

**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:** Resolution and Order for *Amended Request for Certification* and *Motion in Compliance with January 18, 2024 Resolution and Order*, filed by Enel X, January 29, 2024, and *Motion in compliance with January 18 Resolution and Request for Confidential Treatment*, filed by Enel X, April 16, 2024.

**RESOLUTION AND ORDER**

**I. Introduction**

On January 18, 2024, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("January 18 Resolution") identifying deficiencies by ENEL X Arecibo, LLC ("ENEL X") in its (i) *Request for Certification Electric Power Companies* ("Request for Certification Form")<sup>1</sup>, (ii) *Operational Report Electric Power Companies* ("Operational Report Form")<sup>2</sup> and, (iii) request for confidentiality treatment.

Through the January 18 Resolution the Energy Bureau ordered ENEL X to within sixty (60) days from the notification date of the Resolution and Order, to provide the information and address the findings for: (i) the Request for Certification of Electric Service Company and (ii) the Operational Report, and within seven (7) days from the notification date of the Resolution and Order, to file a redacted version of the documents in which it request confidentiality and to include a table numbering each redaction request and its justification.

On January 29, 2024, ENEL X filed before the Energy Bureau a document titled *Amended Request for Certification* ("January 29 Motion") which included the following documents:

1. Attachment 1 of the January 29 Motion included the following documents:
  - a. Amended Request for Certification Form – Redacted version.
2. Attachment 2 of the January 29 Motion included the following:
  - a. File titled *Evidence of payment* – Redacted version<sup>3</sup>.

On January 29, 2024, ENEL X filed a document titled *Motion in Compliance with January 18, 2024 Resolution and Order* ("January 29 Compliance Motion", which included the following:

1. A table indicating each document, section and redaction request justification for which it requested confidential treatment.
2. Operational Report ("Form NEPR-B03")- Redacted version.
3. Request for Certification ("Form NEPR-B04")-Redacted version.
4. Personal Information ("Form NEPR-B01")- Redacted version with the following attachments:

<sup>1</sup> Form NEPR-B04.

<sup>2</sup> Form NEPR-B03.

<sup>3</sup> Document completely blacked out.



- a. Certification of Formation from the State of Delaware.
- b. Certificate of Good Standing issued by the Department of State of Puerto Rico.
- c. Certificate of Authorization to do Business of a Foreign Company issued by the Department of State of Puerto Rico.
- d. Certificate of Existence issued by the Department of State of Puerto Rico.

*Jim*  
On March 15, 2024, ENEL X filed before the Energy Bureau a document titled *Motion to request extension of time* ("March 15 Motion"), requesting a fifteen (15) day extension to provide the rest of the information and to address the findings of the January 18 Resolution.

On April 1, 2024, ENEL X filed a document titled *Motion to request extension of time* ("April 1 Motion"), requesting an additional fifteen (15) day extension to comply with the January 18 Resolution as it was preparing and compiling the requested documents and information.<sup>4</sup>

*Jim*  
On April 16, 2024, ENEL X filed a document titled *Motion in Compliance with January 18 Resolution and Request for Confidential Treatment* ("April 16 Motion"). In the April 16 Motion ENEL X informed that it does not currently provide energy storage services under Regulation 8701. With this motion ENEL X also submitted the following documents as ordered in the January 18 Resolution:

- Jim*
- a. Attachment 1 - Certification that attests minimum financial resources of the company.
  - b. Attachment 2 - Certification affirming the sufficiency of the company's human resources.
  - Jim*  
c. Attachment 3 - Copy of authorizations and endorsements obtained to operate, do business, and provide services in Puerto Rico.
  - d. Attachment 4 - Certification that attests that the company has the financial capacity and solvency to finance the construction and operation of new or under renovation facilities.
  - e. Attachment 5 - Description of technical specifications of units and equipment, among others, used for the provision of the service; the number of installed systems, installed capacity and number of clients by electric service region; and a list of equipment used for the provision of services.
  - f. Attachment 6 - Amended *Operational Report Electric Power Companies*.

In the April 16 Motion ENEL X restated the confidentiality request of the documents and information of its *Request of Certification Form* under Article 6.15 of Act 57-2014<sup>5</sup> and Section 1.15 of Regulation 8701<sup>6</sup>.



---

<sup>4</sup> April 1 Motion, p. 2, ¶6.

<sup>5</sup> Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

<sup>6</sup> Known as the *Amendment to Regulation 8618 on Certification, Annual Fees, and Operational Plans for Electric Service Companies in Puerto Rico*, as amended.



## II. Analysis and Discussion

### A. Amended Request for Certification (Form NEPR B04)

#### 1. Type of Energy Services

In the January 18 Resolution, the Energy Bureau requested ENEL X to clarify if it will provide "Energy Storage" services; and if applicable, to review and amend the Request of Certification Form.

In the January 29 Motion ENEL X explained that the Request for Certification Form submitted with the November 28 Motion had two errors in Part A, Line 2 (Type of Electric Service). The options "Fossil fuel or renewable energy generation with aggregated capacity for one hundred (100) MW or less" and "Distributed Generators with aggregated capacity of one (1) MW or more" were incorrectly checked, but ENEL X explained that the correct option was "Distributed Generators with aggregated capacity of one (1) MW or more". A new Request for Certification Form, with the last option selected, was submitted with the motion. The "Energy Storage" option was left unchecked.

In the April 16 Motion ENEL X explicitly answered the Energy Bureau's request, suggesting "that it does not currently provide energy storage services under the terms of Regulation 8701". An amended Operational Report Form was submitted with Part A, Line 2 (Type of Electric Service) with the checked option: "Distributed Generators with aggregated capacity of one (1) MW or more". The "Energy Storage" option was left unchecked.

The Energy Bureau **DETERMINES** that ENEL X **has complied** with the January 18 Resolution request about the electric services to be provided.

#### 2. Information and documents required in the January 18 Resolution

In Part IIB of the January 18 Resolution the Energy Bureau requested ENEL X to submit certain documents and information in compliance of Section 3.03(A) and Section 3.03(B) of Regulation 8701. The following are the documents and the relevant information submitted by ENEL X in the attachments of its April 16 Motion to comply with the Energy Bureau orders.

- (i) Energy Bureau request for compliance with Section 3.03 (A)(3)
  - Statement certified by a Certified Public Accountant that attests minimum financial resources of the company.

Section 3.03(A)(3) of Regulation 8701 states that:

"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."

In the April 16 Motion as Attachment 1, ENEL X filed a Certification signed by an official of ENEL X but it is not identified as a CPA, as required by Section 3.03(A)(3) of Regulation 8701

The Energy Bureau **DETERMINES** that ENEL X Arecibo has **not complied** with Section 3.03(A)(3) of Regulation 8701. ENEL X **SHALL FILE** the Certification for the minimum financial resources of the company signed by an authorized CPA.

- (ii) Energy Bureau request for compliance with Section 3.03 (A)(4)
  - Statement affirming the sufficiency of the company's human resources.




On the April 16 Motion as Attachment 2, ENEL X filed a certification for the sufficiency of human resources and states that it has no employees in Puerto Rico but possesses sufficient human resources **to remotely operate its proposed services in Puerto Rico.**

In the April 16 Motion as attachment 6, ENEL X includes its Operational Report and informs that the project will be serviced and operated by a local company.

The Energy Bureau **DETERMINES** that ENEL X **SHALL EXPLAIN** the functions and duties of their remote's employees and the functions and duties of the local contracted company's employees and **SHALL FILE** the credentials of the company to be contracted as required by Section 2.02(A)(1)(d) of Regulation 8701.


- (iii) Energy Bureau request for compliance with Section 3.03 (A)(5)  
- Copy of permits, authorizations and endorsements obtained to operate, do business, and provide services in Puerto Rico.

 In the April 16 Motion as Attachment 3, ENEL X includes the following documents issued by the Puerto Rico Department of State:

- a. Certificate of Good Standing.
- b. Certificate of Existence.
- c. Certificate of Authorization to do Business in Puerto Rico.
- d. Certificate of Authorization to do Business of a Foreign Corporation.
- e. Amendment to Articles of Incorporation.
- f. Certificate of Amendment. Change of Resident Agent.
- g. Certificate of Amendment. Change of Main Office.

 The Energy Bureau **DETERMINES** that ENEL X **complied** with Section 3.03 (A)(5) of Regulation 8701.

- (iv) Energy Bureau request for compliance with Section 3.03(B)(1)(b) - A certification stating that the company has obtained all necessary permits, from the proper public entities, for the construction of new facilities.

 In the April 16 Motion, ENEL X informs that due its procurement process is ongoing and pending issuance of some permits, the certification confirming that the company has secured all required permits, shall be submitted at a subsequent date.

The Energy Bureau **DETERMINES** that ENEL X **SHALL FILE** the permits and endorsement as required by Section 3.03(B)(1)(b) of Regulation 8701, before commencing their operations.

- (v) Energy Bureau request for compliance with Section 3.03 (B)(1)(b) - 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.

In the April 16 Motion as Attachment 4, ENEL X includes a Certification that the company has the financial capacity and solvency to finance the construction and operation of the new facilities.

The Energy Bureau **DETERMINES** that ENEL X Arecibo **complied** with that part of Section 3.03(B)(1)(b) of Regulation 8701.

- (vi) Energy Bureau request for compliance with Section 3.03(B)(1)(c) - Description of technical specifications of units and equipment, among others, used for the provision of the service.





- (vii) Energy Bureau request for compliance with Section 3.03(B)(2)(b) - Number of installed systems, installed capacity and number of clients by electric service region.
- (viii) Energy Bureau request for compliance with Section 3.03(B)(2)(c) - List of equipment used for the provision of services.

In the April 16 Motion, ENEL X filed as Attachment 5 a description of technical specifications of units and equipment with the description of the system, a list of equipment for the proposed services, the technical specifications of the equipment, shop drawings, and nameplate photos.

The Energy Bureau **DETERMINES** that ENEL X **complied** with Section 3.03(B)(1)(c), 3.03(B)(2)(b) and 3.03(B)(2)(c) of Regulation 8701.

*B. Correction of the Operational Report Form*

In the January 18 Resolution the Energy Bureau requested ENEL X to review and correct Part A, Line 2 (Type of Electric Service) of its Operational Report Form.

In the April 16 Motion, ENEL X filed as attachment 6 the Operational Report ("Form NEPR-B03) with the corrected information about the type of electric service to be provided.

The Energy Bureau **DETERMINES** that ENEL X Arcibo **complied** with the January 18 Resolution in Part II (c).

**III. Request for Confidential Designation**

To obtain confidential treatment in its forms, documents, and information, under Section 6.15 of Act 57-2014 and Section 1.15 of Regulation 8701, ENEL X Arcibo must comply with requirements established in the *In Re: Policy on Management of Confidential Information in Procedures Before the Commission*, CEPR-MI-2016-0009, August 31, 2016, Resolution. Section A (6) of the Resolution requires the following document submission:

"The Producing Party must simultaneously file a "redacted" or "public" version and an "un-redacted" or "confidential" version of any document containing Confidential Information. The filing of any document containing Confidential Information will not be deemed complete until the Producing Party files both versions of the document. The Producing Party must notify all the parties a copy of the "redacted" or "public" version of said document."

ENEL X Arcibo has requested confidential treatment on the following forms and documents and has submitted public and confidential versions of each one.

- (i) Request for Certification Form and corresponding annexes.
- (ii) Personal information Form.
- (iii) Operational Report Form and corresponding annexes.
- (iv) Evidence of filing fees of NEPR Forms.

Act 57-2014 establishes that any person having the obligation to submit information to the Energy Bureau may request that any information it is deemed privileged or confidential be treated in such fashion.<sup>7</sup> Specifically, Act 57-2014 requires the Energy Bureau to treat as confidential the information submitted provided that "after the appropriate evaluation, believes such information should be protected".<sup>8</sup> In such case, "the Energy Bureau shall grant such protection in a manner that least affects the public interest, transparency, and the rights

<sup>7</sup> Section 6.15 of Act 57-2014, Rules of Confidentiality.

<sup>8</sup> *Id.* at (a).



of the parties involved in the administrative procedure in which the allegedly confidential document is submitted".<sup>9</sup>

The Energy Bureau **DETERMINES** that ENEL X **has** complied with the January 18 Resolution submitting public and confidential versions of the documents which the confidentiality treatment is requested and has submitted the requested table and numbering of each redaction request and its justification.

Under the applicable legal and regulatory fundaments, the confidentiality of motions themselves is not automatically extended; they must comply with the same requirements as other documents, that is, they must contain confidential information. In this case the motions contain information, arguments and conclusions about confidential documents or information. Also, the confidentiality of the motions will not affect the integrity of the administrative record because the corresponding forms and information about which these motions refer will be on file and addressable by the public in its redacted version.

#### IV. Conclusion

The Energy Bureau **GRANTS** confidential designation and treatment to the Confidential Documents, under Article 6.15 of Act 57-2014 and Section 1.15 of Regulation 8701. Also, confidentiality over the motions will be granted because they contain information which complies with these requirements.

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

The Energy Bureau **ORDERS** ENEL X to, **within ten (10) days** from the notification date of this Resolution and Order to file (i) a certification by a Certified Public Accountant (CPA) that attests minimum financial resources of the company, (ii) an explanation of the functions and duties of their employees and the functions and duties of the local contracted company's employees, and (iii) the credentials of the company to be contracted.

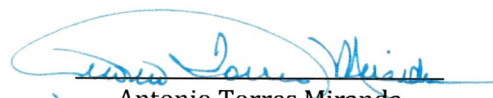
The Energy Bureau **DETERMINES** that ENEL X **SHALL FILE** the certification stating that the company has obtained all necessary permits, from the proper public entities, for the execution of the works before beginning operations.

Be notified and published.

  
Lillian Mateo Santos  
Associate Commissioner

  
Ferdinand A. Ramos Soegaard  
Associate Commissioner

  
Sylvia B. Ugarte Araujo  
Associate Commissioner

  
Antonio Torres Miranda  
Associate Commissioner



---

<sup>9</sup> *Id.*

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau have agreed on May 31, 2024. Chairman Edison Avilés Deliz did not intervene. I also certify that on May 31, 2024 a copy of this Resolution and Order was notified by electronic mail to apc@mcvpr.com; amanda.newell@enel.com; and I have moved forward with filing the Resolution and Order issued by the Puerto Rico Energy Board.

I sign this in San Juan, Puerto Rico, today. May 31, 2024.

  
\_\_\_\_\_  
Sonia Seda Gaztambide  
Clerk

