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**AGREED NOTICE OF VIOLATION
AND SETTLEMENT AGREEMENT
RELATING TO CITY OF GARLAND
NONCOMPLIANCE WITH PURA
§ 39.151(j), 16 TAC § 25.503(f)(2), AND
ERCOT NODAL PROTOCOLS
§ 8.1.3.3.1**

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PUBLIC UTILITY COMMISSION
FILING CLERK

**PUBLIC UTILITY COMMISSION
OF TEXAS**

APPLICATION FOR APPROVAL OF SETTLEMENT AGREEMENT

Staff of the Public Utility Commission of Texas (Commission) and City of Garland (Garland) (individually a party and collectively, parties) enter into this settlement agreement and report to commission (agreement). This agreement resolves and concludes Commission Staff's investigation of Garland for alleged violations of the Public Utility Regulatory Act¹ § 39.151(j), 16 Texas Administrative Code § 25.503(f)(2), and ERCOT Nodal Protocols § 8.1.3.3.1.

Commission Staff respectfully requests that the Parties' Application for Approval of Settlement Agreement be granted.

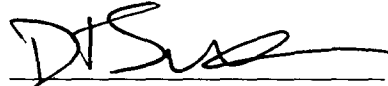
¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001—66.016 (PURA).

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DATE: July 2, 2019

Respectfully Submitted,

Robert M. Long
Division Director
Oversight and Enforcement Division
State Bar No. 12525500



David Smeltzer
Attorney-Oversight and Enforcement Division
State Bar No. 24032096
(512) 936 - 7132
(512) 936 - 7208 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this the 2nd day of July, 2019, in accordance with 16 TAC § 22.74.



David Smeltzer

David Grubbs
Electric Reliability Compliance Officer
City of Garland QSE
217 N. Fifth Street, 2nd Floor
Garland, Texas 75040

DOCKET NO. _____

AGREED NOTICE OF VIOLATION	§	
AND SETTLEMENT AGREEMENT	§	PUBLIC UTILITY COMMISSION
RELATING TO CITY OF GARLAND	§	
NONCOMPLIANCE WITH PURA	§	
§ 39.151(j), 16 TAC § 25.503(f)(2), AND	§	OF TEXAS
ERCOT NODAL PROTOCOLS	§	
§ 8.1.3.3.1	§	

SETTLEMENT AGREEMENT AND REPORT TO COMMISSION

Staff of the Public Utility Commission of Texas (Commission) and City of Garland (Garland), (together, Parties) enter into this Settlement Agreement and Report to Commission (Agreement). This Agreement resolves and concludes Commission Staff's investigation of Garland for violations of the Public Utility Regulatory Act¹ (PURA) § 39.151(j), 16 Texas Administrative Code (TAC) § 25.503(f)(2), concerning failure to adhere to Electric Reliability Council of Texas (ERCOT) Nodal Protocols § 8.1.3.3.1, related to Suspension of Qualification of Non-Weather-Sensitive Emergency Response Service Resources and/or their Qualified Scheduling Entities.

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. The Commission has jurisdiction over the Parties to this proceeding and the subject matter of this Agreement.
3. Garland is a Qualified Scheduling Entity (QSE), and an Emergency Response Service (ERS) Resource must be represented by a QSE.
4. ERS is a reliability tool used by ERCOT to ensure that the electrical grid is operating at the required system-wide target frequency of 60 Hz. ERS is a demand response tool and can be used to decrease load, which provides a corresponding increase in system frequency.
5. Garland was contracted to provide ERS – 30 during the February – May 2017 Contract Period for the following Time Periods: 1, 2, 4, 5, and 6.

¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016 (PURA).

6. Under ERCOT Nodal Protocols § 8.1.3.3.1, if a QSE submits an offer during the ERS contract period and that offer is accepted by ERCOT, the QSE must be ready to dispatch. If dispatched by ERCOT, ERS resources shall deploy consistent with their obligations and shall remain deployed until recalled by ERCOT.² If the resource is not dispatched by ERCOT, ERCOT will calculate a portfolio-level ERS Availability Factor (ERSAF). If the ERSAF meets or exceeds 0.95, the QSE will be deemed to have met its ERS performance requirements for their ERS contract period.³ If a QSE does not achieve a 0.95 ERSAF, the QSE is subject to suspension from participating in ERS as well as administrative penalties levied by the Commission.⁴
7. Garland's portfolio-level ERSAF in the February – May 2017 Contract Period was 0.8827.
8. Garland failed to achieve the required portfolio-level ERSAF of 0.95 or greater for the February – May 2017 Contract Period. Garland failed to maintain the required amount of load available for ERS deployment for the following Time Periods: 1, 2, 4, 5, and 6 for ERS – 30 in the February – May 2017 Contract Period.
9. Commission Staff recommends, and Garland agrees to pay, an administrative penalty of Twenty Five Thousand Dollars (\$25,000) for final settlement of the alleged violations described in the attached Proposed Order.
10. This Agreement resolves all claims related to Garland's obligations pursuant to PURA § 39.151(j) and 16 TAC §§ 25.507(f) and 25.503(f)(2) concerning failure to adhere to ERCOT Nodal Protocols § 8.1.3.3.1, related to Suspension of Qualification of Non-Weather-Sensitive Emergency Response Service Resources and/or their Qualified Scheduling Entities.
11. Garland waives any notice and procedures that might otherwise be authorized or required in this proceeding.
12. Except as provided herein, nothing in this Agreement shall limit Commission Staff's ability to perform its enforcement functions as set forth in PURA and the Commission's rules.

² 16 TAC § 25.507(d)(6).

³ ERCOT Nodal Protocols § 8.1.3.3.1(1).


⁴ ERCOT Nodal Protocols § 8.1.3.3.1(2)(b).

13. This Agreement represents the effort by Garland and Staff to avoid the future expenditure of significant resources in litigating this matter. 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. This Agreement represents a compromise of claims and allegations, and the execution of this Agreement does not admit the truth or accuracy of any such disputed claims. 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.
14. Garland does not waive any arguments or stance concerning the Commission's statutory authority to impose or assess an administrative penalty against Garland. However, Garland agrees not to challenge the resolution of this matter so long as the resolution is materially consistent with the Agreement. Commission Staff acknowledges that, consistent with paragraph 13 of the Agreement, settlement of this matter does not obligate any Party to take the same position as set out in this Agreement in other proceedings. Commission Staff further acknowledges that, consistent with paragraph 15 of the Agreement, if Garland is adversely affected by any material changes made to this Agreement by the Commission, Garland has the right to withdraw from the Agreement.
15. The Parties contemplate that this Agreement will be approved pursuant to 16 TAC § 22.246(h)(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.


16. This Agreement is the final and entire agreement between the Parties regarding its terms relating to the failure to adhere to ERCOT Nodal Protocols relating to ERS performance through the date of this Agreement and supersedes all other communications among the Parties or their representatives regarding its terms.
17. 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.
18. Each person executing this Agreement 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.



David Grubbs
Electric Reliability Compliance Officer
City of Garland QSE
217 N. Fifth Street, 2nd Floor
Garland, Texas 75040

Date: 6-28-2019



David Smeltzer
Attorney – Oversight and Enforcement Division
Public Utility Commission of Texas

Date: 7-2-2019

DOCKET NO. _____

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**PUBLIC UTILITY COMMISSION

OF TEXAS**

PROPOSED ORDER

This Order approves the settlement agreement and report to Commission (agreement) between Commission Staff and City of Garland (Garland) relating to Commission Staff's investigation of Garland for violations of Public Utility Regulatory Act (PURA)¹ § 39.151(j), 16 Texas Administrative Code (TAC) § 25.503(f)(2), and Electric Reliability Council of Texas (ERCOT) Nodal Protocols § 8.1.3.3.1.² The agreement resolves all of the issues between Commission Staff and Garland in this docket. Garland agrees to pay an administrative penalty of \$25,000. The Commission approves the agreement.

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

FINDINGS OF FACT

Respondent

1. Garland is a municipally owned utility as defined in 16 TAC § 25.5(71).
2. Garland is a qualified scheduling entity (QSE) as defined in 16 TAC § 25.5(95).
3. Garland is a market participant as defined in 16 TAC § 25.503(c)(6).

Violations

4. Garland contracted to provide non-weather-sensitive emergency response service (ERS) with a 30 minute ramp rate (ERS-30) during the February – May 2017 contract period for the following time periods: 1, 2, 4, 5, and 6.

¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016 (PURA).

² ERCOT Nodal Protocols, Section 8.1.3.3.1, Suspension of Qualification of Non-weather Sensitive Emergency Response Service Resources and/or Their Qualified Scheduling Entities (Sep. 21, 2016) (prior version).

5. Under ERCOT Nodal Protocols § 8.1.3.3.1, if a QSE submits an offer during the ERS contract period and that offer is accepted by ERCOT, the QSE must be ready to dispatch. If dispatched by ERCOT, ERS resources are required to deploy consistent with their obligations and to remain deployed until recalled by ERCOT. If ERCOT does not dispatch the resource, ERCOT calculates a portfolio-level ERS availability factor. If the ERS availability factor equals or exceeds 0.95, the QSE is deemed to have met its ERS performance requirements for the ERS contract period. If a QSE does not achieve a 0.95 ERS availability factor, the QSE is subject to suspension from participating in ERS as well as administrative penalties levied by the Commission.
6. ERCOT calculated a portfolio-level ERS availability factor of 0.8827 for Garland during the February – May 2017 contract period.
7. Garland failed to achieve the required portfolio-level ERS availability factor of 0.95 or greater for the contract period.

Notice

8. On or about June 11, 2018, Commission Staff provided Garland notice of the investigation, the results of the investigation, information about Garland's right to a hearing, and an opportunity to explain its activities.

Settlement Agreement

9. Garland participated in one or more settlement discussions with Commission Staff to resolve this matter.
10. Garland fully cooperated with Commission Staff's investigation.
11. Garland acknowledges the basis for the violations alleged by Commission Staff as detailed in this Order.
12. Garland did not waive any arguments or stance concerning the Commission's statutory authority to impose or assess an administrative penalty against Garland. However, Garland agreed not to challenge the resolution of this matter so long as the resolution is materially consistent with the agreement. Commission Staff acknowledges that, consistent with paragraph 13 of the agreement, settlement of this matter does not obligate any party to take the same position as set out in this agreement in other proceedings. Commission Staff

further acknowledges that, consistent with paragraph 15 of the agreement, if Garland is adversely affected by any material changes made to this agreement by the Commission, Garland has the right to withdraw from the agreement.

13. On July 2, 2019, the parties entered into a settlement agreement. Garland agreed to pay an administrative penalty of \$25,000.
14. On July 2, 2019, Commission Staff filed a copy of the executed agreement with the Commission's filing clerk.

Informal Disposition

15. At least 15 days have passed since the completion of all notice requirements.
16. Garland and Commission Staff are the only parties to this proceeding.
17. No party requested a hearing.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter under PURA §§ 14.002, 14.051, 14.054, 15.023, 15.024, 39.151(d), and 39.151(j).
2. Under PURA § 39.151(d), the Commission is required to adopt and enforce rules relating to the reliability of the regional electrical network and accounting for the productivity and delivery of electricity among generators and all other market participants, or may delegate to an independent organization responsibilities for establishing or enforcing such rules.
3. Under PURA § 39.151(j), Garland is required to comply with ERCOT's operating and reliability policies, rules, guidelines, and procedures.
4. Under 16 TAC § 25.503(f)(2), Garland is required to comply with ERCOT's Nodal Protocols and any official interpretation of those protocols issued by ERCOT or the Commission.
5. Garland violated PURA § 39.151(j) and 16 TAC § 25.503(f)(2) by failing to provide ERS-30 during the February – May 2017 contract period in accordance with ERCOT Nodal Protocols § 8.1.3.3.1.
6. Under 16 TAC § 25.507(f), Garland is subject to enforcement for noncompliance with ERCOT Nodal Protocols § 8.1.3.3.1.

7. Under PURA § 15.023, the Commission has authority to impose administrative penalties for violations of PURA § 39.151 and Commission rules.
8. The filing of the agreement meets the requirements of 16 TAC § 22.246(h)(1).
9. The Commission processed this docket accordance with applicable statutes and Commission rules.
10. The parties have met the requirements for informal disposition in 16 TAC § 22.35.

ORDERING PARAGRAPHS

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

1. The Commission approves the agreement.
2. Garland must comply with the terms of the agreement and this Order.
3. Garland must pay an administrative penalty to the Commission in the amount of \$25,000. Garland must remit payment of the full amount of the administrative penalty on or before 30 calendar days after the date the Commission signs this Order. Payment of the administrative penalty may be made by check payable to the Public Utility Commission of Texas. The check must reference this docket and must be sent to the following address:

Public Utility Commission of Texas
ATTN: Fiscal Services
P.O. Box 13326
Austin, Texas 78711-3326
4. Garland must file an affidavit of payment in this docket no later than five calendar days after remitting the payment.
5. This Order resolves only the claims identified in this Order related to Garland's obligation to provide non-weather sensitive ERS-30 during the February – May 2017 contract period in accordance with the ERCOT Nodal Protocols.
6. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the agreement and must not be regarded as precedential as to the appropriateness of any principle or methodology underlying the agreement.

7. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the _____ day of _____ 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER