

Control Number: 49699



Item Number: 1

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DOCKET NO. \_\_\_\_\_ RECEIVED

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  
§ 8.1.1.4.3(3)

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**APPLICATION FOR APPROVAL OF SETTLEMENT AGREEMENT**


Commission Staff and City of Garland have entered into a Settlement Agreement and Report to Commission. The settlement agreement, attached to this motion, has been signed by representatives of both parties and includes a Proposed Order. This agreement resolves and concludes Commission Staff's investigation of City of Garland for violation of the Public Utility Regulatory Act § 39.151(j) and 16 Texas Administrative Code § 25.503(f)(2), concerning failure to adhere to Electric Reliability Council of Texas Nodal Protocols § 8.1.1.4.3(3), relating to Non-Spinning Reserve Service Energy Deployment Criteria.

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

DATE: July 2, 2019

Respectfully Submitted,

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



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David Hoard  
Attorney, Oversight and Enforcement Division  
State Bar No. 24106843  
(512) 936-7285  
(512) 936-7208 (facsimile)  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
david.hoard@puc.texas.gov

### **CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this the 2<sup>nd</sup> day of July, 2019 in accordance with 16 Tex. Admin. Code § 22.74 (TAC):

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



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David Hoard

DOCKET NO. \_\_\_\_\_

AGREED NOTICE OF VIOLATION	§	
AND SETTLEMENT AGREEMENT	§	PUBLIC UTILITY COMMISSION
RELATING TO CITY OF GARLAND	§	
NONCOMPLIANCE WITH PURA	§	
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ERCOT NODAL PROTOCOLS	§	
§ 8.1.1.4.3(3)	§	

**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 Act<sup>1</sup> (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 § 8.1.1.4.3(3), relating to Non-Spinning Reserve Service (NSRS) Energy Deployment Criteria.

**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 municipally owned utility as defined in 16 TAC § 25.5(71).
4. Garland is registered with ERCOT, under the name QGAR, as a qualified scheduling entity (QSE) as defined by ERCOT Nodal Protocols § 2.1.
5. Under the name QGAR, Garland manages eight generation resources totaling 777 MW, including the OLINGR\_OLING\_4 (OLINGR) generation resource at issue here.
6. As a municipally owned utility, Garland is required to observe all scheduling, operating, planning, reliability, and settlement policies, rules, guidelines, and procedures established by ERCOT in accordance with PURA § 39.151(j).

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

7. As a municipally owned utility and QSE, Garland is a market participant as that term is defined in 16 TAC § 25.503(c)(6) and ERCOT Nodal Protocols § 2.1.
8. As a market participant, Garland is required to comply with ERCOT procedures and any official interpretation of the Protocols issued by ERCOT or the Commission in accordance with 16 TAC § 25.503(f)(2). By definition, ERCOT procedures include the ERCOT Nodal Protocols and operating guides.<sup>2</sup>
9. Garland's OLINGR resource is qualified to provide NSRS. On January 23, 2018, OLINGR had an off-line NSRS responsibility of 89 MW.
10. Within twenty minutes of receiving an NSRS deployment instruction from ERCOT, Garland must update the telemetered Ancillary Service Schedule for the off-line generation resource to reflect the deployment amount, which indicates to Security Constrained Economic Dispatch (SCED) that the resource is available to be deployed.<sup>3</sup>
11. Within twenty-five minutes of receiving an NSRS deployment instruction from ERCOT, Garland must ensure that OLINGR is on-line with an energy offer curve, and the telemetered net generation for each resource must be greater than or equal to the resource's telemetered LSL in megawatts (MW) multiplied by P1, or 0.90.<sup>4</sup> Once OLINGR has met that threshold, Garland must telemeter the resource status code "ON" to indicate that the resource is online.<sup>5</sup>
12. On January 23, 2018 at 06:43 AM, Garland received an NSRS deployment instruction from ERCOT for OLINGR. Accordingly, Garland had to satisfy the three requirements listed above. Garland failed to timely meet two of the three requirements.
13. OLINGR failed to reach 90% of its LSL within 25 minutes of receiving the deployment instruction from ERCOT. OLINGR achieved 90% of its LSL two minutes late.
14. Garland failed to change the resource status code to "ON" within 25 minutes of receiving the deployment instruction from ERCOT. Garland was five minutes late in updating the status code.

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<sup>2</sup> 16 TAC § 25.503(c)(3).

<sup>3</sup> ERCOT Nodal Protocols § 8.1.1.4.3(3)(a).

<sup>4</sup> P1 is defined in the "ERCOT and QSE Operations Business Practices During the Operating Hour." Currently and at the time of the violation, P1 = 0.90.

<sup>5</sup> ERCOT Nodal Protocols § 8.1.1.4.3(3)(b).

15. Garland previously resolved an NSRS violation with a settlement in Docket 45600.<sup>6</sup> As a result of that settlement Garland paid an administrative penalty of \$10,000.
16. Commission Staff recommends, and Garland agrees to pay, an administrative penalty of \$23,500 in full and final settlement of the alleged violations described in the attached Proposed Order.
17. This Agreement resolves all claims related to Garland's obligations pursuant to PURA § 39.151(j) and 25.503(f)(2) concerning failure to adhere to ERCOT Nodal Protocols § 8.1.1.4.3(3), relating to Non-Spinning Reserve Service (NSRS) Energy Deployment Criteria as they relate to the January 23, 2018 NSRS deployment.
18. Garland waives any notice and procedures that might otherwise be authorized or required in this proceeding.
19. 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.
20. 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.

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<sup>6</sup> *Agreed Notice of Violation and Settlement Agreement Relating to City of Garland's Violation of PURA § 39.151(j), 16 TAC § 25.503(f)(2), and ERCOT Protocols § 8.1.1.4.3(3)(b) Related to Non-Spinning Reserve Service Energy Deployment Criteria*, Docket 45600, Order, Mar. 25, 2016.

21. 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 20 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 22 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.
22. 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.
23. 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.
24. 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.
25. 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, 2<sup>nd</sup> Floor  
Garland, Texas 75040

Date: 6-28-2019



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

Date: 07-01-2019



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	§	
§ 8.1.1.4.3(3)	§	

### **PROPOSED ORDER**

This Order approves the settlement agreement and report to Commission between Commission Staff and City of Garland relating to Commission Staff's investigation of Garland for violations of PURA<sup>1</sup> § 39.151(j), 16 Texas Administrative Code (TAC) § 25.503(f)(2), and Electric Reliability Council of Texas (ERCOT) Nodal Protocols § 8.1.1.4.3(3). The settlement agreement resolves all of the issues between Commission Staff and Garland relating to Commission Staff's investigation and serves as a report to the Commission under 16 TAC § 22.246(h). Commission Staff recommends an administrative penalty of \$23,500. Garland agrees to pay the administrative penalty. The Commission approves the agreement.

### **I. FINDINGS OF FACT**

The Commission makes the following findings of fact.

#### **Respondent**

1. Garland is a municipally owned utility as defined in 16 TAC § 25.5(71).
2. Garland is registered with ERCOT, under the name QGAR, as a qualified scheduling entity (QSE) as that term is defined by ERCOT Nodal Protocols § 2.1.
3. As a municipally owned utility, Garland is required to observe all scheduling, operating, planning, reliability, and settlement policies, rules, guidelines, and procedures established by ERCOT in accordance with PURA § 39.151(j).

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<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016.

4. As a municipally owned utility and QSE, Garland is a market participant as that term is defined in 16 TAC § 25.503(c)(6) and ERCOT Nodal Protocols § 2.1.
5. As a market participant, Garland is required to comply with ERCOT procedures and any official interpretation of the Protocols issued by ERCOT or the Commission in accordance with 16 TAC § 25.503(f)(2). By definition, ERCOT procedures include the ERCOT Nodal Protocols and operating guides.<sup>2</sup>

### **Violations**

6. Garland's OLINGR resource is qualified to provide Non-Spinning Reserve Service (NSRS). On January 23, 2018, OLINGR had an off-line NSRS responsibility of 89 MW.
7. Within twenty minutes of receiving an NSRS deployment instruction from ERCOT, Garland must update the telemetered Ancillary Service Schedule for the off-line generation resource to reflect the deployment amount, which indicates to Security Constrained Economic Dispatch (SCED) that the resource is available to be deployed.<sup>3</sup>
8. Within twenty-five minutes of receiving an NSRS deployment instruction from ERCOT, Garland must ensure that OLINGR is on-line with an energy offer curve, and the telemetered net generation for each resource must be greater than or equal to the resource's telemetered LSL in megawatts (MW) multiplied by P1, or 0.90.<sup>4</sup> Once OLINGR has met that threshold, Garland must telemeter the resource status code "ON" to indicate that the resource is online.<sup>5</sup>
9. On January 23, 2018 at 06:43 AM, Garland received an NSRS deployment instruction from ERCOT for OLINGR. Accordingly, Garland had to satisfy the three requirements listed above. Garland failed to timely meet two of the three requirements.
10. OLINGR failed to reach 90% of its LSL within 25 minutes of receiving the deployment instruction from ERCOT. OLINGR achieved 90% of its LSL two minutes late.

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<sup>2</sup> 16 TAC § 25.503(c)(3).

<sup>3</sup> ERCOT Nodal Protocols § 8.1.1.4.3(3)(a).

<sup>4</sup> P1 is defined in the "ERCOT and QSE Operations Business Practices During the Operating Hour." Currently and at the time of the violation, P1 = 0.90.

<sup>5</sup> ERCOT Nodal Protocols § 8.1.1.4.3(3)(b).

11. Garland failed to change the resource status code to “ON” within 25 minutes of receiving the deployment instruction from ERCOT. Garland was five minutes late in updating the status code.
12. Garland previously resolved an NSRS violation with a settlement in Docket 45600.<sup>6</sup> As a result of that settlement Garland paid an administrative penalty of \$10,000.

**Notice**

13. On or about February 5, 2019, 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**

14. Garland participated in one or more settlement discussions with Commission Staff to resolve this matter.
15. Garland fully cooperated with Commission Staff’s investigation.
16. Garland acknowledges the basis for the violations alleged by Commission Staff as detailed in this Order.
17. 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 20 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 22 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.
18. On July 1, 2019, the parties entered into a settlement agreement. Garland agreed to pay an administrative penalty of \$23,500.

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<sup>6</sup> *Agreed Notice of Violation and Settlement Agreement Relating to City of Garland’s Violation of PURA § 39.151(j), 16 TAC § 25.503(f)(2), and ERCOT Protocols § 8.1.1.4.3(3)(b) Related to Non-Spinning Reserve Service Energy Deployment Criteria*, Docket 45600, Order, Mar. 25, 2016.

19. On July 2, 2019, Commission Staff filed a copy of the executed agreement with the Commission's filing clerk.

**Informal Disposition**

20. More than 15 days have passed since the completion of notice provided in this docket.
21. No person filed a protest or motion to intervene.
22. Garland and Commission Staff are the only parties to this proceeding.
23. No party requested a hearing and no hearing is needed.
24. Commission Staff recommended approval of the settlement agreement.
25. Approval of the settlement agreement is not adverse to any party.

**II. CONCLUSIONS OF LAW**

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over this matter under PURA §§ 14.002, 14.051, 14.054, 15.023, 15.024, and 39.151(j).
2. PURA § 39.151(j) requires Garland to observe all scheduling, operating, planning, reliability, and settlement policies, rules, guidelines, and procedures established by the independent system operator in ERCOT or be subject to revocation, suspension, or amendment of a certificate, or the imposition of an administrative penalty.
3. 16 TAC § 25.503(f)(2) requires Garland to comply with ERCOT's Nodal Protocols and any official interpretation of those protocols issued by ERCOT or the Commission.
4. ERCOT Nodal Protocols § 8.1.1.4.3(3) provides three specific requirements that must be satisfied:
  - a. Within 20 minutes following a deployment instruction, Garland must update the telemetered Ancillary Service Schedule to reflect the NSRS deployment amount
  - b. Within 25 minutes following a deployment instruction, Garland generation resource's net generation must equal or exceed 90% of its telemetered LSL.

- c. Within 25 minutes following a deployment instruction, Garland must change the telemetered resource status for the generation resource to indicate that the resource has come on-line.
5. For the OLINGR deployment, Garland failed to meet two of the three requirements: Garland's generation resource's net generation failed to equal or exceed 90% of its telemetered LSL within 25 minutes, and Garland failed to change the telemetered resource status for the generation resource to indicate that the resource has come on-line within 25 minutes.
6. Garland violated PURA § 39.151(j) because Garland failed to comply with the ERCOT Nodal Protocols and Operating Guides.
7. Garland violated 16 TAC § 25.503(f)(2) because Garland failed to comply with the ERCOT Nodal Protocols and Operating Guides.
8. Under PURA § 15.023, the Commission has authority to impose administrative penalties for violations of PURA § 39.151 and Commission rules.
9. Garland was provided proper notice of Commission Staff's investigation into this matter, the results of Commission Staff's investigation, information about Garland's right to a hearing, and an opportunity to explain its activities.
10. The filing of the agreement meets the requirements of 16 TAC § 22.246(h)(1).
11. The Commission processed this docket in accordance with applicable statutes and Commission rules.
12. The requirements for informal disposition in 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 orders:

1. The Commission approves the settlement 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 \$23,500. 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. The Commission shall not be constrained in any manner from requiring additional action or penalties for violations that are not resolved by the settlement agreement.
6. This Order resolves only the claims identified in this Order related to Garland's failure to comply with ERCOT's NSRS deployment on January 23, 2018.
7. 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 settlement agreement.
8. 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.

9.

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**