



Control Number: 32306



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DOCKET NO. 32306

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**NOTICE OF VIOLATION BY ENTERGY §
GULF STATES, INC. OF PURA § 38.005, §
RELATING TO ELECTRIC SERVICE §
RELIABILITY MEASURES, AND P.U.C. §
SUBST. R. 25.52, RELATING TO §
RELIABILITY AND CONTINUITY OF §
SERVICE §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

ORDER

Pursuant to P.U.C. PROC. R. 22.246(f)(2), this Order approves the Settlement Agreement and Report to Commission (Agreement) reached between the Public Utility Commission of Texas (Commission) Staff and Entergy Gulf States, Inc. (EGSI) (collectively, Parties) regarding the Notice of Violation (NOV) issued on January 19, 2006. The NOV concerned Commission Staff's investigation into EGSI's violations of § 38.005 of PURA,¹ relating to Electric Service Reliability Measures, and P.U.C. SUBST. R. 25.52, relating to Reliability and Continuity of Service, and recommended penalty of \$38,000. The Parties reached an Agreement which provides for an administrative penalty of \$19,000. This docket was processed in accordance with applicable statutes and Commission rules. The Agreement resolves all issues in this docket. The Agreement is unopposed and provides for a reasonable resolution to the issues in this docket. The Agreement is approved.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

1. Commission Staff reviewed the service quality reports that EGSI filed in Project Nos. 25180, 27270, 29165, and 30613 for the reporting years 2001-2004 to determine

¹ Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.017 (Vernon 1998 & Supp. 2006) (PURA).

whether EGSI complied with service quality and reliability standards mandated by PURA § 38.005 and P.U.C. SUBST. R. 25.52.

2. In 2004, the distribution system of EGSI had a System Average Interruption Duration Index (SAIDI) value that exceeded EGSI's system-wide SAIDI standard by more than 5.0%.
3. The following distribution feeders with more than 10 customers sustained a SAIDI value for reporting years 2003 and 2004 that was among the highest (worst) 10% of EGSI's feeders for those years:

ALDEN BRIDGE 762AL
HEARNE 25HRN
LAKESIDE 4LAS

DOUCETTE 569DC
HEARNE 29HRN
LAKESIDE 5LAS

DOUCETTE 570DC
KICKAPOO 251KP
OAK RIDGE 742OK

4. The following distribution feeders with more than 10 customers sustained a SAIDI value for reporting years 2002, 2003, and 2004 that was among the highest (worst) 10% of EGSI's feeders for those years:

LAKESIDE L009F

PEE DEE 809PD

REBEL 119RB

5. The following distribution feeder with more than 10 customers sustained a SAIDI value for reporting years 2001, 2002, 2003, and 2004 that was among the highest (worst) 10% of EGSI's feeders for those years:

WARREN 592WR

6. The following distribution feeders with more than 10 customers sustained a System Average Interruption Frequency Index (SAIFI) value for reporting years 2003 and 2004 that was among the highest (worst) 10% of EGSI's feeders for those years:

ALDEN BRIDGE 762AL
KICKAPOO 251KP

DAYTON BULK 725DY
OAK RIDGE 742OK

HIMEX 221HI
REBEL 119RB

7. The following distribution feeders with more than 10 customers sustained a SAIFI value for reporting years 2002, 2003, and 2004 that was among the highest (worst) 10% of EGSI's feeders for those years:

PEE DEE 808PD

PEE DEE 809PD

8. The following distribution feeders with more than 10 customers sustained a SAIFI value for reporting years 2001, 2002, 2003, and 2004 that was among the highest (worst) 10% of EGSI's feeders for those years:

WARREN 592 WR

9. The following distribution feeders with 10 or more customers sustained a SAIDI value for reporting years 2003 and 2004 that was more than 300% greater than the system average of EGSI's feeders for those years:

HEARNE 25HRN

HEARNE 29HRN

10. On January 19, 2006, Commission Staff filed the NOV relating to the violations of EGSI and recommended an administrative penalty in the amount of \$38,000.
11. A copy of the NOV was sent to EGSI via certified mail return receipt requested.
12. EGSI received its NOV on January 20, 2006.
13. The NOV that was filed and received by EGSI included a brief summary of the violations, a statement of the amount of recommended penalties, a description of the EGSI's options under P.U.C. PROC. R. 22.246 for responding to the NOV, a copy of the report issued to the Commission pursuant to P.U.C. PROC. R. 22.246(e), and a copy of P.U.C. PROC. R. 22.246.
14. EGSI participated in one or more settlement discussions with Commission Staff, the purpose of which was to reach amicable resolution of the allegations in the NOV.

15. The Agreement of the Parties resolves the NOV.

II. Conclusions of Law

1. EGSI is an electric utility for purposes of PURA § 38.005 and P.U.C. SUBST. R. 25.52.
2. The Commission has jurisdiction over this matter pursuant to PURA §§ 14.001, 14.002, 14.003, 14.051, 15.023, 15.024, 38.005, and 39.101.
3. As an electric utility, EGSI is required to comply with service quality and reliability standards mandated by PURA § 38.005 and P.U.C. SUBST. R. 25.52.
4. Notice of the NOV was provided to EGSI in compliance with PURA § 15.024 and P.U.C. PROC. R. 22.246.
5. EGSI committed 21 violations of PURA § 38.005(b) and P.U.C. SUBST. R. 25.52(f)(2)(A), which require electric utilities and transmission and distribution utilities to maintain and operate their distribution systems so that no distribution feeder with more than 10 customers sustains a SAIDI or SAIFI value for a reporting year that is among the highest (worst) 10% of that utility's feeders for any two consecutive reporting years.
6. EGSI committed 2 violations of PURA § 38.005(b) and P.U.C. SUBST. R. 25.52(f)(2)(B), which require electric utilities and transmission and distribution utilities to maintain and operate their distribution systems so that no distribution feeder with more than 10 customers sustains a SAIDI or SAIFI value for a reporting year that is more than 300% greater than the system average of all feeders during any two consecutive reporting years.
7. EGSI committed 1 violation of P.U.C. SUBST. R. 25.52(f)(1)(B), which requires each utility to maintain and operate its electric distribution system so that the SAIDI value does not exceed the system-wide SAIDI standard by more than 5.0%.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following order:

1. The Agreement attached to this Order as Attachment 1 is approved, and the Parties shall be bound by its terms.
2. EGSI shall pay an administrative penalty to the Commission in an amount totaling Nineteen Thousand and No Dollars (\$19,000.00) before the expiration of 30 calendar days following the date this Order is signed.
3. EGSI shall mail its payment of the monetary penalty to:

Public Utility Commission of Texas
Attn: Accounting Department - Bob Saathoff
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

The payment shall reference Docket No. 32306 and shall be made payable to the Public Utility Commission of Texas.

4. As provided in the Agreement, EGSI shall file an affidavit in this docket no later than the fifth calendar day after EGSI remits the payment. This affidavit shall attest to payment of the administrative penalty imposed by the Parties' Agreement and this Order.
5. The imposition of this administrative penalty and EGSI's compliance with all of the terms and conditions set forth in this Order resolve all matters arising out of the allegations described here.

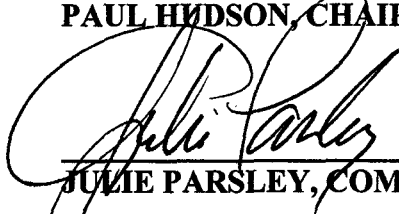
6. EGSi shall improve the performance and reliability of feeders that have violated service quality and reliability standards for three or more consecutive years and ensure proper performance and reliability of all other feeders.
7. The Commission shall not be constrained in any manner from requiring additional action or penalties for violations that are not raised in the NOV.
8. Entry of this Order does not indicate the Commission's endorsement or approval of any principal or methodology that may underlie the Agreement. Neither should the entry of this Order consistent with the Agreement be regarded as a binding holding or precedent as to the appropriateness of any principle underlying the Agreement.
9. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other request for general or specific relief, if not expressly granted, are denied.

SIGNED AT AUSTIN, TEXAS the 1st day of March 2007.

PUBLIC UTILITY COMMISSION OF TEXAS



PAUL HUDSON, CHAIRMAN



JULIE PARSLEY, COMMISSIONER



BARRY T. SMITHERMAN, COMMISSIONER

DOCKET NO. 32306

NOTICE OF VIOLATION BY § PUBLIC UTILITY COMMISSION
ENERGY GULF STATES, INC. OF §
PURA § 38.005, RELATING TO § OF TEXAS
ELECTRIC SERVICE RELIABILITY §
MEASURES; P.U.C. SUBST. R. 25.52, §
RELATING TO RELIABILITY AND §
CONTINUITY OF SERVICE §

SETTLEMENT AGREEMENT AND REPORT TO COMMISSION

Staff of the Public Utility Commission of Texas (Staff) and Entergy Gulf States, Inc. (EGSI) (together, Parties) enter into this Settlement Agreement and Report to Commission (Agreement). This Agreement resolves the Notice of Violation (NOV) issued in Docket No. 32306 regarding violations of PURA § 38.005,¹ relating to Electric Service Reliability Measures and P.U.C. SUBST. R. 25.52, relating to Reliability and Continuity of Service.²

The Parties hereby stipulate and agree as follows:

1. EGSI is an electric utility for purposes of PURA § 38.005 and P.U.C. SUBST. R. 25.52.
2. PURA § 38.005 and P.U.C. SUBST. R. 25.52 establish service quality and reliability standards that electric utilities and transmission and distribution utilities must meet.
3. P.U.C. SUBST. R. 25.81 requires that electric utilities and transmission and distribution utilities file annual service quality reports no later than February 14 of each year.
4. Staff reviewed the service quality reports that EGSI filed in Project Nos. 25180, 27270, 29165, and 30613 for the reporting years 2001-2004 to determine whether EGSI complied with the deadline in P.U.C. SUBST. R. 25.81 and the service quality and reliability standards established by PURA § 38.005 and P.U.C. SUBST. R. 25.52.

¹ Public Utility Regulatory Act, TEX. UTIL. CODE §§ 11.001-66.017 (Vernon 1998 & Supp. 2005) (PURA).

² The rules of the Public Utility Commission of Texas are found in Title 16 of the Texas Administrative Code and referred to herein as either Procedural or Substantive.

5. In 2004, the distribution system of EGSI had a System Average Interruption Duration Index (SAIDI) value that exceeded EGSI's system-wide SAIDI standard by more than 5.0%.

6. The following distribution feeders with more than ten customers sustained a System Average Interruption Duration Index (SAIDI) value for reporting years 2003 and 2004 that was among the highest (worst) 10% of EGSI's feeders for those years:

ALDEN BRIDGE 762AL	DOUCETTE 569DC	DOUCETTE 570DC
HEARNE 25HRN	HEARNE 29HRN	KICKAPOO 251KP
LAKESIDE 4LAS	LAKESIDE 5LAS	OAK RIDGE 742OK

7. The following distribution feeders with more than ten customers sustained a SAIDI value for reporting years 2002, 2003, and 2004 that was among the highest (worst) 10% of EGSI's feeders for those years:

LAKESIDE L009F	PEE DEE 809PD	REBEL 119RB
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8. The following distribution feeder with more than ten customers sustained a SAIDI value for reporting years 2001, 2002, 2003, and 2004 that was among the highest (worst) 10% of EGSI's feeders for those years:

WARREN 592WR

9. The following distribution feeders with more than ten customers sustained a System Average Interruption Frequency Index (SAIFI) value for reporting years 2003 and 2004 that was among the highest (worst) 10% of EGSI's feeders for those years:

ALDEN BRIDGE 762AL	DAYTON BULK 725DY	HIMEX 221HI
KICKAPOO 251KP	OAK RIDGE 742OK	REBEL 119RB

10. The following distribution feeders with more than ten customers sustained a SAIFI value for reporting years 2002, 2003, and 2004 that was among the highest (worst) 10% of EGSI's feeders for those years:

PEE DEE 808PD	PEE DEE 809PD
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11. The following distribution feeders with more than ten customers sustained a SAIFI value for reporting years 2001, 2002, 2003, and 2004 that was among the highest (worst) 10% of EGSI's feeders for those years:

WARREN 592 WR

12. The following distribution feeders with ten or more customers sustained a SAIDI value for reporting years 2003 and 2004 that was more than 300% greater than the system average of EGSI's feeders for those years:

HEARNE 25HRN

HEARNE 29HRN

13. On January 19, 2006 Staff filed the NOV relating to the violations of EGSI.
14. A copy of the NOV was sent to EGSI via certified mail return receipt requested.
15. EGSI received its NOV on January 20, 2006.
16. EGSI participated in one or more settlement discussions with Staff, the purpose of which was to reach amicable resolution of the allegations in the NOVs.
17. This Agreement resolves the allegations in the NOV.
18. EGSI admits to the jurisdiction of the Public Utility Commission of Texas (Commission) over the Parties to this proceeding and the subject matter of this Agreement and to the jurisdiction and authority of the Commission to enter a final order approving this Agreement.
19. EGSI received a copy of the NOV by certified US mail return receipt requested. The NOV included a brief summary of the violations, a statement of the amount of recommended penalties, a discussion of EGSI's options under P.U.C. PROC. R. 22.246 for responding to the

NOV, a copy of the report issued to the Commission pursuant to P.U.C. PROC. R. 22.246(e), and a copy of P.U.C. PROC. R. 22.246.

20. Unless specifically provided for in this Agreement, EGSI expressly waives any notice and procedures that might otherwise be authorized or required in this proceeding.

21. In order to avoid the time, effort, expense and uncertainties of litigation, EGSI agrees to pay an administrative penalty of Nineteen Thousand Dollars (\$19,000.00).

22. EGSI agrees to remit payment of the full amount of the monetary penalty on or before thirty (30) calendar days after the date on which the Commission enters an order approving this Agreement. Payment shall be made in the form of a check or wire transfer payable to the Public Utility Commission of Texas and shall reference Docket No. 32306.

23. No later than the fifth calendar day after EGSI remits payment, EGSI shall file an affidavit in Docket No. 32306 attesting that payment has been timely made.

24. EGSI shall make efforts to improve the performance and reliability of its feeders. In particular, these efforts shall focus on feeders that have violated service quality and reliability standards for three or more consecutive years.

25. The Parties agree that all of the statements in this Agreement are correct, and may be relied upon by the Commission in resolving this docket.

26. This Agreement represents a compromise of disputed claims, and by entering this Agreement EGSI does not admit the truth of any such disputed claims except as set forth in the Agreement. The Parties agree that a Party's support of the resolution of this docket in accordance with this Agreement may differ from its position or testimony regarding contested issues of law, policy, or fact in other proceedings before the Commission or other forum. Because this is a settlement agreement, a Party is under no obligation to take the same position as set out in this Agreement in other proceedings not referenced in this Agreement whether those

dockets present the same or a different set of circumstances. The Parties' agreement to entry of a final order of the Commission consistent with this Agreement should not be regarded as an agreement as to the appropriateness or correctness of any assumptions, methodology, or legal or regulatory principle that may have been employed in reaching this Agreement.

27. The Parties agree to the attached Proposed Order.

28. The Parties contemplate that this Agreement will be approved, as contemplated by P.U.C. PROC. R. 22.246(g)(1)(C). In the event the Commission materially changes the terms of this Agreement, the Parties agree that any Party adversely affected by that material alteration has the right to withdraw from this Agreement, thereby becoming released from its obligations arising hereunder, and to proceed as otherwise permitted by law to exercise all rights available under law. The right to withdraw must be exercised by providing the other Party written notice within 20 calendar days of the date the Commission files the final order acting on this Agreement. Failure to provide such notice within the specified time period shall constitute a waiver of the right to withdraw and acceptance of the material changes to this Agreement made by the Commission.

29. This Agreement resolves all claims in the NOV.

30. This Agreement contains the entire agreement between Staff and Entergy as to the NOV. Moreover, this Agreement supercedes all other written and oral exchanges or negotiations among the Parties or their representatives with regard to the subjects contained herein.

31. This Agreement is a report of settlement to the Commission as required by P.U.C. PROC. R. 22.246(g).

32. Each person executing this Agreement represents that he or she has been authorized to sign on behalf of the Party represented. Facsimile copies of signatures are valid for purposes of evidencing such execution. This Agreement may be executed in multiple counterparts, each of which is deemed an original but all of which constitute one and the same instrument.

33. EGSi warrants that it has read this Agreement carefully, knows the contents thereof, and signs the same as its free act.

EXECUTED by the Parties as of January 12th, 2007 by their authorized representatives designated below.

Paula Cyr / by permission
Paula Cyr
Senior Counsel
EGSI

Date: 1-12-07

Jeffrey T. Pender
Jeffrey T. Pender
Attorney
Legal Division
Public Utility Commission of Texas

Date: 1-12-07