

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

IN RE: REQUEST FOR CERTIFICATION SAN
FERMIN SOLAR FARM, LLC

CASE NO.: CEPR-CT-2016-0012

SUBJECT: Operational Report 2024 and
Extension Request for 2023 Audited
Financial Statements.

RESOLUTION AND ORDER

I. Introduction

On June 2, 2016, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution¹ through which it certified SAN FERMIN SOLAR FARM, LLC ("SAN FERMIN") as an electric service company² pursuant Regulation 8701³.

On April 29, 2024, SAN FERMIN filed a letter with subject "*San Fermin Solar Farm, LLC- Case No. CEPR-CT-2016-0012- Extension Request for 2023 Audited Financial Statements*" ("April 29 Letter") to request an extension of fourteen (14) days for submission of its 2023 Audited Financial Statements. SAN FERMIN informs that it has been working hard with his auditors, to complete the audits and ensure the accuracy of his financial statements but will require more time to finalize.

II. Applicable Law and Analysis.

Act 57-2014⁴ requires all electric service companies to obtain a certification⁵ 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

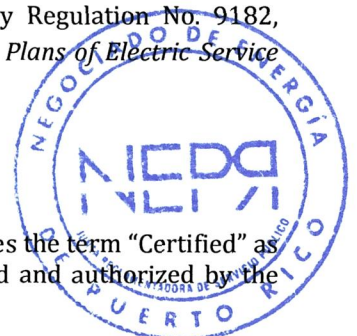
¹ See Resolution, In re: *Request for Certification SAN FERMIN SOLAR FARM, LLC*, Case No. CEPR-CT-2016-0012, June 2, 2016.

² Section 1.3(I) 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, transmissions 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 Transaction conducted by virtue of Act No. 120-2018 shall be deemed Electric Power Service Companies for Purposes of this Act."

³ 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").

⁴ Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

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]."



distributed generators or the customers to whom the energy is sold are participating in PREPA's Net Meeting Program; or

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.)

[...]

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 CEPP0⁶ 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:

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).

Section 4.02(A), (B), (E) and (F) of Regulation establishes the followings:

A) All electric service companies operating in Puerto Rico before this Regulation entered into force must inform, along with their Personal Information filing under Section 2.01 of this Regulation, the Annual Gross Revenue generated during each Natural Year, as well as the latest compiled or audited financial statements, if any, as is applicable in accordance with Subsections (E) and (F) of this Section. **For the following periods, electric service companies must inform their Annual Gross**

⁶ Now known as, the Energy Public Polity Program (EPPP) of the Department of Economics Development and Commerce.

Revenue within a period of sixty (60) days following the conclusion each Natural Year. (Emphasis supplied.)

- B) Any Electric Service Company that has not been operating in Puerto Rico prior to the entry into force of these Regulations and to whom the Energy Bureau has issued a Certification, **must report its Annual Gross Income to the Energy Bureau within sixty (60) days after the end of the Calendar Year, starting in the year in which it has started its operations in Puerto Rico.** (Emphasis supplied.)
- C) ...
- D) ...
- 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.)
- F) When the Annual Gross Revenue of an Electric Power Company during a Calendar Year exceeds three million dollars (\$3,000,000.00), the gross revenue report must be signed by the Authorized Representative of the Electric Power Company. The signature of the authorized representative shall constitute a certificate under oath, under penalty of perjury, that such information is correct and complete. Likewise, the company must submit to the Energy Bureau a copy of the financial statements corresponding to the Fiscal Year, audited by an Authorized Public Accountant (CPA) authorized to practice said profession in Puerto Rico, or in any jurisdiction of the United States of America. **Such audited financial statements shall be submitted to the Energy Bureau within a term of one hundred and twenty (120) days, counted from the date on which the Electric Power Company's Fiscal Year ends.** The provisions of this paragraph shall apply to any successor to the Puerto Rico Electric Power Authority. (Emphasis supplied.)

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.⁷ Under Section 6.36 of Act 57-2014, the Energy Bureau has the power to impose these penalties:

- (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

⁷ See Section 6.7(h) of Act 57-2014.



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.⁸

A. Operational Report

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

B. Audited Financial Statements

According to the administrative record, SAN FERMIN request an extension of fourteen (14) days to report its Audited Financial Statements for the year 2023. The Energy Bureau **TAKES NOTICES** of the Time Extension requested by SAN FERMIN.

III. Conclusion.

The Energy Bureau **ORDERS** SAN FERMIN to file, on or before May 13, 2024, its Audited Financial Statements for the year 2023 pursuant to Section 4.02(F) of Regulation 8701.

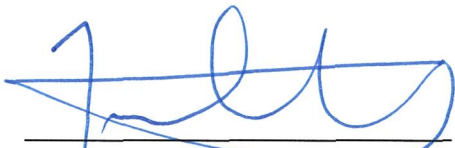
The Energy Bureau **ORDERS** SAN FERMIN to, **within five (5) days**, from the notification of this Order, (i) file its report its annual operation report; (ii) refer its Operational Report to the EPPP; (iii) present evidence of the payment fee of eight hundred dollars (\$800) for the annual filing of 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.

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

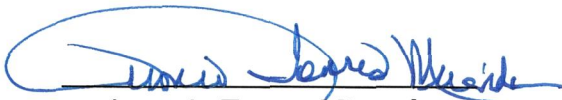
⁸ See Section 6.36 of Act 57-2014.



Be it notified and published.



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 9, 2024. Chairman Edison Avilés Deliz and Associate Commissioner Lillian Mateo Santos did not intervene. Also certify that on May 9, 2024, I have proceeded with the filing of this Resolution and Order and was notified by email to rbullock@camstex.com.

I sign this in San Juan, Puerto Rico, today, May 9, 2024.



Sonia Seda Gaztambide
Clerk