



Control Number: 39279



Item Number: 4

Addendum StartPage: 0

DOCKET NO. 39279

**AGREED NOTICE OF VIOLATION
AND SETTLEMENT AGREEMENT
RELATING TO ONCOR ELECTRIC
DELIVERY COMPANY LLC'S
VIOLATION OF PURA § 38.005 AND
P.U.C. SUBST. R. § 25.52,
CONCERNING RELIABILITY AND
CONTINUITY OF SERVICE**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

RECEIVED
MAY - 3 PM 2:30
PUBLIC UTILITY COMMISSION
FILING CLERK

ORDER

Pursuant to P.U.C. PROC. R. 22.246(g)(1)(C), this Order approves the Settlement Agreement and Report to Commission (Agreement) between the Staff of the Public Utility Commission of Texas (Commission) and Oncor Electric Delivery Company LLC (Oncor) (together, Parties) regarding Commission Staff's investigation of Oncor for violation of PURA¹ § 38.005 and P.U.C. SUBST. R. 25.52, concerning reliability and continuity of service. PURA § 38.005 was amended in 2009 and all references to PURA § 38.005 in this Agreement are to the prior version of the statute that was in effect in 2008.² This docket was processed in accordance with applicable statutes and Commission rules. Commission Staff recommended an administrative penalty of \$210,000.00, which Oncor agreed to pay. The Agreement is approved.

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

I. Findings of Fact

1. Oncor is a transmission and distribution utility as defined in PURA § 31.002(19).
2. For reporting year 2008, Oncor reported it had 76 feeders with a System Average Interruption Duration Index (SAIDI) value in the top 10% of the worst feeders for two or more consecutive years, 60 feeders with a System Average Interruption Frequency Index

¹ Public Utility Regulatory Act, TEX. UTIL. CODE §§ 11.001-66.016 (Vernon 2007 & Supp. 2010) (PURA).

² Act of May 27, 1999, 76th Leg. R.S., ch S 36, 1999 Tex. Sess. Law 2557(amended 1999)(current version at TEX. UTIL. CODE §§ 38.005 (Vernon 2007 & Supp. 2010).

(SAIFI) value in the top 10% of its worst feeders for two or more consecutive years, 21 feeders with a SAIDI value more than 300% greater than system average for two or more consecutive years, and 4 feeders with a SAIFI value more than 300% greater than the system average for two or more consecutive years.

3. On or about February 26, 2010, Oncor was provided proper notice of Commission Staff's investigation in this matter, the results of the investigation, information about the right to a hearing, and an opportunity to explain its activities.
4. Oncor fully cooperated with Commission Staff's investigation.
5. Oncor acknowledges the violations detailed in this Order.
6. Oncor participated in one or more settlement discussions with Commission Staff to resolve this matter.
7. On March 29, 2011, the Parties entered into the Agreement resolving the violations. Commission Staff recommended, and Oncor agreed to pay an administrative penalty of \$210,000.00.
8. The Agreement provides for a reasonable resolution of this dispute.
9. The Agreement is in the public interest.

II. Conclusions of Law

1. The Commission has jurisdiction over this matter pursuant to PURA §§ 14.001, 14.002, 14.003, 14.051, 15.023, 15.024, and 38.005.
2. Oncor is a transmission and distribution utility for purposes of PURA § 31.002(19) and for purposes of PURA § 38.005 and P.U.C. SUBST. R. 25.52.
3. As a transmission and distribution utility, Oncor is required to comply with the service quality and reliability standards established by PURA § 38.005, and P.U.C. SUBST. R. 25.52.
4. Oncor was provided proper notice of Commission Staff's investigation in this matter, the results of the investigation, information about the right to a hearing, and an opportunity to explain its activities.

5. PURA § 38.005(a) provides that "[t]he commission shall implement service quality and reliability standards relating to the delivery of electricity to retail customers by electric utilities and transmission and distribution utilities." Subsection (a) goes on to require the Commission to, by rule, "develop reliability standards, including: (1) the system-average interruption frequency index (SAIFI); (2) the system-average interruption duration index (SAIDI); (3) achievement of average response time for customer service requests or inquiries; or (4) other standards that the commission finds reasonable and appropriate."
6. Pursuant to this legislative mandate, the Commission implemented the reliability standards found in P.U.C. SUBST. R. 25.52. P.U.C. SUBST. R. 25.52(f)(1)(A) and (B) requires each utility to maintain and operate its distribution system so that no distribution feeder with more than 10 customers sustains a SAIDI or SAIFI value in the top 10% worst feeders for two or more consecutive years or sustains a SAIDI or SAIFI value for a reporting year that is more than 300% greater than system average for two consecutive reporting years.
7. Oncor violated PURA § 38.005 and the requirements of P.U.C. SUBST. R. 25.52 for reporting year 2008. Oncor reported it had 76 feeders with a SAIDI value in the top 10% of the worst feeders for two or more consecutive years, 60 feeders with a SAIFI value in the top 10% of worst feeders for two or more consecutive years, 21 feeders with a SAIDI value more than 300% greater than system average for two or more consecutive years, and 4 feeders with a SAIFI value more than 300% greater than the system average for two or more consecutive years.
8. P.U.C. PROC. R. 22.246(g)(1)(A), (B) and (C) requires issuance of a report of a settlement to the Commission and a written order that approves the settlement.
9. The Agreement is a report of settlement to the Commission as required by P.U.C. PROC. R. 22.246(g).
10. The requirements for informal disposition pursuant to P.U.C. PROC. R. 22.35 have been met in this proceeding.

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. Oncor shall pay an administrative penalty to the Commission in the amount of \$210,000.00. Oncor shall remit payment of the full amount of the administrative penalty on or before 30 calendar days after the date this Order is signed. Payment of the administrative penalty shall be made by check payable to the Public Utility Commission of Texas and shall reference Docket No. 39279. The check shall be sent to the following address:

Public Utility Commission of Texas
P.O. Box 13326,
Austin, Texas 78711
ATTN: Fiscal Services

3. Oncor shall file an affidavit of payment in this docket no later than five calendar days after the payment is made.
4. Oncor agrees to make efforts to improve the performance and reliability of all of its feeders. In particular, those efforts will focus on feeders that have violated service quality and reliability standards for three or more consecutive years and/or maintaining the system-wide standards required by P.U.C. SUBST. R. 25.52 (f)(1)(A) and (B).
5. The Commission shall not be constrained in any manner from requiring additional action or penalties for violations that are not raised here.
6. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the Agreement. Entry of this Order shall not be regarded as binding precedent as to the appropriateness of any principle that may underlie the Agreement.

7. 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 herein, are denied.

SIGNED AT AUSTIN, TEXAS the 3rd ^{May} day of April 2011.

PUBLIC UTILITY COMMISSION OF TEXAS



BARRY T. SMITHERMAN, CHAIRMAN



DONNA L. NELSON, COMMISSIONER



KENNETH W. ANDERSON, JR., COMMISSIONER

DOCKET NO. 39279

<p>AGREED NOTICE OF VIOLATION AND SETTLEMENT AGREEMENT RELATING TO ONCOR ELECTRIC DELIVERY COMPANY LLC'S VIOLATION OF PURA § 38.005 AND P.U.C. SUBST. R. 25.52, CONCERNING RELIABILITY AND CONTINUITY OF SERVICE</p>	<p>§ § § § § § § § §</p>	<p>PUBLIC UTILITY COMMISSION</p> <p>OF TEXAS</p>
---	--	--

SETTLEMENT AGREEMENT AND REPORT TO COMMISSION

Staff of the Public Utility Commission of Texas (Commission) and Oncor Electric Delivery Company LLC (Oncor or Company) (together, Parties) enter into this Settlement Agreement and Report to Commission (Agreement). This Agreement resolves and concludes the investigation of the Company for violation of PURA¹ § 38.005 and P.U.C. SUBST. R. 25.52, concerning reliability and continuity of service for reporting year 2008. PURA § 38.005 was amended in 2009 and all references to PURA § 38.005 in this Agreement are to the prior version of the statute that was in effect in 2008.²

The Parties agree as follows:

1. The Parties stipulate to the facts contained in the attached Proposed Order and request approval of the Order by the Commission.
2. Commission Staff recommended, and Oncor agrees to pay, an administrative penalty of Two-hundred and Ten Thousand Dollars (\$210,000.00) for Oncor's violations described in the attached Proposed Order.
3. Oncor agrees to make efforts to improve the performance and reliability of all of its feeders. In particular, those efforts will focus on feeders that have violated service quality and

¹ Public Utility Regulatory Act, TEX. UTIL CODE §§ 11.001-66.016 (Vernon 2007 & Supp. 2010) (PURA).

² Act of May 27, 1999, 76th Leg. R.S., ch S 36, 1999 Tex Sess Law 2557 (amended 1999) (current version at TEX. UTIL. CODE §§ 38.005 (Vernon 2007 & Supp. 2010)).

reliability standards for three or more consecutive years and/or maintaining the system-wide standards required by P.U.C. SUBST. R. 25.52 (f)(1)(A) and (B) and (f)(2).

4. This Agreement resolves all claims related to Oncor's obligations pursuant to PURA § 38.005 and P.U.C. SUBST. R. 25.52 concerning reliability and continuity of service for reporting year 2008.
5. Unless specifically provided for in this Agreement, Oncor waives any notice and procedures that might otherwise be authorized or required in this proceeding.
6. Nothing in this Agreement shall limit the Commission Staff's ability to perform its enforcement functions as set forth in PURA and the Commission's rules.
7. 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 forums. 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.
8. The Parties contemplate that this Agreement will be approved pursuant to 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.

9. This Agreement is the final and entire agreement between the Parties regarding the alleged violations related to reliability and continuity of service for the year 2008 and supersedes all other communications among the Parties or their representatives regarding its terms.
10. Each person executing this Agreement represents that he or she has been authorized to sign on behalf of the Party represented. Copies of signatures are valid to show execution. If this Agreement is executed in multiple counterparts, each is deemed an original but all of which constitute the same Agreement.
11. The Company warrants that it has read this Agreement carefully, knows the contents thereof, and signs the same as its free act.

EXECUTED by the Parties by their authorized representatives designated below.

Stephen N. Ragland
Stephen N. Ragland
Vice President - Regulatory
Oncor Electric Delivery Company LLC
1616 Woodall Rodgers Fwy
Dallas, TX 75202

Date: 3/22/2011

Michael E. Field
Michael E. Field
Director
Oversight and Enforcement Division
Public Utility Commission of Texas

Date: 3/28/2011