

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

IN RE: REQUEST FOR CERTIFICATION
VIRTUAL PEAKERS, INC,

CASE NO.: NEPR-CT-2024-0001

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

RESOLUTION AND ORDER

I. Introduction

On March 11, 2024, Virtual Peaker, Inc. (“Virtual Peaker”) filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) the following documents:

- (i) *Gross Revenue and Financial Statements Report Electric Power Companies* (Form NEPR-B05).
- (ii) *Request for Certification Electric Power Companies* (Form NEPR-B04).
- (iii) *Personal Information Electric Power Companies* (Form NEPR-B01).
- (iv) *Operational Report Electric Power Companies* (Form NEPR-B03).
- (v) *Continuation Sheet Information on Affiliate or Subsidiary Entities* (Form NEPR-B02).

Virtual Peaker aggregates batteries across residential homes and will manage homeowner’s batteries as a Demand Response (“DR”) Aggregator participating in the LUMA’s Emergency DR Program^{1, 2}

II. Applicable Law and Analysis

Act 57-2014³ requires all electric service companies⁴ to obtain a certification⁵ and to file certain information under the terms established by the Energy Bureau.



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 See Part B of Form NEPR-B04, March 11, 2024, Docket No. NEPR-CT-2024-0001.

³ Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended (“Act 57-2014”).

⁴ 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.”

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].”

Sections 2.01 and 3.03 of Regulation 8701⁶ describes the information that every electric service company that offers services in Puerto Rico must submit with its Request for Certification.⁷

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 9246⁸ 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.

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 below:

- 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.

⁶ 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").

⁷ As defined in Regulation 8701.

⁸ Regulation No. 9246, known as the *Regulation for Demand Response*, December 21, 2020. ("Regulation 9246")



- Applicable: Entirety of Article 6 of Regulation No. 8701.
- The Energy Bureau temporarily **WAIVES** the above stated sections of Regulation No. 8701 until a Resolution is issued by the Energy Bureau stating otherwise.

Section 2.02(B)(2) of Regulation 9246, also 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.

On November 29, 2023, the Energy Bureau issued a Resolution and Order (“Nov 29 Resolution”) extending the DR Certification deadline until March 1, 2024.

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. Personal Information

In Part A of Form NEPR-B01, Virtual Peaker provided the dates for the beginning and the end of its Fiscal Year.

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

In Part F of Form NEPR-B01, Virtual Peaker provided the names of the Members of the Board of Directors of the company.

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

Virtual Peaker did not attach (i) a copy of its Certificate of Incorporation and Registration, (ii) a copy of its Certificate of Good Standing issued by the Puerto Rico State Department; (iii) in case it were a foreign entity, a copy of the certificate of authorization to do business in Puerto Rico issued by the Puerto Rico State Department; (iv) evidence of the payment fee of one hundred dollars (\$100) for filing its Personal Information. Virtual Peaker did not comply



with the requirements of Section 2.01(A) and Section 2.03(A) of Regulation 8701 and the June 15 Resolution.

Virtual Peaker **shall file** (i) a copy of its Certificate of Incorporation and Registration, (ii) a copy of its Certificate of Good Standing issued by the Puerto Rico State Department; (iii) in case it were a foreign entity, a copy of the certificate of authorization to do business in Puerto Rico issued by the Puerto Rico State Department; (iv) evidence of the payment fee of one hundred dollars (\$100) for filing its Personal Information; as required by Section 2.01(A) and Section 2.03(A) of Regulation 8701 and the June 15 Resolution.

B. Request for Certification

Virtual Peaker did not attach the following documents to its Request for Certification, as required by Section 3.03(A) of Regulation 8701 and the June 15 Resolution:

- (i) A certified statement from a certified public accountant (CPA) authorized to practice in Puerto Rico that confirms that the electric service company has sufficient financial resources to operate and provide the services it intends to offer, to be able to replace any existing asset, and to make any investment it intends to carry out during a period of one (1) year from the date of issuance of the Certification.
- (ii) A statement as to the fact that the company has the necessary human resources (technical, professional, and administrative) to operate and provide the services it intends to offer in Puerto Rico. The company must also list in detail the technical and professional qualifications of said personnel, as well as the profile of those it intends to recruit in order to show their expertise and competency to operate and provide the services the company intends to offer in Puerto Rico.

Virtual Peaker did not comply with the requirements of Section 3.03(A) of Regulation 8701. Virtual Peaker **shall file** the documents required by Section 3.03(A) of Regulation 8701.

Virtual Peaker did not attach the following documents to its Request for Certification, as required by Section 2.02(B) of Regulation 9246 and the June 15 Resolution:

- a) describe the type of DR resources it seeks to develop and aggregate,
- b) identify the DR program or program offered by PREPA [LUMA or its Successor] it intends to use on behalf of customers,
- c) provide the privacy and data security policy required by Section 6.01 of 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.

Virtual Peaker **DID NOT COMPLY** with the requirements of 2.02(B) of Regulation 9246.

Virtual Peaker **SHALL FILE** the documents required by Section 2.02(B) of Regulation 9246.

Virtual Peaker **DID NOT COMPLY** with the requirements of June 15 Resolution.

The Energy Bureau **DETERMINES** the Request for Certification filed by Virtual Peaker is incomplete.

Because of the June 15 Resolution, Virtual Peaker 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.



C. Gross Revenue and Financial Statements Report

The Energy Bureau **TAKES NOTICE** of the data filed by Virtual Peaker in its *Gross Revenue and Financial Statements Report*.

Because of the June 15 Resolution, Virtual Peaker is exempt from the Annual Fee requirements of Article 4 of Regulation 8701, as amended.

D. Operational Report

Because of the June 15 Resolution, Virtual Peaker is exempt from the reporting requirements of Section 2.02 of Regulation 8701.

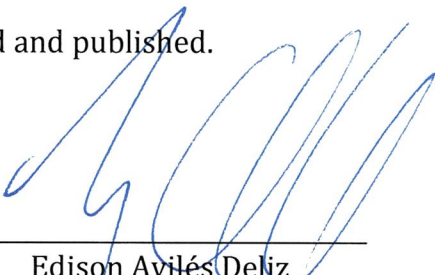
III. Conclusion

The Energy Bureau identified several deficiencies in the documents filed by Virtual Peaker. The deficiencies are described in Part II of this Resolution and Order.


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

The Energy Bureau **GRANTS** Virtual Peaker fifteen (15) days, from the notification date of this Resolution and Order, to provide the information and address the findings contained in Part II of the Resolution and Order.

Be notified and published.



Edison Avilés Deliz
Chairman



Sylvia B. Ugarte Araujo
Associate Commissioner



Lillian Mateo Santos
Associate Commissioner



Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau agreed on March 26 2024. Associate Commissioner Ferdinand A. Ramos Soegaard did not intervene. I also certify that on March 27 2024, I have proceeded with the filing of this Resolution and was notified by email to iquigley@virtual-peaker.com.

I sign this in San Juan, Puerto Rico, today, March 27, 2024.





Sonia Seda Gaztambide
Clerk