



Control Number: 40090



Item Number: 13

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SOAH DOCKET NO. 473-12-5530
PUC DOCKET NO. 40090

NOTICE OF VIOLATION OF PURA	§	PUBLIC UTILITY COMMISSION
§39.352, FORMER P.U.C SUBST. R.	§	
§25.107(g)(9)(A), §25.107(g)(9)(B) AND	§	OF TEXAS
§25.107(j)(1), AND CURRENT	§	
§25.107(g)(1)(D) RELATED TO	§	
CERTIFICATION OF RETAIL	§	
ELECTRIC PROVIDERS, AND	§	
CURRENT P.U.C SUBST. R. § 25.474,	§	
25.475, 25.479, 25.480 AND 25.483,	§	
RELATED TO CUSTOMER	§	
PROTECTION RULES FOR RETAIL	§	
ELECTRIC SERVICE BY GLACIAL	§	
ENERGY OF TEXAS, INC.	§	

12 MAY - 1 PM 3:21
PUBLIC UTILITY COMMISSION
FILING CLERK

PRELIMINARY ORDER

On January 6, 2012, Commission Staff filed a notice of violation (NOV) recommending assessment of penalties against Glacial Energy of Texas, Inc. (Glacial), a retail electric provider (REP), for failure to comply with Public Utility Regulatory Act (PURA)¹ § 39.352, former P.U.C. SUBST. R. 25.107(g)(9)(A), 25.107(g)(9)(B), 25.107(j)(1) and current P.U.C. SUBST. R. 25.474, 25.475, 25.479, 25.480, and 25.483, related to customer service protection rules for retail electric service. On January 9, 2012, Commission Staff also filed a petition for revocation of Glacial's retail electric provider (REP) certificate no. 10123 for the reasons that Glacial's initial REP application had material omission of its complaint history and Glacial has failed to comply with the 10% ownership or control restriction for principals that have experienced a POLR event pursuant to P.U.C. SUBST. R. 25.107(g)(1)(D). This matter was referred to the State Office of Administrative Hearings (SOAH) on March 29, 2012. Issues lists were timely filed by Glacial and Commission Staff.

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

I. Issues to be Addressed

The Commission must provide to the administrative law judge (ALJ) a list of issues or areas to be addressed in any proceeding referred to SOAH.² After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

1. Has Commission Staff complied with the notice requirements of Administrative Procedure Act § 2001.054(c) in this proceeding?
2. What are the name(s), title(s) and permanent addresses of all persons that control Glacial, directly or indirectly, or own more than 10% of Glacial or any other person that owns Glacial?
3. Is there any person(s) named in answer to issue 2 that was a principal of a REP that experienced a mass transition of the REP's customers to POLR? If so, what are their name(s), title(s) and permanent addresses?
4. Has Glacial complied with PURA § 39.352? If not, in what manner(s) has Glacial failed to comply?
5. Has Glacial violated former P.U.C. SUBST. R. 25.107(g)(9)(A), relating to the submission of information regarding the prior experience of the applicant's principals or employees?
6. Has Glacial violated former P.U.C. SUBST. R. 25.107(g)(9)(B), relating to the submission of information regarding any complaint history and compliance record for the applicant's principals?
7. Has Glacial violated former P.U.C. SUBST. R. 25.107(j)(1), relating to a REP providing false or misleading information to the Commission?

² TEX. GOV'T CODE ANN. § 2003.049(e) (Vernon 2008).

8. Has Glacial violated P.U.C. SUBST. R. 25.107(g)(1)(D), relating to the experience requirements of a REP's principals or permanent employees?
9. Has Glacial violated P.U.C. SUBST. R. 25.475(g)(2), relating to pricing disclosures on a REP's electricity facts label?
10. Has Glacial violated P.U.C. SUBST. R. 25.480(d), relating to overbilling of customers?
11. Has Glacial violated P.U.C. SUBST. R. 25.475(c)(2)(G), relating to variable price disclosure requirements for REPs?
12. Has Glacial violated P.U.C. SUBST. R. 25.475(e), relating to a REP's written notice of contract expiration?
13. Has Glacial violated P.U.C. SUBST. R. 25.474(e)(5)(d), relating to a REP's letter of authorization disclosures?
14. Has Glacial violated P.U.C. SUBST. R. 25.474(e)(6)(E), relating to a REP obtaining account access verification as part of a letter of authorization disclosures?
15. Has Glacial violated P.U.C. SUBST. R. 25.475(c)(1)(B), relating to written and electronic communication requirements for REPs?
16. Has Glacial violated P.U.C. SUBST. R. 25.475(c)(2)(A), relating to language requirements for a REP's terms of service, electricity facts label, and your rights as a customer?
17. Has Glacial violated P.U.C. SUBST. R. 25.475(c)(2)(D), relating to a REPs terms of service and electricity facts label disclosure requirements?
18. Has Glacial violated P.U.C. SUBST. R. 25.475(d)(2)(C), relating to a REP's billing requirements for residential customers?
19. Has Glacial violated P.U.C. SUBST. R. 25.475(f)(1), relating to disclosure requirements on a REP's terms of service?

20. Has Glacial violated P.U.C. SUBST. R. 25.475(f)(2)(C), relating to pricing and payment arrangement requirements for a REP's terms of service?
21. Has Glacial violated P.U.C. SUBST. R. 25.475(f)(2)(E), relating to the description of bill payment assistance programs on a REP's terms of service?
22. Has Glacial violated P.U.C. SUBST. R. 25.475(f)(4)(A)(ii), relating to rescission, termination, and disconnection disclosures on a REP's terms of service?
23. Has Glacial violated P.U.C. SUBST. R. 25.475(f)(5), relating to antidiscrimination statements on a REP's terms of service?
24. Has Glacial violated P.U.C. SUBST. R. 25.475(f)(9), relating to version number requirements on a REP's terms of service?
25. Has Glacial violated P.U.C. SUBST. R. 25.475(g), relating to a REP's electricity facts label?
26. Has Glacial violated P.U.C. SUBST. R. 25.475(g)(1), relating to identity and contact information requirements on a REP's electricity facts label?
27. Has Glacial violated P.U.C. SUBST. R. 25.475(g)(2)(F)(iii), relating to pricing disclosure requirements on a REP's electricity facts label?
28. Has Glacial violated P.U.C. SUBST. R. 25.475(g)(4), relating to term disclosure requirements on a REP's electricity facts label?
29. Has Glacial violated P.U.C. SUBST. R. 25.475(g)(7), relating to version number requirements on a REP's electricity facts label?
30. Has Glacial violated P.U.C. SUBST. R. 25.475(h)(5), relating to your rights as a customer disclosure requirements for a REP?
31. Has Glacial violated P.U.C. SUBST. R. 25.475(h)(7), relating to identity and contact information disclosure requirements for a REP's your rights as a customer?

32. Has Glacial violated P.U.C. SUBST. R. 25.479(c)(1)(A), relating to name and address disclosure requirements on a REP's bill?
33. Has Glacial violated P.U.C. SUBST. R. 25.479(c)(1)(B), relating to telephone number disclosure requirements on a REP's bill?
34. Has Glacial violated P.U.C. SUBST. R. 25.479(c)(1)(I), relating to the disclosure of a customer's average price paid for electricity on a REP's bill?
35. Has Glacial violated P.U.C. SUBST. R. 25.479(c)(1)(L), relating to disclosure of a customer's previous balance on a REP's bill?
36. Has Glacial violated P.U.C. SUBST. R. 25.479(c)(1)(M), relating to voluntary donation disclosure requirements on a REP's bill?
37. Has Glacial violated P.U.C. SUBST. R. 25.479(c)(1)(N), relating to standard electronic transaction billing disclosure requirements for a REP?
38. Has Glacial violated P.U.C. SUBST. R. 25.479(c)(2), relating to the identification of charges on a REP's bill?
39. Has Glacial violated P.U.C. SUBST. R. 25.479(c)(3), relating to term definitions on a REP's bill?
40. Has Glacial violated P.U.C. SUBST. R. 25.479(d), relating to public service notice requirements for a REP?
41. Has Glacial violated P.U.C. SUBST. R. 25.483(l)(4), relating to disconnection notice requirements for a REP?
42. Has Glacial violated P.U.C. SUBST. R. 25.483(m)(5), relating to toll-free telephone number requirements for a REP's disconnection notice?
43. Has Glacial violated P.U.C. SUBST. R. 25.483(m)(6), relating to customer deposit statement requirements for a REP's disconnection notice?

44. Has Glacial violated P.U.C. SUBST. R. 25.483(m)(7), relating to payment plan disclosure requirements for a REP's disconnection notice?
45. If Glacial violated one or more of the statutes and or Commission rules in issues 4-44, is any violation a significant violation for purposes of P.U.C. SUBST. R. 25.107(j)?
46. If in answer to issue 45 there is a significant violation, should Glacial's REP certificate be amended, suspended, or revoked pursuant to P.U.C. SUBST. R. 25.107(j)?

This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ, or by the Commission in future orders issued in this docket. The Commission reserves the right to identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under TEX. GOV'T CODE ANN. § 2003.049(e).

II. Effect of Preliminary Order

This Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from this Order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this Order may be appealed to the Commission. The Commission will not address whether this Order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

SIGNED AT AUSTIN, TEXAS the 1st day of May 2012.

PUBLIC UTILITY COMMISSION OF TEXAS



DONNA L. NELSON, CHAIRMAN



KENNETH W. ANDERSON, JR., COMMISSIONER



ROLANDO PABLOS, COMMISSIONER