

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

IN RE: REQUEST FOR CERTIFICATION
HEWLETT PACKARD PUERTO RICO B.V,
LLC

CASE NO.: NEPR-CT-2021-0004

SUBJECT: Gross Revenue and Financial
Statements Report and Operational Report.

RESOLUTION AND ORDER

I. Introduction

On March 27, 2024, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("March 27 Order") in which it order HEWLETT PACKARD PUERTO RICO B.V, LLC ("HEWLETT PACKARD") to, within ten (10) days, from the notification date of this Order, (i) report its gross revenue of the Natural Year 2023, and (ii) show cause why the Energy Bureau should not impose an administrative fine of five hundred dollars (\$500) for its failure to comply with Act 57-2014 and Regulation 8701¹.

On April 5, 2024, HEWLETT PACKARD filed before the Energy Bureau a document titled *Re: NEPR-CT-2021-0004- Gross Revenue and Financial Statements Report* ("April 5 Letter"), as Exhibit A, HEWLETT PACKARD included an *Annual Gross Revenue Certificate* for the Natural Year 2023.

In the April 5 Motion, HEWLETT PACKARD presented a justification why the Energy Bureau should not impose an administrative fine of five hundred dollars (\$500) for its failure to comply with Act 57-2014 and Regulation 8701, indicated that the reason of the company failure to timely inform its annual gross revenue to the Energy Bureau was inadvertent². HEWLETT PACKARD also indicated that at no point intend to violate Regulation 8701.

II. Applicable Law and Analysis

Act 57-2014² requires all electric service companies to obtain a certification³ and to file certain information under the terms established by the Energy Bureau.

Section 2.02 of Regulation 8701 establishes the requirement for an electric service company to file to the Energy Bureau their operational reports. Specifically, Section 2.02(A)(1), (D) and (E) of Regulation 8701 establishes the followings:

- A) In accordance with the provisions of this Section, the following electric utilities shall submit to the Commissions an Operational Report containing the following information:
- 1) Person who offers power generation services for sale in Puerto Rico through distributed generators interconnected to the PREPA grid with an aggregate capacity of one megawatt (1MW) or more, regardless of whether or not such distributed generators or the customers to whom the energy is sold are participating in PREPA's Net Meeting Program; or

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 April 5 Motion.

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

³ 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]."



Persons who generate energy through the use of fossil fuels or renewable energy sources, with an aggregate capacity equal to or less than one hundred megawatts (100MW), to sell it to PREPA or another electric service company under a power purchase agreement.

[...]

The electric service companies identified in this subsection (A)(1) **shall submit an Annual Operation Report**, in accordance with the provisions of this sub-paragraph and subsection(D) of this Section. (Emphasis supplied.)

[...]

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D) Notwithstanding the provisions of paragraph (A) of this Section regarding the frequency with which each class of electric service company must submit the Operational Report, it must be submitted to the **Commissions on or before the month of March of the year in which its filing corresponds**. Likewise, the Commission may order any electric service company to submit at any time all or part of the information required in the Operational Report.

E) Electric service companies **shall refer** their Operational Report to the CEPP0⁴ for review and comments prior to submitting it to the Energy Commission. In submitting their Operational Reports before the Commission, electric service companies shall indicate whether they referred to the CEPP0 for review and comments. (Emphasis supplied.)

Section 2.03 of Regulation 8701 establishes the followings:

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1) All electric service companies **shall pay** the Energy Commission **the fees** established below upon submission of the following forms, documents, or information: (Emphasis supplied.)

[...]

2) Operational Report:

a) Companies identified in Subsections (A)(1), (A)(3), and (A)(4) of Section 2.02 of this Regulation: **eight hundred dollars (\$800.00)**; (Emphasis supplied.);

b) Companies identified in Subsection (A)(5) of Section 2.02 of this Regulation: one thousand dollars (\$1,000.00);

c) Companies identified in Subsection (A)(2) of Section 2.02 of this Regulation: (\$2,000.00).

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Section 3.05 of Regulation 8701 empowers the Energy Bureau to, among other things, 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."

The Energy Bureau has the power to impose penalties on electric service companies for violations of Act 57-2014, its regulations, and orders.⁵ Under Section 6.36 of Act 57-2014, the Energy Bureau has the power to impose these penalties:

⁴ Known as, the Energy Public Polity Program (EPPP) of the Department of Economic Development and Commerce.

⁵ See Section 6.7(h) of Act 57-2014.



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- (a) The Energy Bureau shall impose administrative fines for violations of this Act, or the regulations and orders issued thereunder, committed by any person or electric power company subject to its jurisdiction, of up to a maximum of twenty-five thousand dollars (\$25,000) per day. Said fines shall never exceed five percent (5%) of the gross sales, fifteen percent (15%) of the net income, or ten percent (10%) of the net worth of the sanctioned person or the electric power company. The greater of the amounts corresponding to the most recent taxable year shall be the amount of the fine.
 - (b) If the person or certified electric power company commits a subsequent violation of this Act, the Energy Bureau may impose penalties of up to a maximum of twenty-five thousand dollars (\$25,000) per day. In such cases and by unanimous determination of the Energy Bureau, it may impose fines up to twice the limitations on the basis of sales, income or assets set forth in subsection (a) of this Section and up to five hundred thousand dollars (\$500,000).
 - (c) Any claim or cause of action authorized by law filed by any person with legal standing shall not affect the powers granted under this Section to impose administrative sanctions.
 - (d) Any person who intentionally violates any provision of this Act, omits, disregards, or refuses to obey, observe, and comply with any rule or decision of the Energy Bureau shall commit a misdemeanor and upon conviction shall be punished by imprisonment for a term not to exceed six (6) months, or by a fine of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000), at the discretion of the Energy Bureau. In the event of recurrence, the established penalty shall increase to a fine of not less than ten thousand dollars (\$10,000) nor more than twenty thousand dollars (\$20,000), at the discretion of the Energy Bureau.
 - (e) The Energy Bureau may resort to the pertinent forums to seek any remedy, including account garnishment, to ensure compliance with the penalties imposed.⁶

Section 4.02(E) of Regulation 8701, establishes the followings:

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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).

A. *Compliance with March 27 Order*

In its April 5 Motion, HEWLETT PACKARD attached its *Annual Gross Revenue Certificate* for the natural year 2023 and presented justification why the Energy Bureau should not impose an administrative fine. The Energy Bureau **TAKES NOTICE** of the information presented by

⁶ See Section 6.36 of Act 57-2014.



HEWLETT PACKARD in the April 5 Motion and **DETERMINES** it partially complies with the March 27 Order. The Energy Bureau **WAIVES** HEWLETT PACKARD for the administrative fine of five hundred dollars (\$500) for its failure to comply with the requirements of Regulation 8701 and Act 57-2014.

B. *Gross Income Revenue*

According to the administrative record, on April 3, 2023, HEWLETT PACKARD filed its (i) Annual Gross Revenue Certificate for the natural year 2022, reporting a Gross Revenue of five hundred thirteen thousand, four hundred nineteen dollars (\$513,419.13), for the electric services provided in Puerto Rico.

On the attached documents of the April 5 Motion, HEWLETT PACKARD reported a Gross Revenue of one hundred seven million, nine hundred eighty-eight thousand, seven hundred seven dollars (\$107,988,707.00) for the natural year 2023, which is one hundred seven million, four hundred seventy-five thousand, two hundred eighty-seven dollars (\$107,475,287.87) more than reported for the natural year 2022.

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The Energy Bureau **DETERMINES** that HEWLETT PACKARD shall **CLARIFIES** if the gross income reported for the natural year 2023 is exclusively from the electric services provided in Puerto Rico.

C. *Operational Report*

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Pursuant to Section 2.02 of Regulation 8701, HEWLETT PACKARD had to fill its annual operational report **on or before March 31, 2024**. According to the administrative record, HEWLETT PACKARD did not file its operational report. HEWLETT PACKARD **did not comply** with Section 2.02 of Regulation 8701.

D. *Compiled Financial Statements*

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HEWLETT PACKARD filed its *Annual Gross Revenue Certificate* for the natural year 2023 but did not attach a compiled version of its Financial Statements. The due date to submit the compiled financial statements was February 28, 2024⁵.

HEWLETT PACKARD did **not comply** with the requirements of Section 4.02(E) of Regulation 8701. HEWLETT PACKARD **shall file** its compiled Financial Statements certified by an Authorized Public Accountant (CPA).

HEWLETT PACKARD **shall include** in its compiled Financial Statements Report, financial notes to (i) present a monthly breakdown of its Gross Revenue for the fiscal year ending on October 31, 2023 and (ii) report the Gross Revenues generated during the month of November, and December 2023.

III. **Conclusion**

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The Energy Bureau **DETERMINES** HEWLETT PACKARD partially complied with the March 27 Order and **WAIVES** HEWLETT PACKARD for the administrative fine of five hundred dollars (\$500).

The Energy Bureau **ORDERS** HEWLETT PACKARD to, **within five (5) days**, from the notification date of this Order, (i) file its report its annual operation report; (ii) refer its Operational Report to the EPPP; (iii) present evidence of the payment fee of eight hundred dollars (\$800) for the annual filing of the Operational Report; (iv) show cause why the Energy Bureau should not impose an administrative fine for its failure to comply with Act 57-2014 and Regulation 8701.

⁵ That is one hundred and twenty (120) days counted from the date on which the company's Fiscal Year ends. Hewlett Packard fiscal year ended on October 31, 2023.



The Energy Bureau **ORDERS** HEWLETT PACKARD, **within fifteen (15) days**, from the notification of this Resolution and Order, to (i) clarify if the gross income reported for the natural year 2023 are exclusively from the electric services provided in Puerto Rico; (ii) file its compiled Financial Statements certified by an Authorized Public Accountant (CPA); (iii) present a monthly breakdown of its Gross Revenue for the fiscal year ending on October 31, 2023 and (iv) report the Gross Revenues generated during the month of November, and December 2023.

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

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 May 6 2024. Also certify that on May 6 2024. I have proceeded with the filing of this Resolution and was notified by email to: willie.feliciano@hpe.com; mfernandez@pmalaw.com and ecruz@pmalaw.com.

I sign this in San Juan, Puerto Rico, today, May 6, 2024.

Sonia Seda Gaztambide
Clerk

