

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

IN RE: REQUEST FOR CERTIFICATION
ENERNET CHP TWP LLC

CASE NO.: NEPR-CT-2024-0008

SUBJECT: Request for Certification as
Electric Power Company

RESOLUTION AND ORDER

I. Introduction

On September 17, 2024, Enernet CHP TWO, LLC ("Enernet CHP TWO") filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") a Request for Certification as an Electric Service Company and for Certification as Highly Efficient Generation ("Application"). The Application included the following documents:

1. Motion to Request Certification as an Electric Service Company, to Request Certification as Highly Efficient Generation, and to Request Confidential Treatment
2. Attachments I-1: Power Purchase Agreement and Land Lease Agreement (confidentiality requested)
3. Attachment II-1: Personal Information (confidentiality requested)
4. Attachment II-2: Operational Report (confidentiality requested)
5. Attachment II-3: Request for Certification (confidentiality requested)
6. Attachment III-1: Highly Efficient Generation Discussion (confidentiality requested)
7. Attachment V-1: ACH Confirmation (confidentiality requested)

In its Application, Enernet CHP TWO requested that the Energy Bureau (i) certify Enernet CHP TWO as an Electric Service Company, pursuant to Regulation No. 8701; (ii) certify that the CHP system meets the definition of the term Highly Efficient Generation for the purposes of Act 60-2019¹; and (iii) provide confidential treatment to certain information filed with the Application.

Enernet CHP TWO also requested a waiver to submit information in their own format rather than using the Energy Bureau's standard forms.

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.

¹ Known as the Puerto Rico Incentives Code, Act No. 60 of July 1, 2019, as amended.

² Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended, ("Act 57-2014").

³ Section 1.3(1) of Act 57-2014 defines the term 'Electric Power Company' or 'Electric Power Service' 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]."



Sections 2.01 and 3.03 of Regulation 8701⁵ describe the information that every electric service company seeking to offer services in Puerto Rico must submit with its Request for Certification.⁶

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 Act 57-2014, as amended, or this Regulation."

A. Request for Certification as Electric Power Company

Enernet CHP TWO submitted various attachments purporting to contain the information required by Sections 2.01 and 3.03 of Regulation 8701. However, the Energy Bureau notes several deficiencies in the submission:

a) The Personal Information (Attachment II-1) and the Operational Report (Attachment II-2) were not signed by the Designated Authorized Representative as required by Section 2.01(B) and Section 3.03(D) of Regulation 8701.

b) Enernet CHP TWO did not provide copies of all obtained federal, state, and municipal permits, authorizations, and endorsements as required by Section 3.03(A)(5) of Regulation 8701. Instead, the company submitted screenshots of an internal permit tracker, which does not satisfy the regulatory requirement.

Enernet CHP TWO submitted Attachment II-1 as its Personal Information and Attachment II-2 as its Operational Report. While these attachments seem to have most of the required elements, they were not submitted using Form NEPR-B01 as required.

Also, the information was not signed by the Designated Authorized Representative. In the Personal Information attachment, Enernet CHP TWO included the name of a Designated Authorized Representative and a separate name for the Resident Agent. However, all signatures presented to the Energy Bureau are by the Resident Agent and not by the Designated Authorized Representative as required by Section 2.01(B) and Section 3.03(D) of Regulation 8701.

B. Analysis of Waiver Request

Enernet CHP TWO requested a waiver to submit information in their own format rather than using the Energy Bureau's standard forms. In their request, Enernet CHP TWO stated that "based on the complexity of the information related to the Enernet CHP TWO's request for certification, the aforementioned Forms may not be practical."

Section 1.12 of Regulation 8701 establishes the process and allowable reasons for requesting waivers from the Energy Bureau's requirements. Section 1.12 states:

"The fact that the Energy Bureau has not adopted one or more forms, is in the process of reviewing them, or the website is out of service, shall not release any person from their obligation to timely submit the required information to the Energy Bureau."

While Enernet CHP TWO did provide a reason for their waiver request, the circumstances cited do not align with those specified in Section 1.12. The complexity

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.



of information is not a justifiable reason for submitting information outside of the standard forms.

The Energy Bureau emphasizes that the use of standardized forms serves several critical purposes:

1. It streamlines and expedites the review process, allowing for more efficient evaluation of applications.
2. It aids applicants in ensuring compliance with all application elements and requirements, reducing the likelihood of omissions or errors.
3. It facilitates consistency across applications, enabling fair and equitable treatment of all applicants.
4. It simplifies the process for applicants by providing a clear structure for the required information.

The Energy Bureau recognizes that in some cases additional information may be necessary to fully explain complex situations, however, using standard forms ensures consistency and completeness in applications. It serves the interests of all parties—applicants, the Energy Bureau, and the public—to adhere to using the standard application forms.

Therefore, the Energy Bureau **DENIES** Enernet CHP TWO's request for a blanket waiver to submit information in their own format. However, recognizing the potential complexity of certain information, the Energy Bureau will allow the submission of supplemental material to complement the information given in the standard forms, as detailed in the Conclusion section of this Resolution and Order.

C. Request for Certification as Highly Efficient Generation

Enernet CHP TWO has requested certification that its CHP system meets the definition of Highly Efficient Generation for the purposes of Act 60-2019, as established in the November 16, 2021, Resolution in Docket No. CEPR-MI-2016-0001⁷. The company provided Attachment III-1 to support this request.

The Energy Bureau acknowledges this request but will defer its examination until Enernet CHP TWO has resubmitted documentation addressing the deficiencies noted in this Resolution and Order.

III. Request for Confidential Designation

In its Application, Enernet CHP TWO requested that certain documents be granted confidential treatment pursuant to Article 6.15 of Act 57-2014 and the August 31, 2016, Resolution in Case No. CEPR-MI-2016-0009⁸, In Re: Policy on Management of Confidential Information in Procedures Before the Commission, as amended by the September 20, 2016, Resolution on the same case ("August 31 Resolution").

Table 1 below details the information to which Enernet CHP TWO requested confidential designation and treatment.

⁷ Resolution, *In re: Highly Efficient Fossil Generation Definition*, Case No.: CEPR-MI-2016-0001, November 16, 2021.

⁸ Resolution, *In re: Policy on Management of Confidential Information in Procedures Before the [Energy Bureau]*, Case No.: CEPR-MI-2016-0009, August 31, 2016.



Document Name	Provided Designation	Cited Legal Basis	Justification Provided	Date Filed
Attachment I-1: Power Purchase Agreement	Trade Secret; Third Party Information	Act 80-2011; Article 4 Act 122-2019	Document contains the agreed terms of service between Enernet CHP TWO and its industrial client. The information contained in Attachment I-1 is not publicly available and is of economic value to Enernet CHP TWO whose disclosure may affect Enernet CHP TWO's competitiveness. Attachment I-1 also contains Third-Party Information regarding Enernet CHP TWO and its industrial client.	September 17, 2024
Attachment II-1: Personal Information	Third Party Information	Article 4 Act 122-2019	Document includes personal information of Enernet CHP ONE, board members, shareholders, and principal executive officers. It also contains Enernet CHP TWO's physical address.	September 17, 2024
Exhibit II-1.3	Third Party Information	Article 4 Act 122-2019	Document includes the personal information of Enernet CHP TWO, board members, shareholders, and principal executive officers, among other Third-Party information and Enernet CHP TWO's corporate structure.	September 17, 2024
Attachment II-2	Third Party Information	Article 4 Act 122-2019	Document includes the personal information of Enernet CHP TWO board members, which is considered Third-Party information.	September 17, 2024
Exhibit II-2.1: Demand Projection for first year of operation	Trade Secret	Act 80-2011	Document contains the estimated electric sales under the PPA. This information is not publicly available and is of economic value to Enernet CHP TWO whose disclosure may affect Enernet CHP TWO's competitiveness.	September 17, 2024
Exhibit II-2.3: Projected Capital Investments	Trade Secret	Act 80-2011	Document contains Enernet CHP TWO projected investments, which reflect Enernet CHP TWO's business strategy and the PPA terms. Such information is not publicly available and is of economic value to Enernet CHP TWO whose disclosure may affect Enernet CHP TWO's competitiveness.	September 17, 2024
Exhibit II-2.4: Credentials of Contracted Entities	Trade Secret	Act 80-2011	Document contains Enernet CHP TWO's strategy to operate and manage the system. Such information is not publicly available and is of economic value to Enernet CHP TWO whose disclosure may affect Enernet CHP TWO's competitiveness.	September 17, 2024



Document Name	Provided Designation	Cited Legal Basis	Justification Provided	Date Filed
Attachment II-3: Request for Certification	CEII Personal Information Trade Secret	Critical Infrastructures Protection Act of 2001; 18 C.F.R. § 388.113, Article 122-2019; Act 80-2011	Document contains the physical address of the place where service will be provided, which is considered CEII. Document contains Enernet CHP TWO's sales projections and a general description of its system assets. Such information is not publicly available and is of economic value to Enernet CHP TWO whose disclosure may affect Enernet CHP TWO's competitiveness.	September 17, 2024
Exhibit II-3.2: CPA Certification	Personal Information; Trade Secret	Article 4 Act 122-2019; Act 80-2011	Document contains Enernet CHP TWO's financial information, which is personal, is not publicly available, and is of economic value to Enernet CHP TWO whose disclosure may affect Enernet CHP TWO's competitiveness.	September 17, 2024
Exhibit II-3.3: Human Resources Certification	Trade Secret	Act 80-2011	Document contains information regarding Enernet CHP TWO's workforce projection and resources. This information reflects Enernet CHP TWO's strategy to operate and manage the system. Such information is not publicly available and is of economic value to Enernet CHP TWO whose disclosure may affect Enernet CHP TWO's competitiveness.	September 17, 2024
Exhibit II-3.4: Permitting Process and Status	Trade Secret	Act 80-2011	Document contains information regarding Enernet CHP TWO's strategy to develop its generation system. Such information is not publicly available and is of economic value to Enernet CHP TWO whose disclosure may affect Enernet CHP TWO's competitiveness.	September 17, 2024
Exhibit II-3.5: Certification of Economic Capacity and Solvency	Personal Information; Trade Secret	Article 4 Act 122-2019; Act 80-2011	Document contains Enernet CHP TWO's financial information, which is personal and not publicly available, and is of economic value to Enernet CHP TWO whose disclosure may affect Enernet CHP TWO's competitiveness.	September 17, 2024
Exhibit II-3.6: Generation System Description	CEII; Trade Secret	Critical Infrastructures Protection Act of 2001; 18 C.F.R. § 388.113; Act 80-2011	Document contains a detailed description of the generation assets to be used by Enernet CHP TWO, including locations, which is considered CEII. Information therein reflects Enernet CHP TWO strategy and approach to providing services in Puerto Rico and its overall business strategies. Such information is not publicly available and is of economic value to Enernet CHP TWO whose disclosure may affect Enernet CHP TWO's competitiveness.	September 17, 2024



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Document Name	Provided Designation	Cited Legal Basis	Justification Provided	Date Filed
Exhibit II-3.7: Genset Specification Sheet	Trade Secret	Act 80-2011	Document contains detailed descriptions of the CHP system generation assets, which is information regarding Enernet CHP TWO's strategy to develop the CHP system. Such information is not publicly available and is of economic value to Enernet CHP TWO whose disclosure may affect Enernet CHP TWO's competitiveness.	September 17, 2024
Exhibit II-3.8: Absorption Chiller Specification Sheet	Trade Secret	Act 80-2011	Document contains detailed descriptions of the CHP system thermal assets, which is information regarding Enernet CHP TWO's strategy to develop the CHP system. Such information is not publicly available and is of economic value to Enernet CHP TWO whose disclosure may affect Enernet CHP TWO's competitiveness.	September 17, 2024
Exhibit III-1	Trade Secret	Act 80-2011	Document contains detailed descriptions of the CHP system operational parameters. Such information is not publicly available and is of economic value to Enernet CHP TWO whose disclosure may affect Enernet CHP TWO's competitiveness.	September 17, 2024
Attachment V-1	Personal Information	Article 4 Act 122-2019	Document contains information regarding Enernet CHP TWO's bank account, which is personal and is not publicly available.	September 17, 2024

Table 1: Enernet CHP TWO's Request for Confidential Information Designation and Treatment.

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Enernet CHP TWO provided justifications for each document's confidentiality request, citing various legal bases including Act 80-2011 (trade secrets), Article 4 of Act 122-2019 (protection of personal information), and the Critical Infrastructures Protection Act of 2001. In compliance with the August 31 Resolution, Enernet CHP TWO filed both redacted and unredacted versions of these documents.

The Energy Bureau has reviewed the confidentiality requests, the justifications provided, and the redacted versions of the documents.

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Act 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 fashion.⁹ 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".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

⁹ Section 6.15 of Act 57-2014, Rules of Confidentiality.
¹⁰ *Id.* at (a).
¹¹ *Id.*



Under Article 6.15 of Act 57-2014, the Energy Bureau **GRANTS** confidential treatment to all documents identified in Table 1 herein.

The Energy Bureau **REMINDS** Enernet CHP TWO that this confidential designation does not exempt the company from providing any information required by the Energy Bureau in its regulatory duties.

IV. Conclusion

After careful evaluation of Enernet CHP TWO's Request for Certification as an Electric Service Company and for Certification as Highly Efficient Generation, the Energy Bureau **DETERMINES** that the Application is **incomplete** and does not fully meet the requirements set forth in Regulation 8701 and other applicable regulations.

Specifically, the Energy Bureau has identified the following deficiencies:

1. The Personal Information (Attachment II-1) and the Operational Report (Attachment II-2) were not signed by the Designated Authorized Representative as required by Section 2.01(B) and Section 3.03(D) of Regulation 8701.
2. Enernet CHP TWO did not provide copies of all obtained federal, state, and municipal permits, authorizations, and endorsements as required by Section 3.03(A)(5) of Regulation 8701.
3. The information was not submitted using the standard forms as typically required by the Energy Bureau.

As for Enernet CHP TWO's request for a waiver to submit information in their own format rather than using the Energy Bureau's standard forms, the Energy Bureau **DENIES** this request. The Energy Bureau **DIRECTS** Enernet CHP TWO to use the standard forms for all required information but **ALLOWS** the submission of supplemental material to complement the information provided in the forms.

The Energy Bureau **GRANTS** Enernet CHP TWO **fifteen (15) days from the notification date of this Resolution and Order** to:

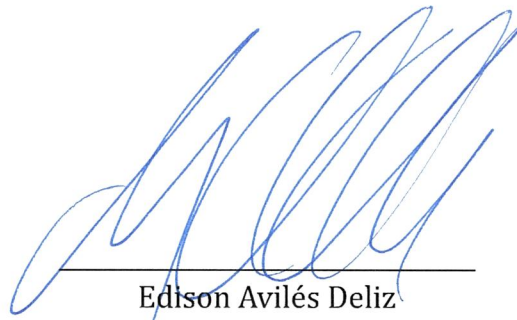
1. Resubmit the Personal Information using Form NEPR-B01, signed by the Designated Authorized Representative.
2. Submit copies of all obtained federal, state, and municipal permits, authorizations, and endorsements.
3. Submit all required information using the NEPR standard forms, with supplemental material, as necessary.
4. Address any other deficiencies identified in this Resolution and Order.

The Energy Bureau **DEFERS** its examination of Enernet CHP TWO's request for certification as Highly Efficient Generation until the company has resubmitted documentation addressing the deficiencies noted in this Resolution and Order.

The Energy Bureau **APPROVES** Enernet CHP TWO's request for confidential designation of the documents filed confidentially, as detailed in Section III of this Resolution and Order.

Be it notified and published.

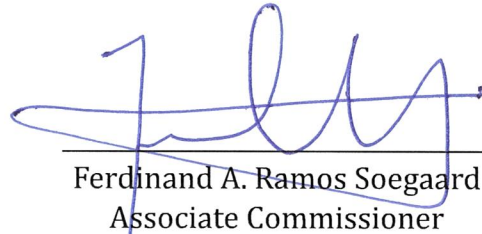




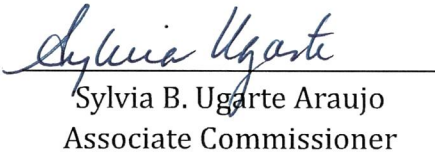
Edison Avilés Deliz
Chairman



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 have agreed on October 17, 2024. I also certify that on October 17, 2024 a copy of this Resolution and Order was notified by electronic mail to arrivera@nuenergypr.com and I have moved forward with filing the Resolution and Order issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, today October 17, 2024.




Sonia Seda Gaztambide
Clerk