

Control Number: 44716



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**Donna L. Nelson**  
Chairman

**Kenneth W. Anderson, Jr.**  
Commissioner

**Brandy Marty Marquez**  
Commissioner

**Brian H. Lloyd**  
Executive Director



**Greg Abbott**  
Governor

2015 NOV 24 PM 4:01

**Public Utility Commission of Texas**

PUBLIC UTILITY COMMISSION  
FILED CLERK

TO: Donna L. Nelson, Chairman  
Kenneth W. Anderson, Jr., Commissioner  
Brandy Marty Marquez, Commissioner

All Parties of Record

FROM: Irene Montelongo  
Director, Docket Management

RE: **Open Meeting of December 17, 2015**  
**Docket No. 44716** – *Notice of Violation by Live Oak Resort, Inc. of the Commission's Final Order Issued in Docket No. 41987, and Recommendation for Enforcement and Administrative Penalties Pursuant to PURA §§ 15.021(a)(2) and 15.023(a)*

DATE: November 24, 2015

Enclosed is a copy of the Proposed Order in the above-referenced docket. The Commission will consider this docket at an open meeting presently scheduled to begin at 9:30 a.m. on Thursday, December 17, 2015, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties shall file corrections or exceptions to the Proposed Order on or before noon on Wednesday, December 9, 2015.

**If there are no corrections or exceptions, no response is necessary.**

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DOCKET NO. 44716

NOTICE OF VIOLATION BY LIVE §  
OAK RESORT, INC. OF THE §  
COMMISSION'S FINAL ORDER §  
ISSUED IN DOCKET NO. 41987 AND §  
RECOMMENDATION FOR §  
ENFORCEMENT AND §  
ADMINISTRATIVE PENALTIES §  
PURSUANT TO PURA §§ 15.021(a)(2) §  
AND 15.023(a) §

PUBLIC UTILITY COMMISSION  
OF TEXAS

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PUBLIC UTILITY COMMISSION  
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PROPOSED ORDER

Pursuant to 16 Tex. Admin. Code § 22.246(g)(1)(C) (TAC), this Order approves the Settlement Agreement and Report to Commission (Agreement) between the Public Utility Commission of Texas (Commission) Staff and Live Oak Resort, Inc. (Live Oak) (collectively, Parties) regarding Commission Staff's investigation of Live Oak for violation of the Commission's final order in *Complaint of Multiple R V Tenants of Live Oak Resort, Inc. against Live Oak Resort, Inc.*, Docket No. 41987, Order (Nov. 24, 2014) (41987 Final Order). A Settlement Agreement and Report to Commission (Agreement) was executed that resolves all issues in this docket. Commission Staff recommended and Live Oak agreed to refund \$22,135.75 on or before January 1, 2016. The Agreement is approved.

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

**I. Findings of Fact**

1. In Docket No. 41987, the Commission ordered Live Oak to refund sub-metered usage over-collections and improper sub-metering surcharges, plus interest, to complainants in the case and to affected RV tenants.
2. The 41987 final Order also required Live Oak to file proof of such refunds in Project No. 43803.<sup>1</sup>

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<sup>1</sup> *Live Oak Resort, Inc.'s Proof of Refunds in Compliance with Docket No. 41987, Project No. 43803* (pending).

3. The Commission's December 24, 2014, deadline to refund improper sub-metering surcharges, plus interest, has expired.
4. The Commission's February 23, 2015, deadline to refund sub-metered usage over-collections has expired.
5. According to Live Oak, the total amount to be refunded is \$85,435.96.
6. According to Live Oak, \$63,300.21 was refunded as of October 29, 2015.
7. Live Oak has not refunded the remaining \$22,135.75.
8. Live Oak provided proof of refunds in Project No. 43803; however, proof of refunds was not timely filed.

## **II. Conclusions of Law**

1. The Commission has jurisdiction over this matter pursuant to §§ 14.001, 14.002, 14.003, 14.051, 15.022, 15.023, and 15.024 of the Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-66.016 (West 2007 & Supp. 2015).
2. PURA § 15.023 gives the Commission the authority to enforce compliance with PURA or a rule or order adopted under PURA.
3. The requirements for informal disposition pursuant to 16 TAC § 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. On or before January 1, 2016, Live Oak shall refund the remaining \$22,135.75 to tenants that are entitled to, but have not yet received, a refund of improper sub-metering surcharges and sub-metered usage over-collections.
3. On or before January 1, 2016, Live Oak shall file proof of all refunds in Project No. 43803.

4. The Commission shall not be constrained in any manner from requiring additional action or penalties for violations that are not raised here.
5. 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 an order consistent with the Agreement shall not be regarded as a binding holding or precedent as to the appropriateness of any principle or methodology underlying the Agreement.
6. 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 \_\_\_\_\_ day of December 2015.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**DONNA L. NELSON, CHAIRMAN**

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**KENNETH W. ANDERSON, JR., COMMISSIONER**

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**BRANDY MARTY MARQUEZ, COMMISSIONER**

## DOCKET NO. 44716

<b>NOTICE OF VIOLATION BY LIVE OAK RESORT, INC. OF THE COMMISSION'S FINAL ORDER ISSUED IN DOCKET NO. 41987, AND RECOMMENDATION FOR ENFORCEMENT AND ADMINISTRATIVE PENALTIES PURSUANT TO PURA § 15.021(a)(2) AND 15.023(a).</b>	§ § § § § § § § § §	<b>PUBLIC UTILITY COMMISSION  OF TEXAS</b>
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**SETTLEMENT AGREEMENT AND REPORT TO COMMISSION**

Staff of the Public Utility Commission of Texas (Commission) and Live Oak Resort, Inc. (Live Oak) (together, the "Parties") enter into this Settlement Agreement and Report to Commission (Agreement). This Agreement resolves and concludes the investigation of Live Oak for violation of a Commission order in Docket No. 41987 (41987 Final Order).<sup>1</sup>

**The Parties agree as follows:**

1. The Parties stipulate to the facts contained in the attached Proposed Order and request approval of the Proposed Order by the Commission.
2. Live Oak attests that the total amount to be refunded to tenants is \$85,435.96, and that the total amount refunded to tenants as of November 3, 2015 is \$67,200.37.
3. Live Oak agrees to refund the remaining \$22,135.75 pursuant to the 41987 Final Order on or before January 1, 2016.
4. This Agreement resolves all claims related to Live Oak's failure to comply with the 41987 Final Order.
5. Unless specifically provided for in this Agreement, Live Oak waives any notice and procedures that might otherwise be authorized or required in this proceeding.

<sup>1</sup> *Complaint of Multiple RV Tenants of Live Oak Resort, Inc. against Live Oak Resort, Inc.*, Docket No. 41987, Final Order (November 24, 2014).

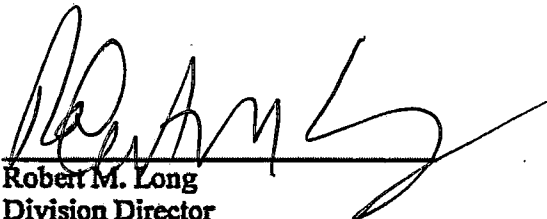
6. Nothing in this Agreement shall limit the Commission Staff's ability to perform its enforcement functions as set forth in PURA and the Commission's rules.
7. A Party's support of the resolution of this docket in accordance with this Agreement may differ from its position or testimony regarding contested 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 violation of the 41987 Final Order 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. Live Oak 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.



Larry Hildebrand  
Live Oak Resort, Inc.  
9751 Lone Star Road  
Washington, Texas 77880

Date: 11-17-15



Robert M. Long  
Division Director  
Oversight and Enforcement Division  
Public Utility Commission of Texas

Date: 11/23/15