

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

IN RE: REQUEST FOR CERTIFICATION
FORTRESS POWER LLC

CASE NO.: NEPR-CT-2024-0010

SUBJECT: Resolution and Order regarding
Fortress Power LLC compliance with
Regulations 8701 and 9246.

RESOLUTION AND ORDER

I. Introduction

On February 11, 2026, the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) issued a Resolution and Order (“February 11 Resolution”) granting Fortress Power LLC (“Fortress Power”) twenty (20) days to provide the corresponding adjustments to its complaint procedure, so that it aligns with Section 6.03 of Regulation 9246¹, and to provide proof of having published its complaint procedure. Specifically, the Energy Bureau requested from Fortress Power the following:

The language provided by Fortress in its procedure for addressing complaints regarding the Demand Response Services or compensation fails to establish clear deadlines for a customer to submit a complaint and does not adequately distinguish between the informal process before Fortress and the formal process before the Energy Bureau. Greater detail and clarity are required.

Fortress's filing requires modification to ensure faithful compliance with Section 6.03 of Regulation 9246. Fortress has not provided evidence of the publication of the mentioned procedure, which is also required by the referenced section.

On February 19, 2026, Fortress Power filed a document titled *Motion in Compliance with Resolution and Order* (“February 19 Motion”) reporting certain changes to its customer complaint procedure including: (i) the implementation of a complaint submission portal²; (ii) the option to submit complaints by telephone; (iii) automatic confirmation in both cases, through a confirmation email and automatic assignment of a tracking number; and (iv) a link to its written customer complaint procedure³. Fortress Power also reported that the information to contact the Independent Consumer Protection Office and the Energy Bureau was included in the complaint submission portal. The information in the Fortress Power website⁴ is the following:

Demand Response Customer Complaint Form

Fortress Power customers enrolled in a Demand Response (DR) program may submit complaints or grievances related to DR services, compensation, or the handling of customer information. [Click here to submit online](#), or you may call 877-497-6937.

¹ *Regulation for Demand Response*, Regulation 9246, December 21, 2020 (“Regulation 9246”). See also, Temporary waivers for Demand Response Aggregators as per the Energy Bureau's Resolution of January 29, 2025, In re: Energy Efficiency and Demand Response Transition Period Plan, Case No. NEPR-MI-2022-0001.

² <https://www.fortresspower.com/customer-complaint-form/>

³ https://www.fortresspower.com/wp-content/uploads/2026/01/FortressPower_CustomerComplaintProcedure.pdf

⁴ <https://www.fortresspower.com/support/>



Customers in Puerto Rico can contact the Independent Consumer Protection Office (ICO) of the Puerto Rico Energy Bureau for assistance regarding energy-related complaints.

The complaint procedure referenced on Fortress Power’s website is deficient, as it does not align with the requirements established in Section 6.03 of Regulation 9246.

II. Applicable Laws and Regulations

A. Regulatory Requirements to Demand Response Aggregators Certification

Section 1.03 of Regulation 9246 describes the importance of Demand Response to reconstruct the electrical grid of Puerto Rico:

Demand response has a significant role to play in rebuilding a stronger energy system responsive to customers’ needs. Developing demand response programs can be a resource to reduce system costs. Specifically, demand response can help reduce the cost of capacity, energy, and other energy services for all customers while increasing system flexibility and allowing for better integration of renewable resources. Customers participating in demand response programs will benefit through having opportunities to reduce their energy costs by better managing their usage.

It is important that entities requesting certification as Demand Response Aggregators understand the corresponding regulatory requirements to submit forms, information and documents to better fulfill their responsibilities.

On April 3, 2025, the Energy Bureau issued a Resolution and Order (“April 3 Resolution”)⁵, to align Energy Efficiency (“EE”) and Demand Response (“DR”) programs on a common timeframe with the Customer Battery Energy Sharing (“CBES”) program and to enable a comprehensive review of the first Three-Year EE and DR Plan. The Energy Bureau determined that the first Three-Year EE and DR Plan shall cover only two years: July 1, 2026, through June 30, 2028⁶. The Energy Bureau extended the Transition Period Plan (“TPP”) until June 30, 2026.

On October 24, 2025, the Energy Bureau issued a Resolution and Order (“October 24 Resolution”)⁷ that modified previous Resolutions on how waivers to the certification process provisions applicable under Regulation 8701 would be prospectively applied to entities requesting DR Aggregator certification. Specifically, the October 24 Resolution determined all Regulation 8701 provisions shall apply with the following exceptions:

<p>Article 2 Required Information and Duty to Update</p>	<p>Applicable only: Section 2.01 - Personal Information Section 2.03 – Fees Section 2.03(A)(1) Personal Information (\$100.00) Section 2.03(A)(1)(a) Update (\$50.00)</p> <p>The rest of Article 2 is waived.</p>
<p>Article 3 Certification</p>	<p>Applicable except: Section 3.03(B).</p>

⁵ In Re: Energy Efficiency and Demand Response Transition Period Plan, Case No.: NEPR-MI -2022-0001.

⁶ 2026-2028 EE and DR Plan.

⁷ On Case No.: NEPR-MI-2022-0001.



Among the clarifications in the October 24 Resolution it was determined that:

The waivers herein shall apply to all new DR Aggregators requesting certification of this Resolution and Order. Existing certified DR Aggregators shall commence with all filing requirements except the waivers specified herein commencing the start of the following calendar year January 1, 2026.⁸

As stated in Article 3.03(G) of Regulation 8701, Requests for Certification shall be deemed submitted if the appropriate fee has been paid, they contain all the information, data, and documents required by Regulation 8701, and once the Energy Bureau has confirmed and given written notice that the Request in question is complete. Any Requests that do not comply with every applicable provision of Regulation 8701 shall be deemed to have never been submitted and shall no legal effect.

B. Complaint Procedure for Consumers Enrolled in a Demand Aggregator Program

Section 6.03 of Regulation 9246 requires DR Program Providers a complaint procedure for its customers with the following elements:

A. Before enrolling customers in a DR program, each DR Program Provider shall develop and publish a procedure for addressing any complaints a Customer may have regarding the DR services or compensation provided to the Customer. The procedure shall clearly describe the process through which a Customer may file any complaint or grievance with the DR Program Provider and the process through which the DR Program Provider will address said complaint or grievance, including the time period within which such complaints or grievances will be addressed.

1) A DR Program Provider with a pre-existing complaint procedure that has been approved by the Energy Bureau may use that procedure until it develops a complaint procedure fully aligned with this regulation. When it begins implementation of a DR program, such provider shall propose to the Energy Bureau the timeline for updating its complaint procedure to be fully aligned with this regulation, or shall explain why it believes that its preexisting procedure is fully aligned with this regulation.

2) Each DR Program Provider's complaint procedure shall include information regarding how to contact the Independent Consumer Protection Office.

B) The procedure must include processes for investigation and resolution of complaints by a Customer whose private or proprietary information may have been sold by the DR Program Provider or disclosed by the DR Program Provider to market services or product offerings in violation of this Article.

C) Any Customer dissatisfied with a determination made by the DR Program Provider in relation to a complaint or grievance made under this Section may file a complaint with the Energy Bureau for review of such determination by the DR Program Provider. Such complain shall be filed under Regulation 8543.

C. Privacy and Data Security Policy Requirement under Regulation 9246

Regulation 9246 requires that DR Program Providers adopt and maintain a privacy and data security policy that describes and governs how it stores, safeguards, and limits disclosure of customer information. Section 6.01(D) requires the following:

⁸ Footnote 4, at page 2.



D) Each DR Program Provider's privacy and data security policy shall ensure at a minimum that:

1) The company's policy is consistent with the principles for data privacy and the smart grid in the DataGuard Energy Data Privacy Program Voluntary Code of Conduct.

2) The company may not sell private or proprietary customer information.

3) The company may not disclose private or proprietary customer information with or to its affiliates, subsidiaries, or any other third party to market services or product offerings to a retail electric customer who does not already subscribe to that service or product.

a) The DR Program Provider shall be allowed to share customer information with its DR vendors, verifiers, and evaluators, with data sharing limited to that which is necessary for effectively operating each vendor's DR program or programs or the verification or evaluation of such programs.

4) This section does not require customer permission for or prevent disclosure of private or proprietary customer information by the DR Program Provider to a third party with which the DR Program Provider has a contract where such contract is directly related to conduct of the DR Program Provider's business and the services being provided, provided that the contract prohibits the third party from further disclosing or selling any private or proprietary customer information obtained from the DR Program Provider to a party that is not the DR Program Provider and not a party to the contract with the DR Program Provider.

5) A DR Program Provider may collect and release retail electric customer information in aggregate form if the aggregated information allows no specific customer to be identified.

D. Prospective Reporting Responsibility regarding Gross Revenues and Financial Statements

As a result of the directive issued through the October 24 Resolution⁹, starting on 2027, DR Aggregators shall begin to report gross revenues and submit financial statements. Specifically, DR Aggregators shall submit with the corresponding information of Fiscal Year 2026: (i) Gross Revenue Report as required by Section 4.02(A) of Regulation 8701¹⁰; and (ii) Financial Statements (audited or compiled according to the amount of gross revenue) as required in Section 4.02(E) and (F) of Regulation 8701.

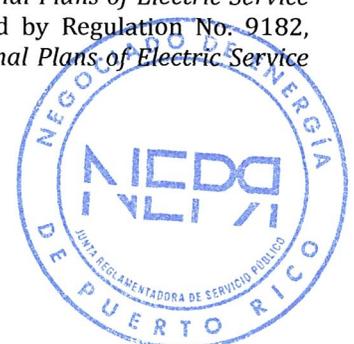
III. Conclusion

After reviewing the February 9 Motion, the Energy Bureau **TAKES NOTICE** of the information submitted and **GRANTS** Fortress Power **twenty (20) days** to update its written customer complaint procedure, as required by Section 6.03 of Regulation 9246, with the following information: (i) the deadline for each step of the informal complaint procedure before Fortress Power; (ii) the customer's right to submit to the Energy Bureau a request for formal review of the company's final determination¹¹; (iii) the deadline to submit a request for

⁹ Resolution issued under *In Re: Energy Efficiency and Demand Response Transition Period Plan*, Case No.: NEPR-MI-2022-0001.

¹⁰ *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").

¹¹ Under Section 6.03(C) of Regulation 9246.



formal review before the Energy Bureau regarding this matter¹²; (iv) the customer's right to contact the Independent Consumer Protection Office to receive orientation and/or intervention on his/her behalf in the formal procedure before the Energy Bureau¹³; and (v) the contact information of Energy Bureau and the Independent Consumer Protection Office.

The Energy Bureau **GRANTS** Fortress Power **twenty (20) days, from the notification of this Resolution and Order**, to update its Data Privacy and Protection Policy, filed on January 28, so as to include and/or clarify the following: (i) Fortress Power may not disclose private or proprietary customer information with or to its affiliates, subsidiaries, or any other third party to market services or product offerings to a retail electric customer who does not already subscribe to that service or product, as required by Section 6.01(D)(3) of Regulation 9246; and (ii) any contract between Fortress Power and a third party prohibits the third party from further disclosing or selling any private or proprietary customer information obtained from Fortress Power to a party that is not Fortress Power and not a party to the contract with Fortress Power, as required by Section 6.01(D)(4) of Regulation 9246.

The Energy Bureau **ORDERS** Fortress Power to submit during 2027 its: (i) Gross Revenue Report as required by Section 4.02(A) of Regulation 8701; and (ii) Financial Statements as required in Section 4.02(E) and (F) of Regulation 8701, with the corresponding 2026 information, and on the filing dates established in these provisions.

The Energy Bureau **WARNS** Fortress Power that non-compliance with this Resolution and Order may result in the imposition of fines under Art. 6.36 of Act 57-2014.¹⁴

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



¹² As required under Section 3.04 of Regulation No. 8543, on Adjudicative, Notice of Noncompliance, Rate Review and Investigative Proceedings, December 18, 2014 ("Regulation 8543").

¹³ Under Section 3.01 of Regulation 8543.

¹⁴ Known as the Puerto Rico Energy Transformation and RELIEF Act, as amended, ("Act 57-2014").

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on March 5, 2026. I also certify that on March 5, 2026, a copy of this Resolution was notified by electronic mail to carolinep@fortresspower.com; nathanr@fortresspower.com; and I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau.

For the record, I sign this in San Juan, Puerto Rico, on March 5, 2026.



Sonia Seda Gaztambide
Clerk

