



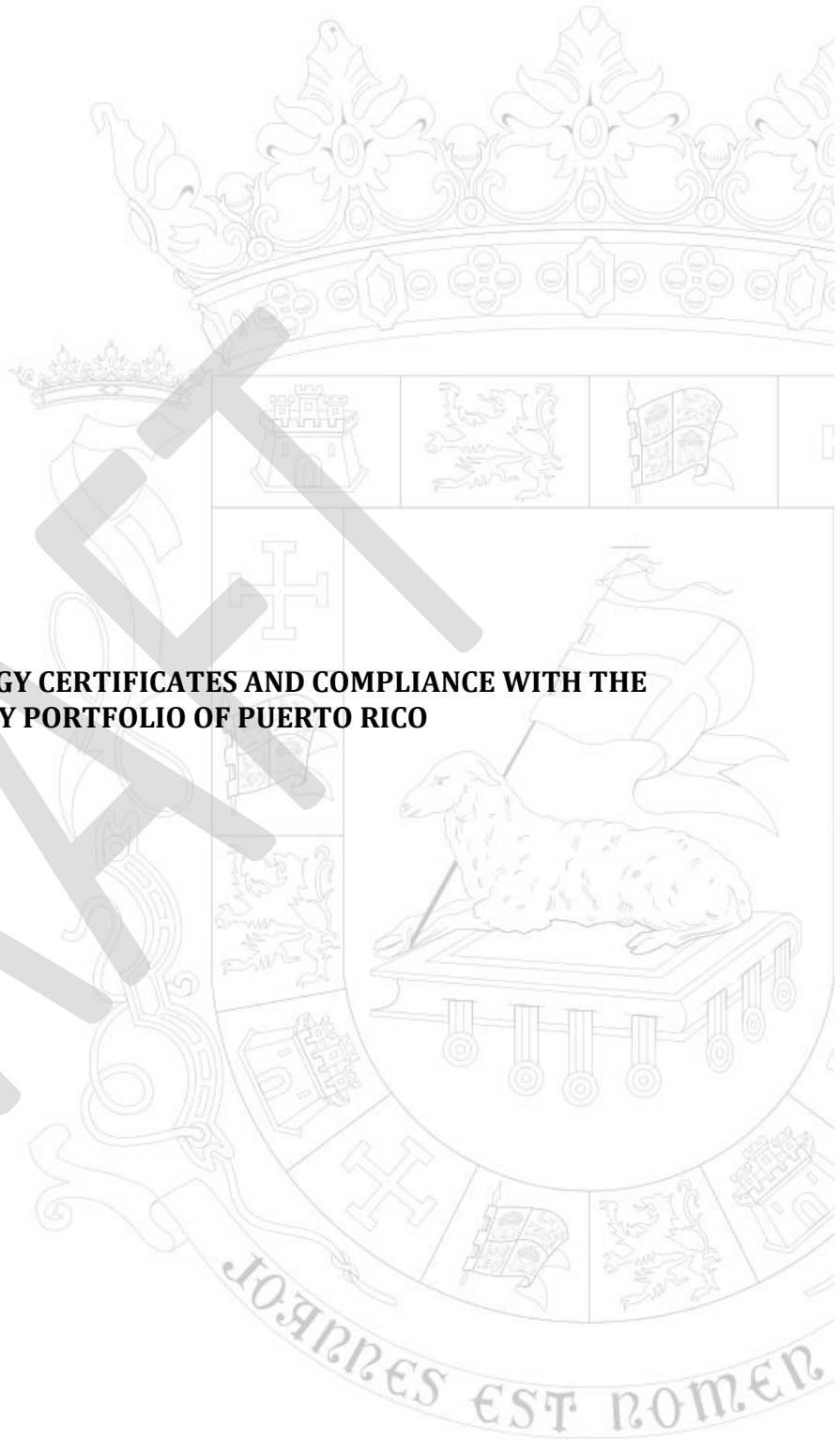
JUNTA REGLAMENTADORA DE
**SERVICIO
PÚBLICO**

NEGOCIADO DE ENERGÍA

GOBIERNO DE PUERTO RICO

**REGULATION OF RENEWABLE ENERGY CERTIFICATES AND COMPLIANCE WITH THE
RENEWABLE ENERGY PORTFOLIO OF PUERTO RICO**

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**REGULATION OF RENEWABLE ENERGY CERTIFICATES AND COMPLIANCE WITH THE
RENEWABLE ENERGY PORTFOLIO OF PUERTO RICO**

ARTICLE 1.- GENERAL PROVISIONS

Section 1.01.- Title.

This Regulation shall be known as the "Regulation of Renewable Energy Certificates and Compliance with the Renewable Energy Portfolio of Puerto Rico."

Section 1.02.- Legal basis.

This Regulation is adopted under Act No. 57-2014, as amended, known as the *Puerto Rico Energy Transformation and RELIEF Act*; Act No. 82-2010, as amended, known as the *Public Policy Act for Energy Diversification through Sustainable and Alternative Renewable Energy in Puerto Rico*; and Act No. 38-2017, as amended, known as the *Uniform Administrative Procedure Law of the Government of Puerto Rico* ("LPAU").

Section 1.03.- Purpose; Executive Summary; Cost Benefit Analysis.

A. Purpose and Executive Summary

The Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") adopts and issues this Regulation to oversee compliance with the Renewable Energy Portfolio and establish the regulatory provisions applicable to Renewable Energy Certificates (RECs). Through this Regulation, the Energy Bureau issues a stable and predictable regulatory framework, capable of promoting and making renewable energy generation activity possible and enabling compliance by Retail Energy Providers with the Renewable Energy Portfolio, as established in Act No. 82-2010.

This Regulation also includes the provisions regarding how the Puerto Rico Electric Power Authority ("PREPA") and other Retail Energy Providers can demonstrate compliance with the Renewable Energy Portfolio during each applicable calendar year. It also describes the process that Retail Energy Providers will use to submit Annual Compliance Reports for evaluation by the Energy Bureau. In addition, this Regulation provides the terms by which the Energy Bureau must evaluate the Annual Compliance Reports, as well as the minimum content required for the resolutions and orders issued by the Energy Bureau in these respects.

Finally, this Regulation establishes the way the Energy Bureau will notify Retail Energy Providers of any non-compliance with the Renewable Energy Portfolio, as well as the procedural mechanisms that the Energy Bureau will use to impose fines and penalties on Retail Energy Providers for the non-compliance.

B. Cost Benefit Analysis

Pursuant to the requirements of Act 138-2017¹, the Energy Bureau has evaluated the anticipated costs and benefits associated with the adoption of this Regulation establishing a regulatory framework for RECs. The Regulation sets forth procedures governing the creation, registration, transfer, and retirement of RECs; establishes a minimum compliance value for RECs used to demonstrate compliance with renewable energy portfolio requirements; and requires periodic reporting by jurisdictional electric utilities and other affected entities.

1. *Expected Benefits*

The principal benefit of this Regulation is the establishment of a transparent and standardized regulatory framework for the administration of RECs within Puerto Rico. By clearly defining the procedures for the registration, tracking, and retirement of RECs, the Regulation enhances regulatory certainty and ensure that renewable energy attributes are accounted for in a consistent and verifiable manner.

The Regulation also supports the effective implementation and enforcement of Puerto Rico's renewable energy portfolio requirements by providing Retail Energy Providers with a clear compliance mechanism. Establishing a minimum REC compliance value further contributes to market stability by reducing price volatility and providing a predictable benchmark for renewable energy investment decisions.

In addition, the reporting requirements adopted in this Regulation will improve regulatory oversight by enabling the Energy Bureau to monitor compliance with renewable energy obligations and assess the development of renewable generation resources in Puerto Rico. The availability of standardized data regarding REC transactions and renewable energy generation will also facilitate long-term planning and policy evaluation.

The Regulation is also expected to promote the development of renewable energy resources by providing a clear market signal regarding the value of renewable energy attributes. Increased investment in renewable generation may result in long-term environmental and economic benefits, including reduced emissions of air pollutants and greenhouse gases, diversification of the state's energy portfolio, and increased energy security.

2. *Expected Costs*

The Energy Bureau expects that the costs associated with compliance with this Regulation will be limited and largely administrative in nature. Retail Energy Providers and other market participants may incur modest costs related to registering RECs, maintaining records of REC transactions, and preparing the annual compliance reports required by the Regulation. Any administrative costs associated with REC tracking and reporting are

¹ Puerto Rico Uniform Administrative Procedure Act, Act No. 138 of June 30, 2017, as amended ("Act 38-2017").

expected to be minimal because most Retail Energy Providers (including PREPA) already maintain systems capable of tracking renewable generation and environmental attributes. To the extent additional administrative processes are required, they are expected to involve routine compliance activities that can be integrated into existing regulatory reporting frameworks.

Retail Energy Providers (including PREPA) may incur costs associated with procuring RECs to meet applicable renewable portfolio requirements. However, such costs arise from statutory or policy mandates rather than from this Regulation itself, which establishes only the procedural framework for compliance. In addition, because the renewable portfolio requirements are not fully applicable until 2050, or earlier, to the extent interim targets are established by the Energy Bureau through rulemaking or pursuant to applicable law, any such costs, if incurred, are not expected to arise prior to such requirements taking effect.

No significant fiscal impact on other governmental entities is anticipated.

3. *Impact on Market Competition and Small Businesses*

The Regulation is not expected to have a significant adverse impact on market competition. To the contrary, the Regulation establishes a transparent and standardized framework for REC transactions that may facilitate participation by a broader range of renewable energy producers and market participants.

Similarly, the Regulation is not expected to impose significant compliance costs on small businesses. Any obligations imposed by the Regulation are primarily directed at Retail Energy Providers and other entities participating in the REC market, which typically possess the administrative and financial capacity necessary to comply with the reporting and registration requirements.

4. *Regulatory Alternatives*

The Energy Bureau considered maintaining the status quo without adopting a formal REC framework; however, such an approach is not a viable alternative, as the establishment of a regulatory framework is mandated by applicable law and is therefore not discretionary. In addition, the absence of standardized procedures would likely result in inconsistent compliance practices, reduced transparency, and increased regulatory uncertainty.

The Energy Bureau also considered adopting a less prescriptive regulation; however, doing so could undermine enforceability and limit the effectiveness of renewable energy compliance mechanisms.

Accordingly, the adopted Regulation reflects a balanced approach that establishes the necessary regulatory structure while minimizing the associated administrative burden.

5. *Overall Determination*

After considering the anticipated regulatory costs and benefits, the Energy Bureau determines that the benefits of adopting this Regulation outweigh the potential costs. The Regulation promotes transparency, accountability, and regulatory certainty in the administration of RECs while supporting the effective implementation of Florida's renewable energy policies.

Accordingly, the Energy Bureau finds that adoption of this Regulation is in the public interest and consistent with the Energy Bureau's statutory responsibilities to ensure reliable, efficient, and environmentally responsible electric service in Puerto Rico.

Section 1.04.- Applicability.

This Regulation will apply to any Person subject to the Renewable Energy Portfolio, whether established by federal or local legislation or regulation, to any Electric Service Company, to any Renewable Energy Producer, as these terms are defined in this Regulation, and to any Person who registers, buys, sells, or otherwise transfers a Renewable Energy Certificate, originated under this Regulation.

Section 1.05.- Interpretation.

This Regulation shall be interpreted so it promotes the highest public interest and the protection of the interests of the residents of Puerto Rico, and so compliance with the Renewable Energy Portfolio is guaranteed quickly, fairly, and economically.

Section 1.06.- Provisions of other Regulations.

This Regulation may be supplemented by other regulations of the Energy Bureau compatible with this Regulation.

Section 1.07.- Unforeseen procedures.

When a specific procedure has not been provided for in this Regulation, the Energy Bureau may attend it in a way consistent with Act No. 57-2014, Act No. 17-2019, and Act No. 82-2010.

Section 1.08.- Definitions.

- A. These definitions will be used for this Regulation and are not intended to modify the definitions used in any other regulation, resolution, or order of the Energy Bureau.
- B. For this Regulation, these terms will have the meaning established below, unless otherwise clearly appears from the context of the content of any provision:

1. "Alternative Renewable Energy". — means energy derived from these sources:
 - a. combustion of gas derived from a sanitary landfill system;
 - b. anaerobic digestion;
 - c. fuel cells ("fuel cells") using Sustainable Renewable Energy and;
 - d. combustion of hydrogen not derived from fossil fuels (known as green hydrogen).
2. "Alternative Renewable Energy Producer". — means an Operator of an Alternative Renewable Energy Source that generates and sells electricity and with a capacity greater than one (1) megawatt (MW).
3. "Alternative Renewable Energy Source". — means any source of electricity that produces electrical energy through Alternative Renewable Energy.
4. "Annual Compliance Report". — means the annual report that every Retail Energy Provider must submit to the Energy Bureau to certify its compliance with the Renewable Energy Portfolio.
5. "Beginning of Operations". — means when an energy generation system begins its ordinary operation (i.e., the stages or phases of testing and adjustments (commissioning) have been completed).
6. "Distributed Generation Allowance Credit" or "DGAC". — equals the energy in megawatt hours (MWh) of total distributed renewable energy, which is estimated by T&D Operator on an annual basis, less the Distributed Renewable Energy with associated RECs in the Renewables Registry for the applicable period, the total then multiplied by a factor equal to 100% minus the Renewable Energy Portfolio obligation for the given year.
7. "Distributed Renewable Energy". — means Sustainable Renewable Energy or Alternative Renewable Energy supplied to an Electric Service Company or generated for the producer's own consumption or for sale to a third party, and whose generation source is connected to distribution voltage. Community systems are considered renewable energy distributed at the residential level and their maximum capacity will be determined by the Energy Bureau through resolution, with the input of PREPA or the T&D Operator.
8. "Distributed Renewable Energy Producer". — means any Operator of a Distributed Renewable Energy Source.
9. "Distributed Renewable Energy Source". — means any source of electricity that produces electrical energy through Distributed Renewable Energy.
10. "Electric Service Company". — refers to any Person, dedicated to the provision of electric power generation, transmission and distribution, billing, transfer, network services, energy storage, resale of electric power, and any other energy service as

defined by the Energy Bureau in Regulation 8701.2 PREPA and the T&D Operator will be considered Electric Service Companies.

11. “Electric System”. – means the electric power generation, transmission, and distribution system.
12. “Electrical Network”. — means the energy transmission and distribution infrastructure of the Government of Puerto Rico that is operated, maintained, and administered by PREPA or an Electric Service Company.
13. “Energy Attributes”. — refers to the implied benefits of electrical energy production from a Renewable Energy Source, measured in units or fractions of a megawatt-hour (MWh) and includes the use or consumption of electricity, the stability of the electrical network, production capacity, and contributions to Puerto Rico’s electric power system
14. “Energy Bureau”. — means the Energy Bureau of the Puerto Rico Public Service Regulatory Board, as established by virtue of the Reorganization Plan of the Puerto Rico Public Service Regulatory Board and Act No. 211-2018, which is an independent specialized entity with a charge to regulate, supervise, and enforce the public energy policy of the Government of Puerto Rico, formerly the Puerto Rico Energy Commission, created by virtue of Act No. 57-2014.
15. “Environmental and Social Attributes”. — means all the qualities and properties of the RECs that are inseparable and that include benefits to nature, the environment, and society that are the product of the generation of Renewable Energy, but excluding the Energy Attributes, as defined in this Regulation. Environmental and Social Attributes include, but are not limited to, the reduction of environmental pollutants, such as carbon dioxide and other greenhouse gas emissions.
16. “Force Majeure”. —means extraordinary events or circumstances beyond the reasonable control of the obligated entity that prevent compliance with the Renewable Energy Portfolio. Such events include, but are not limited to, natural disasters (e.g., hurricanes, earthquakes, or floods), acts of war or terrorism, government actions or regulations that restrict or impede the procurement or generation of renewable energy, economic hardship or changes in market conditions, significant disruptions to energy infrastructure, or other unforeseen events that render compliance unfeasible.
17. “Fuel Cell”. — means any electrochemical system in which energy from a chemical reaction is converted directly to electricity.
18. “Hydropower”. — means the energy produced by: (i) an increase in efficiency or increase in production capacity, achieved in a hydroelectric facility, built before the effective date of Act No. 82-2010 or (ii) a hydroelectric facility built after the effective date of Act No. 82-2010.

19. "Initial Notice of Default". — refers to the initial determination of the Energy Bureau that the Retail Energy Provider did not comply with the Renewable Energy Portfolio applicable to the calendar year under evaluation.
20. "Large-Scale Renewable Energy Producer". — means an operator of a Renewable Energy source that generates and sells electricity with a capacity greater than one (1) megawatt (MW) and is in front of the meter.
21. "Meter". — Instrument whose function is to measure and record the bidirectional flow (in two directions) of electricity; that is, energy delivered and received in kilowatt-hours by the customer with a distributed renewable energy source system interconnected with PREPA's electrical system.
22. "Operator". — means any person who controls or manages a Renewable Energy Source or a Retail Energy Provider.
23. "Person". — means any individual, partnership, business, association, corporation, public corporation, or entity under the jurisdiction of the Energy Bureau. The term "Person" specifically includes, but is not limited to, any Sustainable Renewable Energy Producer, Alternative Renewable Energy Producer, Retail Energy Provider, Distributed Renewable Energy Producer, the T&D Operator, and PREPA.
24. "PREPA". — means the Puerto Rico Electric Power Authority (PREPA), its subsidiary, its successor, or the T&D Operator.
25. "Prosumer". — means any user or consumer of the Electric System with the capacity to generate electricity for their own consumption, and with the capacity to supply any surplus energy to the Electric Grid or to other users.
26. "Public Energy Policy Program". — means the program attached to the Department of Economic Development and Commerce of Puerto Rico in charge of developing and disseminating the energy public policy of the Government of Puerto Rico, created by virtue of Act No. 211-2018, known as The Reorganization Plan of the Puerto Rico Public Service Regulatory Board.
27. "Reconciliation Period". — means the period of sixty (60) calendar days after the last day of the recently concluded calendar year, during which a Retail Energy Provider may acquire RECs to comply with the standards imposed by the Renewable Energy Portfolio applicable to the recently concluded calendar year.
28. "Renewable Energy". — includes together the terms "Sustainable Renewable Energy", "Alternative Renewable Energy", and "Distributed Renewable Energy".
29. "Renewable Biomass". — means all organic or biological material derived from organisms with the potential to generate electricity such as wood, waste, and alcohol-derived fuels, natural biomass, which is produced in nature without human intervention, and residual biomass, which is the by-product or residue generated in agricultural, forestry, and livestock activities, as well as solid residues from the agri-food industry, and in the wood transformation industry; it also includes any biomass of a similar nature to those described, as designated by the Public Energy Policy Program.

30. “Renewable Energy Certificate” or “REC”. — is a movable property that constitutes a marketable and negotiable asset or economic value, which can be bought, sold, assigned, and transferred between people for any lawful purpose, and which fully and inseparably represents the equivalent of one (1) megawatt-hour (MWh) of electricity generated by a Renewable Energy Source in Puerto Rico, issued and registered in accordance with this Regulation and which, in turn, includes all the Environmental and Social Attributes of said MWh of electricity.
31. “Renewable Energy Portfolio”. — means the required percentage of Sustainable Renewable Energy or Alternative Renewable Energy required from each Retail Energy Provider, as established in Act No. 82-2010 and this Regulation.
32. “Renewable Energy Producer”. — includes together the terms “Alternative Renewable Energy Producer,” “Distributed Renewable Energy Producer,” and “Sustainable Renewable Energy Producer.
33. “Renewable Energy Purchase Agreements”. — means the agreements for the purchase of electrical energy produced by a Renewable Energy Source. These agreements may include the purchase of RECs, as defined in this Regulation, which are the product of the energy generated by the Renewable Energy Producer, either for an agreed amount or through a pre-established rate indexed to a pre-established long term.
34. “Renewable Energy Source”. — includes together the terms “Alternative Renewable Energy Source”, “Distributed Renewable Energy Source”, and “Sustainable Renewable Energy Source”.
35. “Renewables Registry”. — means the North American Renewables Registry (known as “North American Renewables Registry”) (“NARR”), which manages an electronic platform that issues RECs with unique serial numbers, where registered sources can create and manage their individual accounts, and post and transfer RECs ; as well as any other registry established or authorized by the Energy Bureau to account for and transfer RECs in Puerto Rico.
36. “Retail Energy Provider”. — means PREPA or any other Person that sells energy at retail and that has sold over fifty thousand (50,000) megawatt-hours (MWh) of electric energy to consumers of electric energy in Puerto Rico during the previous calendar year or that plans to sell said amount during the current year, excluding any such provider that does not generate or have control over the procurement of the energy resources it transmits or distributes. To determine if a person is a Retail Energy Provider, the retail energy sales in Puerto Rico of any affiliate of the person will be considered. Any company that controls or manages, is controlled, or managed by, or is subject to common control or management, by a Retail Energy Provider shall be considered an “affiliate”. The term Retail Energy Provider does not include an Energy Producer whose energy is intended for resale or the T&D Operator so long as it does not generate or have control over the procurement of energy resources. If the definition of Retail Electricity Supplier is altered in Act 82-2010, as amended, the definition in this Regulation shall reflect what is in force in public policy.
37. “Sustainable Renewable Energy”. — means energy derived from the following sources:

- a. Solar energy;
 - b. Wind power;
 - c. Geothermal energy;
 - d. Combustion of renewable biomass;
 - e. Combustion of gas derived from renewable biomass;
 - f. Combustion of biofuels derived exclusively from renewable biomass;
 - g. Hydropower;
 - h. Renewable marine and hydrokinetic energy renewable energy, as defined in Section 632 of the Energy Independence and Security Act of 2007 of the United States of America (The Energy Independence and Security Act of 2007, Pub. L. 110-140, 42 USC § 17211); and
 - i. Thermal ocean energy.
38. “Sustainable Renewable Energy Producer”. — means an Operator of a Sustainable Renewable Energy Source that generates and sells electricity and with a capacity greater than one (1) megawatt (MW).
39. “Sustainable Renewable Energy Source”. — means any source of electricity that produces electrical energy through Sustainable Renewable Energy.
40. “T&D Operator” – means the entity authorized by the Energy Bureau to operate and maintain the transmission and distribution system of Puerto Rico.
41. “Virtual Power Plant”— means an electric service company duly authorized by the Energy Bureau to act as an intermediary between PREPA, its subsidiary, its successor, or the T&D Operator and customers that have distributed renewable energy sources to manage, add, and sell said energy to PREPA under Renewable Energy Purchase Agreements.
- C. Any word used in the singular in these Regulations will be understood to also include the plural, unless otherwise indicated by the context.

Section 1.09.- Prevailing version.

If any discrepancy arises between the Spanish version and the English version, of this Regulation, the English version shall prevail.

Section 1.10.- Forms.

The Energy Bureau will establish the forms it considers necessary to conduct the procedures under this Regulation, which will be available to the public through its website. That the Energy Bureau has not adopted one or more forms, is reviewing them, or the Internet portal is out of service, will relieve no person of their duty to comply with the provisions established herein, provide the information required by this Regulation, or otherwise comply with any order of the Energy Bureau.

Section 1.11.- Mode of presentation.

The forms, documents, and appearances required by virtue of this Regulation or any order of the Energy Bureau must be submitted to the Energy Bureau in electronic format under the instructions that the Energy Bureau establishes through order in relation to the electronic filing system and established appearance policies. If the electronic filing system is not operating or is not working temporarily, the forms, documents, and appearances required by virtue of this Regulation or any order of the Energy Bureau, shall be submitted to the Energy Bureau under the instructions that the Energy Bureau will establish through an order.

Section 1.12.- Effect of the presentation.

The presentation of a document whose content has been formulated by the party that signs it will equal the certification that the content of the document is true and that, according to their best knowledge, information, and belief, the document has been formed after a reasonable analysis and is based on facts, arguments, legal sources, and correct information.

Section 1.13.- Confidential information.

If in compliance with this Regulation or any order of the Energy Bureau, a person has the duty to disclose to the Energy Bureau information privileged in accordance with applicable evidentiary privileges, said person shall identify the allegedly privileged information and request in written form to the Energy Bureau the protection of the information, under Article 6.15 of Act No. 57-2014. When identifying privileged information and requesting confidential treatment by the Energy Bureau, the requesting party will follow the rules and procedures established by the Energy Bureau in Resolution CEPR-MI-2016-0009, as such resolution is amended, for the presentation, handling, and treatment of confidential information. Except in the case of information protected under the attorney-client privilege, the claim of confidential treatment will not be, under any circumstance, a reason to deny that said information is presented before the Energy Bureau.

Section 1.14.- Clause of exception.

If any article, provision, word, sentence, paragraph, or section of these Regulations is challenged before a court and declared unconstitutional or null, said sentence will not affect, undermine, or invalidate the remaining provisions of this Regulation, but its Effect shall be limited to the article, provision, word, sentence, paragraph, or section thus declared unconstitutional or void. The nullity or invalidity of any article, word, sentence, paragraph, or section in any specific case will not affect or impair its application or validity in any other case, unless specifically and expressly invalidated for all cases.

Section 1.15.- Validity.

Under Section 2.8 of the LPAU, this Regulation shall enter into force thirty (30) calendar days from its presentation in the Department of State and the Legislative Library.

Section 1.16.- Penalties for non-compliance.

Any Person who fails to comply with the requirements established in this Regulation may be subject to a Notice of Non-Compliance under Chapter IV of Regulation 8543³ and may, because of said non-compliance, be subject to any applicable sanction or administrative fine that the Bureau of Energy deems appropriate. Also, the Energy Bureau may: (i) file lawsuits, claims or causes of action in its own name in the Court of First Instance of the General Court of Justice of Puerto Rico against any natural or legal person that fails to comply with or interferes with the requirements, purposes, and objectives of Act No. 82-2010, or in any other administrative forum of the General Court of Justice of Puerto Rico; and (ii) issue orders to make or cease and desist any person to comply with the requirements, purposes, and objectives of Act No. 82-2010, including, but not limited to, compliance with the Renewable Energy Portfolio, being able to go directly to the Court of First Instance of the General Court of Justice of Puerto Rico to require such compliance.

Section 1.17.- Penalties for providing false information.

Any person who offers, provides, or sends false or incorrect information knowing it is false or incorrect in any document, report, request, statement, or certification required under this Regulation to defraud, shall incur a felony and, if convicted, may be punished with imprisonment for a minimum term of six (6) months and a maximum of five (5) years, in addition to the imposition of a \$10,000 fine for each violation.

Section 1.18.- Compliance with other applicable legal requirements.

Compliance with this Regulation will exempt no person from complying with the other applicable legal and regulatory requirements established by the Energy Bureau or any other government entity.

ARTICLE 2.- RENEWABLE ENERGY CERTIFICATES

Section 2.01.- Large-scale energy purchase and sale contracts.

- A. Renewable Energy Purchase Agreements between PREPA and a Large-Scale Renewable Energy Producer or a Virtual Power Plant executed on or after the effective date of this Regulation will clearly establish that the price of the purchased energy includes all the Environmental and Social Attributes associated with said

³ Regulation 8543, *Regulation on Adjudicatory Procedures, Notices of Non-Compliance, Rate Review and Investigations*, December 18, 2014.

energy. The RECs originated by virtue of the energy purchase agreement will be transferred to PREPA, at no additional cost.

- B. Renewable Energy Purchase Agreements between PREPA or T&D Operator and a Large-Scale Renewable Energy Producer in force on the effective date of this Regulation, which have clauses where the cost of the RECs is separated from the cost of the energy generated, will maintain said clauses. However, any renegotiation or renewal of the contracts shall be subject to Paragraph (A) of this Section.
- C. Retail Energy Providers are not permitted to sell RECs unless they have RECs in excess of their annual obligation.
- D. Retail Energy Suppliers, as defined in Regulation 9374, the Regulation on Electric Energy Wheeling, or its successor regulation, shall annually transfer to PREPA a number of RECs corresponding to any positive annual energy imbalance resulting from production of Renewable Energy over the consumption of electric energy by its retail wheeling customers, no later than February 15 of the year following the year of the energy imbalance.

Section 2.02.- Origination of RECs.

- A. The REC originates when the Renewables Registry issues a document with a unique serial number that indicates the name of the producer of renewable energy who generated the energy and the total megawatt-hours (MWh) of energy generated by an energy source in Puerto Rico during the calendar year in which the energy was generated.
- B. For each calendar year, the Renewable Energy Producer may originate the RECs from January 1 of the calendar year in which the energy is generated until January 31 of the following year. The period from January 1 to January 31 of the year following the calendar year in which the energy is generated is granted to correct or update any measurement during the calendar year in which the energy is generated and to originate the RECs produced during December.
- C. The Distributed Renewable Energy generated by Prosumers or by Producers of Distributed Renewable Energy can be registered with the North American Renewables Registry according to the current NAR operating procedures.
- D. All RECs may be purchased by a Retail Energy Provider for compliance with the Renewable Energy Portfolio, or by other purchasers for any legitimate purpose.

Section 2.03.- Requirements for the origination and certification of RECs.

- A. When the Renewable Energy Producer maintains a Renewable Energy Purchase Agreement with the Retail Energy Provider, the Renewable Energy Producer will

maintain an agreement with the corresponding Retail Energy Provider for the reading of renewable energy production through meters. The Retail Energy Provider or T&D Operator will send to the Renewables Registry the information on the generation for each Renewable Energy Producer, under this Regulation. If a Retail Energy Provider in turn produces Renewable Energy, it will have the obligation to demonstrate to the Renewables Registry the independence between both functions.

- B. In all other cases, the Renewable Energy Producer may submit the information required by the Renewables Registry, in the way established by the latter.

Section 2.04.- Ownership and rights over the RECs.

- A. The ownership of each REC issued will belong to the energy source that generated the electricity until its ownership is sold, assigned, or otherwise lawfully transferred.
- B. Every holder of a REC has the right to negotiate, market, advertise, sell, and in any other lawful manner transfer or assign their ownership of RECs, under this Regulation.

Section 2.05.- Minimum value of RECs.

- A. The minimum REC value is one cent (\$0.01) per megawatt-hour (MWh). The Energy Bureau will review the minimum value of each REC at least every three (3) years. Once the Energy Bureau establishes the new minimum value of the RECs, it will enter into force on January 1 of the calendar year following the date on which the Energy Bureau established the new value.

Section 2.06.- Modification of the Renewables Registry.

The Energy Bureau may, through order or resolution, change the Renewables Registry to be used to comply with the provisions of this Regulation. In any circumstance, the change or modification will enter into force after at least six (6) months have elapsed, counted from the date of issuance of an order or resolution.

ARTICLE 3.- COMPLIANCE WITH THE RENEWABLE ENERGY PORTFOLIO

Section 3.01.- Renewable Energy Portfolio.

On or before year 2050, the percentage of Sustainable Renewable Energy or Alternative Renewable Energy applicable to each Retail Energy Provider shall be one hundred percent (100%) of energy production required to supply demand.

Section 3.02.- Amount of Renewable Energy required for compliance with the Renewable Energy Portfolio.

- A. The amount of Renewable Energy required from a Retail Energy Provider other than PREPA in a given year is calculated by multiplying the percentage corresponding to the year, as established in Section 3.01 of this Regulation, by the total electrical energy, expressed in megawatt-hours (MWh), sold by the Retail Energy Provider during the corresponding calendar year.
- B. The amount of Renewable Energy required from PREPA in a given year is calculated by multiplying the percentage corresponding to the year, as established in Section 3.01 of this Regulation, by the total electrical energy, expressed in megawatt-hours (MWh), sold by PREPA during the corresponding calendar year, less the DGAC.
- C. For this Section, the amount of electric energy sold during each calendar year by a Retail Energy Provider that comes from a hydroelectric facility built before the effective date of Act No. 82-2010 shall not be counted as part of the total volume of electricity sold by the Retail Energy Provider for said year.
- D. The amount of Alternative Renewable Energy that a Retail Energy Provider can use to demonstrate compliance with the Renewable Energy Portfolio in a given year may not exceed twenty percent (20%) of the amount of Renewable Energy required for that year.

Section 3.03.- Compliance mechanisms with the Renewable Energy Portfolio.

- A. Retail Energy Providers shall comply by submitting to the Energy Bureau a REC issued and registered in the Renewables Registry for each megawatt-hour (MWh) required as calculated in Section 3.02 of this Regulation.
- B. Every REC submitted by a Retail Energy Provider under subsection (A) of this Section must come with a certification that the electricity generated by the Renewable Energy Producer was produced and sold in Puerto Rico.
- C. On an annual basis, T&D Operator shall provide to the Energy Bureau an estimate of renewable energy in megawatt-hours (MWh) generated by distributed renewables in its service territory, even if the energy is supplied to an Electric Service Company or generated for the producer's own consumption or for sale to a third party. The T&D Operator must provide a transparent accounting of how it has estimated renewable energy generated by distributed renewable energy resources.

Section 3.04.- Renewable Energy Acquisition Report; non-feasibility of acquiring RECs.

- A. The Renewable Energy Acquisition Report will include the following information:

- 1) The name and physical and postal address of the Distributed Renewable Energy Producer that produced the energy that the Retail Energy Provider claims satisfies compliance with the Renewable Energy Portfolio. If the number of Distributed Renewable Energy Producers is large, as is the case of PREPA's net metering residential customers, it will be enough to provide the number of Distributed Renewable Energy Producers, presented by class;
- 2) The amount of energy purchased from the Distributed Renewable Energy Producer (in megawatt-hours, or MWh), including meter readings or a reference to where they can be accessed on the internet. If the number of Distributed Renewable Energy Producers is so numerous, such as the case of PREPA's net metering residential customers, that it is not practical to provide the meter readings or a reference to where they can be accessed in the internet, the Retail Energy Provider must provide the information in an aggregated manner by class of Distributed Renewable Energy Producer, along with documents from its billing system that support the information provided. In the case of PREPA, it will be enough to submit the monthly reports of its customer care and billing system by customer class;
- 3) The power purchase agreement or a reference to where it can be accessed on the Internet. If the number of Distributed Renewable Energy Producers is as numerous as the case of PREPA's net metering residential customers, it will not be necessary to present the agreements. However, in such circumstances, the Retail Energy Provider must certify that it has a valid contract with the Distributed Renewable Energy Producers reported as part of Subparagraph (1) above;
- 4) Proof that the power purchase or net metering agreement expressly shows that the power purchase includes all the Environmental and Social Attributes related to the power purchased or acquired;
- 5) A duly substantiated explanation of the reasons it is not viable and feasible to require that the renewable energy produced by the Distributed Renewable Energy Producers be individually registered and accounted for in the Renewables Registry, for which reason it is not possible to present to the Energy Bureau RECs that represent said energy;
- 6) The following certification:

I certify that the Retail Energy Provider that I represent purchased and resold the amount of energy specified in the document accompanying this certification for the calendar year under review and that, as a result of said purchase and resale, the Retail Energy Provider that I represent complied with all or a portion of its obligation law under the Public Policy Act for Energy Diversification through Renewable Energy in Puerto Rico. I

acknowledge that I expose myself to civil and criminal penalties for providing false or incorrect information, knowing it is false or incorrect.

- 7) Any other information that the Energy Bureau requires by order or resolution.
- B. The Energy Bureau may modify, through order or resolution, the language of the certification described in Subsection (6) of Paragraph (A) of this Section.
- C. The Retail Energy Provider shall include the Renewable Energy Acquisition Report as part of the Annual Compliance Report. If the Energy Bureau approves the Renewable Energy Acquisition Report, it will accredit the amount of energy acquired from the Distributed Renewable Energy Producers as part of the energy required for compliance with the Renewable Energy Portfolio.
- D. A Retail Energy Provider can, at its discretion, submit reports with the information described in Paragraph A of this Section 3.04 on a quarterly basis to inform the Energy Bureau of the progress in meeting the requirements as established in Section 3.01 of this Regulation and any reasons or obstacles confronted or expected to be confronted to meet these requirements, and request any appropriate relief. The Energy Bureau may issue determinations regarding the requests in these reports as it considers appropriate.

Section 3.05.- Requirement to present the Annual Compliance Report.

Every Retail Energy Provider shall, on or before March 31 of the calendar year following the calendar year for which the Retail Energy Provider must comply with the Renewable Energy Portfolio, submit to the Energy Bureau for its evaluation and approval an Annual Compliance Report, under this Regulation and using those forms or templates (electronic or printed) that the Energy Bureau may provide for such purposes.

Section 3.06.- Contents of the Annual Compliance Report.

- A. The Annual Compliance Report must have the following information:
 - 1) The total amount of megawatt-hours (MWh) sold by the Retail Energy Provider during the previously elapsed calendar year;
 - 2) The total amount of megawatt-hours (MWh) sold by the Retail Energy Provider during the previously elapsed calendar year from a hydroelectric facility;
 - 3) The total amount of megawatt-hours (MWh) sold by the Retail Energy Provider during the previously elapsed calendar year, net of energy sales from a hydroelectric facility and the DGAC;

- 4) The DGAC and accompanying calculation, including the total Distributed Renewable Energy produced in the previously elapsed calendar year less energy associated with RECs in the Renewables Registry;
- 5) The number of megawatt-hours (MWh) that the Retail Energy Provider generated or purchased from a Sustainable Renewable Energy Source or an Alternative Renewable Energy Source during the previously elapsed calendar year;
- 6) The RECs, issued and registered in the Renewables Registry, presented to satisfy compliance with all or part of the Renewable Energy Portfolio during the previously elapsed calendar year, including identification of those RECs preserved from earlier years;
- 7) The RECs, issued and registered in the Renewables Registry, presented to satisfy compliance with all or part of the Renewable Energy Portfolio applicable to the current calendar year;
- 8) The Renewable Energy Acquisition Report, if applicable;
- 9) The Distributed Renewable Energy that the Retail Energy Provider purchased to meet all or part of the Renewable Energy Portfolio during the previously elapsed calendar year;
- 10) The total amount of Renewable Energy acquired by the Retail Energy Provider (in megawatt-hours, or MWh) that it presents to prove full or partial compliance with the Renewable Energy Portfolio for the previously elapsed calendar year;
- 11) The amount of Renewable Energy purchased by the Retail Energy Provider during the previously elapsed calendar year, expressed as a percentage of the total amount of megawatt-hours (MWh) sold by the Retail Energy Provider during the previously elapsed calendar year, net of the sales of energy that comes from a hydroelectric facility that was built before the effective date of Act No. 82-2010 and the DGAC;
- 12) The number of megawatt-hours (MWh) that the Retail Energy Provider estimates it will sell during the current calendar year;
- 13) The number of megawatt-hours (MWh) that the Retail Energy Provider estimates it must generate or acquire to comply with the Renewable Energy Portfolio applicable to the current calendar year;
- 14) The total amount of megawatt-hours (MWh) of Sustainable Renewable Energy or Alternative Renewable Energy that the Retail Energy Provider estimates

will be supplied to it under a power purchase agreement in effect when the Annual Compliance Report is filed;

- 15) The total number of RECs temporarily preserved for future use that the Retail Energy Provider will submit to satisfy compliance with all or part of the Renewable Energy Portfolio applicable to the current calendar year;
- 16) The cost incurred by the Retail Energy Provider to comply with the Renewable Energy Portfolio applicable to the previously elapsed calendar year, separately breaking down the cost related to the purchase of Sustainable Renewable Energy, Distributed Renewable Energy, or Alternate Renewable Energy, and the cost related to the purchase of RECs;
- 17) The cost estimated by the Retail Energy Provider to comply with the Renewable Energy Portfolio applicable to the current year, breaking down separately the cost related to the purchase of Sustainable Renewable Energy, Distributed Renewable Energy, or Alternative Renewable Energy, and the cost related to the purchase of RECs;
- 18) Evidence of energy purchases and the acquisition of RECs (e.g., contracts, invoices, payment receipts, or similar documents); and
- 19) Any other information or documentation that the Energy Bureau requires by order.

Section 3.07.- Withdrawal and cancelation of RECs.

The Energy Bureau will retire and cancel all RECs filed as evidence of compliance with the Renewable Energy Portfolio. Upon retirement and cancellation, said REC may not be filed in a subsequent calendar year.

Section 3.08.- Acquisition of RECs during the Reconciliation Period.

A Retail Energy Provider may, during the Reconciliation Period, acquire RECs to comply with the Renewable Energy Portfolio applicable to the previous calendar year. The Retail Energy Provider may not present the RECs thus acquired to demonstrate compliance with the Renewable Energy Portfolio applicable to the current calendar year.

Section 3.09.- Preservation of RECs.

- A. A Retail Energy Provider may temporarily preserve for future use the RECs it possesses. The effect of preserving a REC will be as follows:
 - 1) Once preserved, such REC may not be sold or otherwise transferred.

- 2) A preserved REC may be used only to evidence compliance with the Renewable Energy Portfolio applicable to the two (2) calendar years in a row, counted from the date the REC was preserved.
- 3) A REC preserved and subsequently filed within the first calendar year following the date of preservation will represent one (1) megawatt- hour (MWh) of electricity produced by a Sustainable Renewable Energy Source or an Alternative Renewable Energy Source.
- 4) A REC preserved and subsequently submitted during the second calendar year following the date of preservation will represent one-half (0.5) megawatt- hours (MWh) of electricity produced by a Sustainable Renewable Energy Source or an Alternative Renewable Energy Source.

Section 3.10.- Interim Reporting Prior to 2050

For calendar years prior to 2050, and in the absence of a specific annual Renewable Energy Portfolio percentage or other interim compliance metric established by law, regulation, resolution, or order, Retail Energy Providers shall not be required to submit either the Annual Compliance Report or the Renewable Energy Acquisition Report as defined in this Regulation.

In lieu thereof, Retail Energy Providers shall submit to the Energy Bureau an annual informational report designed to allow the Energy Bureau to monitor the progress made by each Retail Energy Provider in integrating renewable energy resources and advancing toward the Renewable Energy Portfolio goal established in Section 3.01. Such informational report shall include, to the extent applicable and practicable, the information described in Sections 3.04 and 3.06 of this Regulation. The submission of this informational report shall not constitute a certification of compliance with the Renewable Energy Portfolio for the year under review, and nothing in this Regulation shall be interpreted as requiring the acquisition of Renewable Energy Certificates or renewable energy resources for purposes of annual compliance prior to 2050.

ARTICLE 4.- EVALUATION OF ANNUAL COMPLIANCE REPORTS

Section 4.01.- Evaluation regarding compliance with the presentation requirements.

- A. Within the term of thirty (30) calendar days, counted from the date of filing of the Annual Compliance Report, the Energy Bureau must evaluate an Annual Compliance Report to determine if it meets the requirements established in Sections 3.05 and 3.06 of this Regulation.
- B. If the Energy Bureau determines that the Annual Compliance Report was not submitted under the requirements established in Sections 3.05 and 3.06 of this

Regulation, it will issue a resolution by which it will point out the deficiencies found. The Retail Energy Provider will have a term of twenty (20) calendar days, counted from the resolution, to correct the indicated deficiencies. At the request of a party, the Energy Bureau may extend said term for just cause.

- C. If the Energy Bureau determines that the Annual Compliance Report was submitted under the requirements established in Sections 3.05 and 3.06 of this Regulation, it will issue a resolution.

Section 4.02.- Term to evaluate the Annual Compliance Report; initial determination.

- A. The Energy Bureau must evaluate the Annual Compliance Report within a term of thirty (30) calendar days, counted from the date of notification of the resolution by which it informed that the Annual Compliance Report was presented under Section 3.05 of this Regulation.
- B. If after evaluating the Annual Compliance Report, the Energy Bureau determines that the Retail Energy Provider complied with the Renewable Energy Portfolio applicable to the calendar year under review, it will issue a resolution and order, within the term described in Paragraph (A) of this Section, which will have the following:
 - 1) The determination that the Retail Energy Provider complied with the Renewable Energy Portfolio applicable to the calendar year under review;
 - 2) Requirement to the Retail Energy Provider to transfer to the Energy Bureau the number of RECs necessary to comply with the applicable Renewable Energy Portfolio, within the term established by the Energy Bureau through a resolution and order;
 - 3) Determination regarding whether the Retail Energy Provider is authorized to temporarily preserve RECs to evidence compliance with the Renewable Energy Portfolio applicable to later calendar years;
 - 4) If applicable, the number of RECs and/or the number of megawatt-hours (MWh) that the Retail Energy Provider is authorized to temporarily preserve to evidence compliance with the Renewable Energy Portfolio applicable to later calendar years; and
 - 5) Any other determination or order that the Energy Bureau considers necessary and pertinent.
- C. If after evaluating the Annual Compliance Report, the Energy Bureau determines that the Retail Energy Provider did not comply with the requirements of the Renewable Energy Portfolio applicable to the calendar year under review, it will issue an Initial

Notice of Default, within the term described in Paragraph (A) of this Section. that will have the following:

- 1) The nature of the breach;
- 2) The term for the Retail Energy Provider to submit its response to the Initial Notice of Default;
- 3) Warning of the penalties to which the Retail Energy Provider is exposed for non-compliance with the Renewable Energy Portfolio and for not submitting a response to the Initial Notice of Default; and
- 4) Any other determination or order that the Energy Bureau deems necessary and pertinent.

Section 4.03. - Term to respond to the Initial Notice of Default; content of the Initial Notice of Default.

- A. The Retail Energy Provider must submit a response to the Initial Notice of Default within a term of thirty (30) calendar days from the date of notification of the Initial Notice of Default.
- B. In response to the notice of non-compliance, the Retail Energy Provider may present justifications for non-compliance, in accordance with Section 4.04 of these Regulations. The Retail Energy Provider may argue there was no such breach, justifying its position.
- C. The Retail Energy Provider must also submit, for evaluation and approval by the Energy Bureau, a corrective action plan proposal to comply with the Renewable Energy Portfolio applicable in later calendar years. The Energy Bureau may, at its discretion, approve the proposed corrective action plan, modify it, or approve a different corrective action plan.

Section 4.04.- Justifications for non-compliance.

- A. The Retail Energy provider may justify its non-compliance by demonstrating the reasonable and good-faith efforts it has made to comply with the Renewable Energy Portfolio. To establish the reasonableness and good faith of its defenses to non-compliance, the Retail Energy Provider must demonstrate to the satisfaction of the Energy Bureau that its non-compliance was due to one or more of the following reasons:
 - 1) Force Majeure, as defined by this Regulation;
 - 2) Unforeseeable substantial loss of the renewable resource;

- 3) Labor disturbances and strikes;
- 4) Violation of contractual clauses of a renewable energy purchase agreement by a contracting party (other than the Retail Energy Provider);
- 5) Insufficiency of Renewable Energy Sources;
- 6) Insufficiency of Renewable Energy Producers;
- 7) The excessive cost of the acquisition of electrical energy generated by a Renewable Energy Producer; and
- 8) The excessive cost of acquiring RECs.

B. For the purposes of this Section, 'excessive cost' refers to a cost that imposes an unreasonable burden on the Retail Energy Provider relative to the prevailing circumstances at the time the justification is invoked. The determination of whether a cost is excessive shall be made based on factors such as the concurrent REC) market conditions and broader economic conditions in Puerto Rico.

Section 4.05.- Determination regarding the response to the Initial Notice of Default.

- A. The Energy Bureau must evaluate the response to the Initial Notice of Default and issue a Final Resolution within a term of forty-five (45) calendar days, counted from the date of filing of the response to the non-compliance notice. The Final Resolution must clearly detail the findings of fact and the conclusions of law on which the determination of the Energy Bureau is based.
- B. If the Energy Bureau determines that the Retail Energy Provider satisfactorily justified its non-compliance with the Renewable Energy Portfolio for the calendar year under review, the Final Resolution will also include:
 - 1) The determination that the Retail Energy Provider demonstrated to the satisfaction of the Energy Bureau all reasonable and good-faith efforts made to try to comply with the Renewable Energy Portfolio for the calendar year under review and that the response to the Initial Notice of Default satisfies the criteria established in Section 4.03 of these Regulations;
 - 2) The approved corrective action plan to comply with the Renewable Energy Portfolio applicable in later calendar years;
 - 3) A moratorium on any imposition of fines on the Retail Energy Provider in relation to compliance with the Renewable Energy Portfolio for the calendar year under review; and

- 4) Any other determination or order that the Energy Bureau deems pertinent and necessary.
- C. If the Energy Bureau determines that the Retail Energy Provider did not adequately justify its non-compliance with the Renewable Energy Portfolio for the calendar year under review, the Final Resolution will also include:
- 1) The determination that the Retail Energy Provider did not demonstrate to the satisfaction of the Energy Bureau reasonable and good-faith efforts made to try to comply with the Renewable Energy Portfolio for the calendar year under review;
 - 2) The level of compliance with the Renewable Energy Portfolio reached by the Retail Energy Provider for the calendar year under review, expressed as a percentage (relative to sales) and in megawatt-hours (MWh);
 - 3) The difference between the required amount of Renewable Energy applicable to the Retail Energy Provider in the calendar year under review and the level of compliance with the Renewable Energy Portfolio achieved by the Retail Energy Provider, in megawatt-hours (MWh);
 - 4) The approved corrective action plan to comply with the Renewable Energy Portfolio applicable in later calendar years;
 - 5) The fine to be imposed on the Retail Energy Provider for non-compliance with the Renewable Energy Portfolio for the calendar year under review, as determined under this Regulation;
 - 6) The term to pay the fine described in Paragraph (5) above; and
 - 7) Any other determination or order that the Energy Bureau deems pertinent and necessary.
- D. Where the Energy Bureau determines that a Retail Energy Provider failed to comply with the Renewable Energy Portfolio for the calendar year under review, the Energy Bureau will render a report to the Governor and the Legislature, within a term of thirty (30) calendar days, counted from the date of notification of the Final Resolution, without prejudice to any subsequent process that may move forward by law.
- E. The report required in Paragraph (D) of this Section shall have the following information and documents:
- 1) The Annual Compliance Report;
 - 2) The Initial Notice of Default;

- 3) The response to the Initial Notice of Default;
- 4) The Final Resolution; and
- 5) Any other document or information that the Energy Bureau considers necessary or pertinent.

Section 4.06.- Fine for non-compliance with the Renewable Energy Portfolio.

- A. If after evaluating the response to the Initial Notice of Default, the Energy Bureau determines that a Retail Energy Provider failed to comply with the Renewable Energy Portfolio applicable to the calendar year under review, it will impose a fine on the Retail Energy Provider, under this Section.
- B. The fine described in Paragraph (A) above shall be determined as follows:
 - 1) The Energy Bureau will establish the level of compliance with the Renewable Energy Portfolio reached by the Retail Energy Provider for the calendar year under review, in megawatt-hours (MWh);
 - 2) The Energy Bureau will calculate the difference between the required amount of Renewable Energy applicable to the Retail Energy Provider in the calendar year under review and the level of compliance with the Renewable Energy Portfolio achieved by the Retail Energy Provider, in megawatt hours (MWh). This difference represents the level of non-compliance with the Renewable Energy Portfolio for the calendar year under review.
 - 3) The minimum fine will equal two times the multiplication of the level of non-compliance with the Renewable Energy Portfolio, as calculated in Paragraph (2) above, and the minimum value of the RECs in force during the calendar year under review.
- C. The Retail Energy Provider must settle the fine imposed by the Energy Bureau, within a term of thirty (30) calendar days, counted from the date of notification of the fine, in the way established by the Energy Bureau.
- D. If the Retail Energy Provider does not settle the fine imposed by the Energy Bureau within the term established in Paragraph (C) above, the Energy Bureau may impose additional sanctions under Act No. 57-2014.

ARTICLE 5.- REQUEST FOR RECONSIDERATION AND JUDICIAL REVIEW

Section 5.01.- Request for Reconsideration.

Any person who is not satisfied with a decision made by the Energy Bureau under this Regulation may present, within a term of twenty (20) calendar days from the on which a copy of the final decision of the Energy Bureau is notified by the Secretary of the Energy Bureau , a request for reconsideration before the Energy Bureau in which the petitioner details the reasons that support the request and the decisions that, in the petitioner's opinion, the Energy Bureau should reconsider.

Section 5.02.- Judicial Review.

Any person dissatisfied with a final decision of the Energy Bureau under this Regulation may, within thirty (30) calendar days from the date of notification of the copy of the final decision in response to a request for reconsideration, or within thirty (30) calendar days from the date on which a copy of the final decision of the Energy Bureau is notified by the Secretary of the Energy Bureau, if a request for reconsideration has not been submitted, appear before the Court of Appeals of the Government of Puerto Rico through a judicial review remedy, under Section 4.2 of the LPAU and the applicable Rules of the Court of Appeals.