

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

IN RE: REQUEST FOR CERTIFICATION
TESLA PUERTO RICO, LLC

CASE NO.: NEPR-CT-2023-0007

SUBJECT: Request for Certification as
Electric Power Company and Demand
Response Aggregator.

RESOLUTION AND ORDER

I. Introduction

On December 1, 2023, TESLA PUERTO RICO, LLC ("TESLA PUERTO RICO") filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") the following documents:

- (i) *Letter to the Puerto Rico Energy Bureau, December 1, 2023 ("December 1 Motion")*
- (ii) *Request for Certification Electric Power Companies Under Regulations Nos. 8701 and 9246 [...] ("Request for Certification")*
- (iii) *Annex 1 – Personal Information/Electric Power Companies ("Personal Information")*
- (iv) *Annex 2 – Tesla Puerto Rico, LLC's Certificate of Formation ("Certificate of Formation")*
- (v) *Annex 3 - Tesla Puerto Rico, LLC's Certificate of Good Standing ("Certificate of Good Standing")*
- (vi) *Annex 4 - Tesla Puerto Rico, LLC's Certificate of Amendment ("Certificate of Amendment")*
- (vii) *Annex 5 – Battery Emergency Demand Response Program/Master Aggregation Agreement [...] ("Master Aggregation Agreement")*
- (viii) *Annex 6 – Statement of Certified Public Accountant ("Statement of CPA")*
- (ix) *Annex 7 – Certification of Sufficiency of Human Resources ("Certification of Sufficiency of Human Resources")*
- (x) *Annex 8 – Patente Municipal Año Fiscal 2024 del Municipio de San Juan ("Patente Municipal")*
- (xi) *Annex 9 – Customer Privacy Notice ("Customer Privacy Notice")*
- (xii) *Annex 10 – Data Security Policy ("Data Security Policy")*
- (xiii) *Annex 11 – Master VPP Program Participation Agreement ("Participation Agreement")*
- (xiv) *Annex 12 – Evidence of Payment Fees ("Evidence of Payment Fees")*

In its Request for Certification, TESLA PUERTO RICO requests that portions of the information presented in Annexes 1, 5, 6, 7 and 11 be kept confidential pursuant to the September 20, 2016 Resolution, *In Re: Policy of Management of Confidential Information in Procedures Before the Commission*, Case No. CEPR-MI-2016-0009 ("September 20 Resolution"). TESLA PUERTO RICO filed a set of redacted and non-redacted annexes to which it claims confidentiality. TESLA PUERTO RICO also indicates it will file within the next ten days the Memorandum in Law required by the September 20 Resolution.

On December 11, 2023, TESLA PUERTO RICO filed a *Memorandum in Support of Confidential Treatment of Certain Annexes to Request for Certification as Electric Power Company* ("December 11 Motion"). In page 5 of the December 11 Motion, TESLA PUERTO RICO presented a table summarizing the hallmarks of its request for confidential treatment as required by the September 20 Resolution.



TESLA PUERTO RICO is a Demand Response (DR) Aggregator participating in the LUMA's Emergency DR Program¹.

II. Applicable Law and Analysis

Act 57-2014² requires all electric service companies³ to obtain a certification⁴ and to file certain information under the terms established by the Energy Bureau.

Sections 2.01 and 3.03 of Regulation 8701⁵ describe the information that every electric service company to offer services in Puerto Rico must submit with its Request for Certification⁶.

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."

Section 2.02 of Regulation 9246⁷ establishes the certification requirements for the Demand Response Aggregators.

Section 1.12 of Regulation 9246 establishes the following:

The Energy Bureau shall establish the forms it deems necessary to conduct the proceedings under this Regulation and shall inform the public via its website. The fact that the Energy Bureau has not adopted one or more forms, is in the process of reviewing them, or the Internet website is out of service, shall relieve no party of its obligation to comply with the provisions stated, provide the information required by this Regulation, or otherwise comply with any applicable Energy Bureau order.

Section 1.09(B)(6) of Regulation 9246 establishes the following:

"Demand Response Aggregator" or "DR Aggregator" means any company authorized to act as an interface party between PREPA and end-use customers to deliver demand response resources to PREPA. DR Aggregators are Electric Power Service Companies.

¹ For more details about the LUMA's Emergency DR Program and the Transition Period Plan, *See In Re: Energy Efficiency And Demand Response Transition Period Plan*, Case No.: NEPR-MI-2022-0001.

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

³ 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."

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]."

⁵ *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").

⁶ As defined in Regulation 8701.

⁷ Regulation No. 9246, known as the *Regulation for Demand Response*, December 21, 2020. ("Regulation 9246")



On June 15, 2023, the Energy Bureau issued a Resolution and Order (“June 15 Resolution”) under *In Re: Energy Efficiency And Demand Response Transition Period Plan*, Case No. NEPR-MI-2022-0001, in which, among other things, it (i) clarifies several topics about the Demand Response Aggregators, and (ii) waves some certification requirements for those Demand Response Aggregators participating in the LUMA’s Emergency DR Program, as stated bellow:

- Regarding Section 2.02(A) of Regulation No. 9246, the Energy Bureau **DETERMINES** that for the Emergency DR programs that are part of the Transition Period Plan (“TPP”) the following provisions of Regulation No. 8701 shall either be waived or applied as follows:
 - Applicable: Entirety of Article 1 of Regulation No. 8701.
 - Applicable: Section 2.01 and 2.03(A)(1) (Personal Information) of Regulation No. 8701. The rest of Article 2 is waived.
 - Applicable: Article 3, except for Sections 3.03(B) and 3.07 of Regulation No. 8701.
 - Waived: Entirety of Article 4 of Regulation No. 8701.
 - Applicable: Entirety of Article 5 of Regulation No. 8701.
 - Applicable: Entirety of Article 6 of Regulation No. 8701.
- The Energy Bureau temporarily **WAIVES** those sections of Regulation No. 8701 only during the Transition Period Plan unless a Resolution is issued by the Energy Bureau amending this waiver.

Section 2.02(B)(2) of Regulation 9246 establishes the following:

In its Request for Certification under Regulation 8701, a DR Aggregator shall, in addition to meeting the requirements of Regulation 8701:

- a) describe the type of DR resources it seeks to develop and aggregate;
- b) identify the DR program or program offered by PREPA it intends to use on behalf of customers;
- c) provide the privacy and data security polity required by Section 6.01of this Regulation; and
- d) if the DR Aggregator intends to serve residential or small commercial customers, provide the standard form letter or electronic communication and agreement to be submitted to each customer explaining the terms and conditions of participating in the DR service as required by Section 2.03 of this Regulation.

Section 3.04(B)(2) of Regulation 8701 establishes the following:

B) After evaluating the Request, the Commission shall issue a decision through which it shall:

[...]

- 2) Grant certification subject to the **limitations, conditions, and restrictions** established by the Commission; [Emphasis supplied]

Section 2.02(C) of Regulation 9246 establishes the following:

The Energy Bureau shall maintain, and publish on its web site, a list of certified DR Aggregators, including contact information of each DR Aggregator.



A. Request for Certification as Electric Power Company and DR Aggregator

In Part B of its Request for Certification, TESLA PUERTO RICO describes the Electric Service it will provide as: *Aggregation of stored energy to dispatch in emergency events (demand response aggregation services)*; with an aggregation capacity of less than one hundred (100) MW. The energy sources used to provide the service will be rechargeable lithium-ion batteries, which store electricity produced by solar systems installed at the home of its customers. In Part C of its Request for Certification, TESLA PUERTO RICO describes the Facility as a Virtual Power Plant.

In Part D, TESLA PUERTO RICO (i) describes the DR resources it seeks to develop and aggregate, and (ii) identifies the DR program⁸ offered by LUMA it intends to use on behalf of its customers. Annexes 9, 10 and 11 include (i) a copy of the Customer Privacy Notice, (ii) a copy of the Data Security Policy and (iii) a copy of the Master VPP Program Participation Agreement, respectively. The information presented by TESLA PUERTO RICO in Part D and Annexes 9, 10 and 11, meets the Certification requirements of Section 2.02(B)(2) of Regulation 9246.

In Annex 6 of its Request for Certification, TESLA PUERTO RICO included the Independent Auditor's Report of its Financial Statements for the year ending on December 31, 2022, signed by a Professional Service Corporation (PSC) of Certified Public Accountants (CPA's). The Energy Bureau **ACCEPTS** the Independent Auditor's Report in lieu of the certification required by Section 3.03(A)(3) of Regulation 8701.

Annex 7 of the Request for Certification has a statement from TESLA PUERTO RICO affirming the sufficiency of the company's human resources, as required by Section 3.03 (A)(4) of Regulation 8701.

Because of the June 15 Resolution, TESLA PUERTO RICO is exempt from (i) the Certification requirements of Section 3.03(B) of Regulation 8701; (ii) the filing fee requirements of Section 3.07 of Regulation 8701, and (iii) the Annual Fee requirements of Article 4 of Regulation 8701, as amended.

The Energy Bureau **DETERMINES** TESLA PUERTO RICO **complied** with applicable Certification requirements of Regulation 8701 and Regulation 9246, and the June 15 Resolution.

B. Personal Information (Form NEPR-B01)

In Part A of Form NEPR-B01, TESLA PUERTO RICO indicates its Fiscal Year starts on January 1 and ends on December 31.

In Part D of Form NEPR-B01, TESLA PUERTO RICO indicates that CT Corporation System is the authorized person to receive notifications and the designated contact before the Energy Bureau. TESLA PUERTO RICO provided the contact data of CT Corporation System.

In Part G of Form NEPR-B01, TESLA PUERTO RICO indicates Tesla International B.V. is a member with a participation percent equal to one hundred percent (100%).

TESLA PUERTO RICO attached all the documents required by Section 2.01(A) of Regulation 8701 to Form NEPR-B01.

The Energy Bureau **TAKES NOTICE** of all the data presented by TESLA PUERTO RICO on Form NEPR-B01 and its attachments.

⁸ See, , *In Re: Request For Certification Tesla Puerto Rico, LLC*, Case No. NEPR-CT-2023-0007, Request for Certification, Annex 5 – Battery Emergency Demand Response Program/Master Aggregation Agreement between Tesla Puerto Rico, LLC and LUMA Energy Servco, LLC, filed by TESLA PUERTO RICO on December 1, 2023.



In Annex 12, TESLA PUERTO RICO included a copy of a Money Order No. 103214600029111 as evidence of payment of the filing fees for the Personal Information form.

The Energy Bureau **DETERMINES** TESLA PUERTO RICO **complied** with the Personal Information requirements of Sections 2.01 and 2.03(A)(1) of Regulation 8701 and the June 15 Resolution.

C. Operational Report

Because of the June 15 Resolution, TESLA PUERTO RICO is exempt from (i) the Operational Report requirements of Section 2.02 of Regulation 8701, and (ii) the filing fee requirements of Section 2.03(A)(2) of Regulation 8701.

III. Request for Confidential Designation

As part of the December 1 Motion, TESLA PUERTO RICO requested that the information in Annexes 1, 5, 6, 7 and 11 be treated as confidential pursuant the September 20, 2016 Resolution, *In Re: Policy of Management of Confidential Information in Procedures Before the Commission*, Case No. CEPR-MI-2016-0009. For more details see Part I of the present Resolution and Order.

Act No. 57-2014 establishes that any person having the obligation to submit information to the Energy Bureau, may request that any information it is considered privileged or confidential be treated in such fashion⁹. 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”¹⁰. 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”¹¹.

Table 1 below details the information to which TESLA PUERTO RICO requested confidential designation and treatment.

Table 1: TESLA PUERTO RICO’s Request for Confidential Information Designation and Treatment.

Document	Name	Pages in which Confidential Information is Found, if applicable	Summary of Legal Basis for Confidentiality Protection, if applicable	Date Filed
Annex 1	Completed Form - Personal Information Electric Power Companies	Page 2, Section D (3), (4), (5) & (7) Page 3, Section F (1) & F (2) (partially)	Puerto Rico Open Government Data Act, Section 9894(xi), 3 L.P.R.A § 9894(xi).	December 1, 2023

⁹ Section 6.15 of Act 57-2014, *Rules of Confidentiality*. Also see Section 1.15 of Regulation 8701.

¹⁰ *Id.* at (a).

¹¹ *Id.*



Document	Name	Pages in which Confidential Information is Found, if applicable	Summary of Legal Basis for Confidentiality Protection, if applicable	Date Filed
Annex 5	Battery Emergency Demand Response Program/Master Aggregation Agreement between Tesla Puerto Rico, LLC and LUMA Energy Servco, LLC	Pages 3-31; 33-62	Trade Secret Protection Act of Puerto Rico, Section 4132, 10 L.P.R.A § 4132; Section D of the PREB's Confidential Information Resolution; Puerto Rico Open Government Data Act, Section 9894(ix), 3 L.P.R.A § 9894(ix).	December 1, 2023
Annex 6	Statement of Certified Public Accountant/ TESLA PUERTO RICO's Independent Auditor's Report	Pages 1-3	Puerto Rico Open Government Data Act, Section 9894(x), 3 L.P.R.A § 9894(x).	December 1, 2023
Annex 7	Certification of Sufficiency of Human Resources	Page 1	Trade Secret Protection Act of Puerto Rico, Section 4132, 10 L.P.R.A § 4132; Section D of the PREB's Confidential Information Resolution; Puerto Rico Open Government Data Act, Section 9894(ix), 3 L.P.R.A § 9894(ix).	December 1, 2023

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Document	Name	Pages in which Confidential Information is Found, if applicable	Summary of Legal Basis for Confidentiality Protection, if applicable	Date Filed
Annex 11	Master VPP Program Participation Agreement	Paragraph 1-15	Trade Secret Protection Act of Puerto Rico, Section 4132, 10 L.P.R.A § 4132; Section D of the PREB's Confidential Information Resolution; Puerto Rico Open Government Data Act, Section 9894(ix), 3 L.P.R.A § 9894(ix).	December 1, 2023

IV. Conclusion

The Energy Bureau **DETERMINES** the Request for Certification filed by TESLA PUERTO RICO is complete and it meets the applicable Certification requirements of Regulation 8701, Regulation 9246, and the June 15 Resolution.

The Energy Bureau **CERTIFIES** TESLA PUERTO RICO as (i) an Electric Power Company, and (ii) a Demand Response Aggregator, under the special circumstances of the TPP and the LUMA's Emergency DR Program.

Certification Effective date¹² : June 30, 2023
Certification Expiration date¹³: June 30, 2025

Certification could be renewed upon request of TESLA PUERTO RICO. Renewal request shall be filed, at least, thirty (30) days before the Expiration Date.

The Energy Bureau **GRANTS** confidential designation and treatment to the information in Annexes 1, 5, 6, 7 and 11, under Article 6.15 of Act 57-2014 and Section 1.15 of Regulation 8701.

The Energy Bureau **ORDERS** the Clerk Office to include TESLA PUERTO RICO in the List of Certified DR Aggregators at the Energy Bureau's web site, including the TESLA PUERTO RICO's contact information, as required by Section 2.02(C) of Regulation 9246.

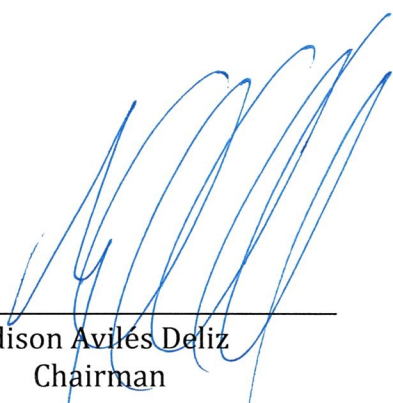
The Energy Bureau **WARNS** TESLA PUERTO RICO that non-compliance with Energy Bureau's orders and regulations may carry the imposition of administrative fines.

Be it notified and published.

¹² TTP Launch date. For more details, see, Resolution and Order, *In Re: Energy Efficiency And Demand Response Transition Period Plan*, Case No: NEPR-MI-2022-0001, February 16, 2023, Table 1.

¹³ Extension of TPP, see November 29, 2023 Resolution and Order "Extension of Transition Period Plan by One Year; Extension of DR Aggregator Certification Deadline", Case No.: NEPR-MI-2022-0001.





Edison Aviles Deliz
Chairman

Lillian Mateo Santos
Associate Commissioner

Ferdinand A. Ramos Soegaard
Associate Commissioner

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 22, 2024. Associate Commissioner Antonio Torres Miranda did not intervene. I also certify that in January 23, 2024 a copy of this Resolution and Order was notified by electronic mail to ct-globalservices@wolterskluwer.com; and 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 January 23, 2024.



Sonia Seda Gaztambide
Clerk