(2)(c)).

The Energy Bureau **DETERMINES** ENEL X did not comply with the applicable requirements of Sections 3.03(A) and (B) of Regulation 8701.

*C. Operational Report*

In the Operational Report Form, Part A, Line 2, ENEL X checked the type of electric service, which is not consistent with the data provided in its Request for Certification (Form NEPR-B04), Parts A and B. ENEL **shall** review and correct its Operational Report Form, Part A, Line 2.

In Part B of the Operational Report Form, ENEL X indicates it did not refer its Operational Report to the Energy Public Policy Program ("EPPP") of the Department of Economic Development and Commerce and ("DEDC"); and it did not explain the reasons. ENEL X **shall refer** its Operational Report to the EPPP as required by Section 2.02(E) of Regulation 8701 or explain the reasons for not having made said referral.

*D. Payment of Filing Fees*

ENEL X filed two documents titled *Completed ACH Transaction Details* from the Oriental Bank as evidence for the payment of filing fees for its Request for Certification and the Amended Request for Certification, filing of Personal Information, and filing of the Operational Report.

The Energy Bureau **DETERMINES** ENEL X **complied** with filing fee requirements of Section 2.02 and Section 3.07(a) of Regulation 8701. Additional payments will be required if ENEL X plans to provide other types of electrical services to its client, such as Energy Storage.

**III. Request for Confidential Designation**

As part of the Nov 28 Motion and December 29 Motions, ENEL X requested the information filed be treated as confidential, under Section 6.15 of Act 57-2014. The request presented by ENEL X did not comply with the confidentiality requirements of the August 31, 2016, and September 20, 2016, Resolutions, Case No. CEPR-MI-2016-0009. Pursuant the August 31, 2016, and September 20, 2016, Resolutions, ENEL X **shall file** (i) a redacted and a non-redacted versions of the documents for which it requests confidentiality, (ii) a Memorandum in Law setting forth the legal basis for its confidentiality request, and (iii) a table summarizing the hall marks of its requests for confidential treatment.



IV. Conclusion

The Energy Bureau identified several deficiencies in the documents filed by ENEL X. The deficiencies are described in Part II and III of the present Resolution and Order.

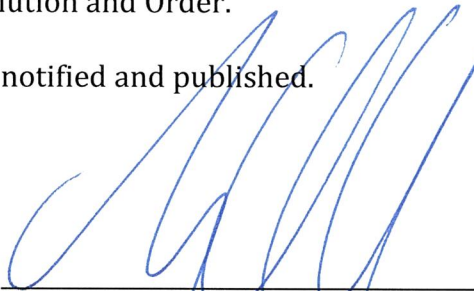
The Energy Bureau **DETERMINES** the Request for Certification filed by ENEL X is incomplete. ENEL X **shall** review and correct the deficiencies mentioned in Part II and III of the present Resolution and Order.

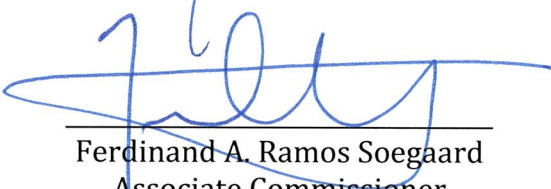
With the information provided, the Energy Bureau cannot address the *Request for Confidential Treatment* presented by ENEL X because it does not comply with the confidential treatment requirements of the August 31, 2016, and September 20, 2016, Resolutions in Case No. CEPR-MI-2016-0009<sup>7</sup>.


The Energy Bureau **ORDERS** ENEL X to file with seven (7) business days a redacted version of the documents in which it requests confidentiality treatment and include a table numbering each redaction request and its justification.

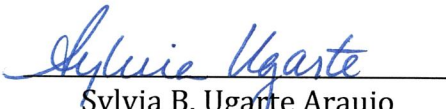
The Energy Bureau **ORDERS** ENEL X, within sixty (60) days from the notification date of this Resolution and Order, to provide the information and address the findings in Part II of the Resolution and Order.

Be it notified and published.

  
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Edison Avilés Deliz  
Chairman

  
\_\_\_\_\_  
Ferdinand A. Ramos Soegaard  
Associate Commissioner

  
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Lillian Mateo Santos  
Associate Commissioner

  
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Sylvia B. Ugarte Araujo  
Associate Commissioner

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau have agreed on January 17, 2024. Associate Commissioner Antonio Torres Miranda did not intervene. I also certify that in January 18, 2024 a copy of this Resolution and Order was notified by electronic mail to amanda.newell@enel.com ; and I have moved forward with filing the Resolution and Order issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, today January 18, 2024.

  
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Sonia Seda Gaztambide  
Clerk



<sup>7</sup> Resolution, *In re: Policy on Management of Confidential Information in Procedures Before the Commission*, Case No.: CEPR-MI-20216-0009, issued on August 31, 2016 and September 20, 2016.