



Control Number: 39317



Item Number: 4

Addendum StartPage: 0

DOCKET NO. 39317

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PUBLIC UTILITY COMMISSION
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AGREED NOTICE OF VIOLATION §
AND SETTLEMENT AGREEMENT §
RELATING TO TXU ENERGY §
RETAIL COMPANY, LLC'S §
VIOLATION OF PURA §§ 17.004 AND §
39.101, AND P.U.C. SUBST. R. 25.480, §
CONCERNING BILL PAYMENT AND §
ADJUSTMENTS AND P.U.C. SUBST. §
R. 25.483, CONCERNING §
DISCONNECTION OF SERVICE §

PUBLIC UTILITY COMMISSION
OF TEXAS

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 TXU Energy Retail Company LLC (TXU) (together, Parties) regarding Commission Staff's investigation of TXU for violation of PURA¹ §§ 17.004, concerning customer protection standards, § 39.101, concerning customer safeguards, P.U.C. SUBST. R. 25.480, concerning bill payment and adjustments, and P.U.C. SUBST. R. 25.483, concerning disconnection of service. This docket was processed in accordance with applicable statutes and Commission rules. The Agreement is unopposed and provides for a reasonable resolution to the issues in this docket. Commission Staff recommended an administrative penalty of \$80,000, which TXU agreed to pay. The Agreement is approved.

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

I. Findings of Fact

1. TXU is a retail electric provider (REP), Certificate Number 10004, pursuant to P.U.C. SUBST. R. 25.107.
2. TXU's agent for service in this matter is Vicki Oswalt at 1005 Congress Ave., Suite 500, Austin, Texas 78701.

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

4

3. The Commission conducted a compliant-based investigation to determine TXU's compliance with the requirements of PURA, Chapter 39, related to Restructuring of Electric Utility Industry, Chapter 17, related to Customer Protection, and Chapter 25, Subchapter R of the Commissions' Substantive Rules, related to Customer Protection Rules for Retail Electric Service.
4. The investigation revealed that in certain instances TXU was not in compliance with PURA §§ 17.004 and 39.101, as well as the following substantive rules:
 - a. P.U.C. SUBST. R. 25.480(i), relating to payment arrangements. TXU made payment arrangements without suspending the disconnection until after the due date of the payment arrangement.
 - b. P.U.C. SUBST. R. 25.480(k), regarding allocation of partial payments. TXU failed to apply a partial payment to the oldest balance due for electrical service.
 - c. P.U.C. SUBST. R. 25.483(c), relating to disconnection with notice. TXU ordered the disconnection of service for reasons other than those provided in the rule and failed to provide proper notice of disconnection.
 - d. P.U.C. SUBST. R. 25.483(e)(5), relating to prohibited disconnections. TXU authorized the disconnection of a customer for nonpayment of electric service after advising the customer an investigation would be conducted into the disputed billing.
5. TXU 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.
6. TXU acknowledges the violations detailed in this Order
7. TXU fully cooperated with Commission Staff's investigation.
8. TXU provided reimbursements and credits to some of the affected customers and independently initiated measures taken in an attempt to correct the causes of the referenced violations. TXU promptly addressed and corrected the errors.

9. TXU participated in one or more settlement discussions with Commission Staff, the purpose of which was to resolve this matter.
10. On April 11, 2011, the Parties entered into the Agreement resolving the violations as described herein. Commission Staff recommended, and TXU agreed to pay an administrative penalty of \$80,000.
11. The Agreement provides for a reasonable resolution of this dispute.
12. The Agreement is in the public interest and should be approved.

II. Conclusions of Law

1. The Commission has jurisdiction over this matter pursuant to PURA §§ 14.002, 14.051, 15.023, 15.024, 17.004, and 39.101.
2. TXU is a retail electric provider (REP) for purposes of PURA §§ 17.004 and 39.101, as well as P.U.C. SUBST. R. 25.480 and 25.483.
3. As a REP, TXU is required to comply with the customer protection standards established by PURA §§ 17.004 and 39.101, as well as P.U.C. SUBST. R. 25.480 and 25.483.
4. TXU violated PURA §§ 17.004 and 39.101, as well as P.U.C. SUBST. R. 25.480(i), 25.480(k), 25.483(c), and 25.483(e)(5).
5. The Agreement referenced in Findings of Fact numbers 10-12 is a report of settlement to the Commission as required by P.U.C. PROC. R. 22.246(g).
6. The violations of P.U.C. SUBST. R. 25.480 and 25.483, described herein, are Class B violations pursuant to P.U.C. SUBST. R. 25.8(b)(2).
7. 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.
8. TXU 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.

9. PURA § 17.004 establishes customer protection standards and authorizes the Commission to adopt and enforce rules as necessary to carry out the customer protection standards.
10. PURA § 39.101 establishes customer safeguards, stating, among other things, that a customer is entitled to be protected from unfair, misleading, or deceptive practices.
11. Pursuant to this legislative mandate, the Commission implemented the customer protection standards found in P.U.C. SUBST. R. 25.480 and 25.483.
12. The Agreement by TXU and Commission Staff to settle is reasonable.
13. 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. TXU shall pay an administrative penalty to the Commission in an amount totaling \$80,000 no later than 30 calendar days after the date of this Order. Payment shall be made by check payable to the Public Utility Commission of Texas and should reference Docket No. 39317. The checks shall be sent to the following address:

Public Utility Commission of Texas

P.O. Box 13326

Austin, Texas 78711

ATTN: Fiscal Services

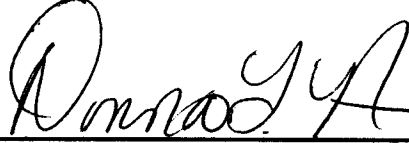
3. TXU shall file an affidavit of payment in this docket no later than five calendar days after the payment is made.
4. TXU shall continue to make efforts to ensure its compliance with the Commission rules.

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 a 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 16th day of May 2011.

PUBLIC UTILITY COMMISSION OF TEXAS


BARRY T. SMITHERMAN, CHAIRMAN


DONNA L. NELSON, COMMISSIONER


KENNETH W. ANDERSON, JR., COMMISSIONER

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DISCONNECTION OF SERVICE	§	

SETTLEMENT AGREEMENT AND REPORT TO COMMISSION

Staff of the Public Utility Commission of Texas (the Commission) and TXU Energy Retail Company LLC, (TXU or the Company) (together, Parties) enter into this Settlement Agreement and Report to Commission (Agreement). This Agreement resolves and concludes the investigation of the Company for alleged violation of PURA¹ §§ 17.004, concerning customer protection standards, 39.101, concerning customer safeguards, as well as P.U.C. SUBST. R. 25.480, concerning bill payment and adjustments, and P.U.C. SUBST. R. 25.483, concerning disconnection of service.

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. Staff recommends and the Company agrees to pay an administrative penalty of \$80,000 for the Company's violations described in the attached Proposed Order.
3. The Company also agrees to continue to make efforts to ensure its compliance with the Commission's rules.

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

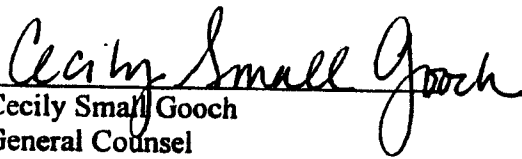
4. Unless specifically provided for in this Agreement, the Company waives any notice and procedures that might otherwise be authorized or required in this proceeding.
5. Nothing in this Agreement shall limit the Commission Staff's ability to enforce this Agreement or perform its enforcement functions as set forth in PURA and the Commission's rules.
6. 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.
7. 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.
8. This Agreement is the final and entire agreement between the Parties regarding its terms and supersedes all other communications among the Parties or their representatives regarding its terms.

9. 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.

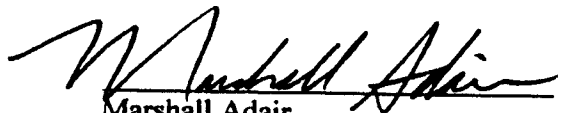
10. The Company warrants that it has read this Agreement carefully, knows the contents thereof, and signs the same as its free act.

11. This Agreement fully and finally resolves, pursuant to the terms and conditions set forth herein, all issues related to Staff's investigation of the matters described in the attached Proposed Order. Accordingly, the Parties hereby request that the Commission approve this Agreement.

EXECUTED by the Parties by their authorized representatives designated below.


Cecily Small Gooch
General Counsel
TXU Energy

Date: April 8, 2011


Marshall Adair
Director
Oversight and Enforcement Division
Public Utility Commission of Texas

Date: 4/8/11