



## Filing Receipt

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**ItemNumber - 18**

**DOCKET NO. 52925**

<b>NOTICE OF VIOLATION BY BULL CREEK WIND LLC FOR VIOLATIONS OF 16 TAC § 25.55, CONCERNING FAILURE TO COMPLY WITH WINTER WEATHER EMERGENCY PREPAREDNESS REPORTING REQUIREMENTS</b>	<b>§ § § § § § §</b>	<b>PUBLIC UTILITY COMMISSION  OF TEXAS</b>
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**SETTLEMENT AGREEMENT AND REPORT TO THE COMMISSION**

The Staff of the Public Utility Commission of Texas (Commission) and Bull Creek Wind LLC (Bull Creek) enter into this settlement agreement and report to the Commission. The agreement resolves and concludes all matters at issue regarding Bull Creek's violations of 16 Texas Administrative Code (TAC) § 25.55(c)(2).

**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 this matter under PURA<sup>1</sup> §§ 14.051, 14.054, 15.023, and 35.0021.
3. On December 8, 2021, the Commission's executive director filed a notice of violation and report to the Commission (NOV) recommending that an administrative penalty be assessed against Bull Creek for violations of 16 TAC § 25.55(c)(2).
4. For the reasons discussed herein, Commission Staff recommends, and Bull Creek agrees to pay, an administrative penalty of \$100,000 in full settlement of the violations described below and in the attached proposed order.
5. The recommended penalty set forth in this agreement reflects Commission Staff's consideration of significant and ongoing expenditures undertaken by Bull Creek to improve

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

its compliance efforts,<sup>2</sup> as well as other relevant factors under the Commission's substantive rules.

**Registration and Description of Facilities**

6. Bull Creek is a power generation company (PGC) that sells electric energy at wholesale in the ERCOT power region.
7. Bull Creek is registered with the Commission under PGC number 20228.
8. Bull Creek is the ERCOT-registered resource entity responsible for two separate ERCOT-registered generation resources with a combined nameplate generation capacity of 180 megawatts (MW).
9. Bull Creek is a wholly-owned subsidiary of Eurus Energy America Corporation (Eurus Energy). Bull Creek is Eurus Energy's only project in the ERCOT power region.
10. Eurus Energy manages and is responsible for Bull Creek's operations in the ERCOT power region, including maintaining compliance with ERCOT and Commission rules.

**Winter Weather Preparation Standards & Reporting Requirements**

11. From February 15, 2021 through February 19, 2021, the ERCOT power region experienced an unprecedented electric generation shortage caused by weather-related failures at generation facilities throughout the state during a period of extreme winter weather throughout the state of Texas.
12. In response to the February 2021 generation crisis, the Texas Legislature enacted PURA § 35.0021, requiring the Commission to develop the weather preparation standards necessary to ensure the reliability of the electric generation during future extreme winter weather events.
13. Under the authority of PURA § 35.0021(b), the Commission adopted 16 TAC § 25.55, which established a series of winter weather preparation activities to be completed for each generation resource in the ERCOT power region no later than December 1, 2021.

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<sup>2</sup> See paragraphs 26 through 30, *infra* (discussing new and recurring annual compliance-related expenditures undertaken by Bull Creek's parent company).

14. Under 16 TAC § 25.55(c)(2), each generation entity in the ERCOT power region was required to submit to ERCOT a winter weather readiness report (WWRR) for each of its generation resources no later than December 1, 2021. The purpose of the WWRR requirement was to advise ERCOT and the Commission of each generation resource's compliance with the weatherization requirements of 16 TAC § 25.55(c)(1) and, to the extent additional time was needed to complete the required preparations, to inform ERCOT and the Commission of the progress and expected completion date for each generation resource's compliance activities.
15. ERCOT utilized an online service known as DocuSign to distribute the WWRR form for each generation resource to the associated resource entity, monitor the progress of each WWRR form, and receive each WWRR form upon completion.
16. On November 12, 2021, ERCOT sent a WWRR DocuSign link for each of the two Bull Creek generation resources to the email address associated with Bull Creek's authorized representative in ERCOT's records.

**Violations of 16 TAC § 25.55(c)(2)**

17. Bull Creek is the ERCOT-registered resource entity responsible for two ERCOT-registered generation resources: BULLCRK – WND1 and BULLCRK – WND2.
18. Bull Creek is a generation entity, as that term is defined under 16 TAC § 25.55(b)(3).
19. BULLCRK – WND1 and BULLCRK – WND2 each qualify as a separate generation resource, as the term generation resource is defined under 16 TAC § 25.55(b)(4).
20. Under 16 TAC § 25.55(c)(2), Bull Creek was required to submit to ERCOT a WWRR for both BULLCRK – WND1 and BULLCRK – WND2 no later than December 1, 2021.
21. Bull Creek did not submit a WWRR for BULLCRK – WND1 or BULLCRK – WND2 to ERCOT by December 1, 2021.
22. Bull Creek late-submitted the WWRRs for BULLCRK – WND1 and BULLCRK – WND2 to ERCOT on December 8, 2021.

23. Bull Creek admits that it violated 16 TAC § 25.55(c)(2) on December 1, 2021 by failing to submit the WWRRs for the BULLCRK – WND1 and BULLCRK – WND2 generation resources by the December 1, 2021 submission deadline.
24. Bull Creek admits that it continued to violate 16 TAC § 25.55(c)(2) from December 2, 2021 through December 8, 2021 by failing to submit the WWRRs for the BULLCRK – WND1 and BULLCRK – WND2 generation resources.

**Corrective Action**

25. With regard to its violations of 16 TAC § 25.55(c)(2), Bull Creek asserts the following:
  - a. Under ERCOT Nodal Protocol § 3.21(3), each resource entity in the ERCOT region is required to submit to ERCOT a Declaration of Completion of Generation Resource Winter Weatherization Preparations (Declaration) stating that, at the time of submission, each generation resource under the resource entity's control has completed or will complete all weather preparations required by the weatherization plan for equipment critical to the reliable operation of the generation resource during the winter peak load season.
  - b. On December 1, 2021, Bull Creek timely submitted to ERCOT its Declaration stating that the BULLCRK – WND1 and BULLCRK – WND2 generation resources had completed all required weather preparations.
  - c. Bull Creek asserts that it untimely submitted the WWRRs due to its regulatory compliance personnel mistakenly believing the submission of the Declaration was all that was required for the Bull Creek under the applicable rules and protocols. As the owner and operator of Bull Creek, Eurus recognizes that its personnel did not maintain full awareness of the rulemaking process that resulted in adoption of 16 TAC § 25.55, which contributed to the confusion.
  - d. Bull Creek and Eurus recognize that, as an ERCOT market participant, it is Bull Creek's responsibility to understand how changes in the regulatory landscape impact the rules and requirements applicable to Bull Creek's operations.
  - e. Bull Creek emphasizes that both of the Bull Creek generation resources were fully compliant with the physical winter weather preparation standards established under

16 TAC § 25.55(c)(1) by December 1, 2021. This was confirmed when on December 9, 2021, ERCOT conducted an on-site inspection of Bull Creek's facilities and, in the process, verified the information that Bull Creek provided in its WWRRs.<sup>3</sup>

26. In order to address the internal deficiencies that led to the violations of 16 TAC § 25.55(c)(2) and to ensure that Bull Creek is fully compliant with all applicable regulatory requirements going forward, Eurus Energy has taken the following corrective actions:

- a. On February 22, 2022, Eurus Energy contracted with a Commission- and ERCOT-specific regulatory compliance consultant, paid on an hourly basis subject to the current annual budget of \$[REDACTED] per year. Eurus Energy made the decision to engage this consultant after identifying a lack of internal personnel with sufficient familiarity with Commission rules and ERCOT Nodal Protocols as a contributing factor of the December 2021 violations. The scope of services provided by this consultant include:
  - i. Monitoring and advising Eurus Energy and Bull Creek on regulatory developments and proceedings of interest at ERCOT and the Commission, and related stakeholder processes;
  - ii. Providing monthly regulatory updates to Eurus and Bull Creek, as necessary; and
  - iii. Providing Eurus Energy and Bull Creek with ongoing support for various regulatory and compliance-related issues as they arise.
- b. Eurus Energy maintains its engagement with a Houston-based consulting company for North American Electric Reliability Corporation (NERC) and Texas Reliability Entity (TRE)-specific consulting and compliance policy training services, paid on an hourly basis and subject to a current annual budget of \$[REDACTED] per year. This

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<sup>3</sup> The parties have not attached copies of the on-site inspection reports to this settlement package as the reports contain highly confidential critical energy infrastructure and information (CEII) and are therefore not suitable for filing in this docket. However, Commission Staff has reviewed the inspection reports and confirms that the reports do, in fact, verify that Bull Creek completed all required physical preparations, consistent with the information reported in the December 8, 2021 WWRR.

company provides services on a Task Order basis, and Eurus Energy may increase the scope of a Task Order when necessary to address specific needs. In response to the circumstances giving rise to the NOV, Eurus Energy recently modified the Task Order to include ensuring Bull Creek's compliance with new Commission regulations and ERCOT Nodal Protocols that overlap with NERC and TRE standards. The current scope of services includes, but is not limited to:

- i. Reviewing, commenting, drafting, and making recommendations on Eurus Energy and Bull Creek's NERC policies, procedures, and other compliance documents, and maintaining and updating compliance matrices;
  - ii. Providing Eurus Energy and Bull Creek with monthly updates, including regularly scheduled calls with Bull Creek staff, relating to NERC and TRE standards, guidance and rulings that may affect company operations, as well as Commission and ERCOT updates that may overlap with NERC and TRE standards and policies; and
  - iii. Completion of gap analyses of operating procedures and associated compliance evidence for Bull Creek for compliance with NERC and TRE requirements. This analysis includes all compliance-related documentation, policies, procedures, and evidence, as well as representation as an Alternative Compliance Contact for NERC.
- c. Effective August 1, 2022, Eurus Energy has hired a corporate compliance manager at a projected annual expenditure of approximately \$[REDACTED] per year, inclusive of salary, bonus, benefits, and other employment-related costs.<sup>4</sup> While this job will not exclusively handle Commission- and ERCOT-specific issues, the position has been filled in response to the events giving rise to the NOV, and will assist in preventing internal deficiencies such as those that led to the violations at issue in this proceeding. Specifically, the position will be responsible for the following duties:

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<sup>4</sup> Bull Creek and Eurus note that the expenditures related to the corporate compliance manager is subject to slight variation based on performance and other cost-related factors.

- i. Monitoring and stewardship of evolving regulatory requirements for wind and solar projects across various jurisdictions and independent system operators (ISOs) in the United States in which Eurus Energy operates;
  - ii. Acting as the primary point of contact (including as an authorized representative) for Bull Creek and other generation resources in their communications with regulatory bodies, including ERCOT and the Commission;
  - iii. Coordinating, monitoring, and providing status reports to its asset management group—the team of personnel involved in the financial analysis, project development, and operations and maintenance of the generation resources—in order to maintain regulatory compliance, ensure deadlines are met, and decrease the likelihood of future compliance issues by ensuring that consistent messaging and updates are provided to all relevant personnel;
  - iv. Tracking and reporting key regulatory changes within specific markets—including the ERCOT market—through research and attendance of webinars, conferences, and ISO meetings; and
  - v. Monitoring developments and proceedings before regulatory market operators (including ERCOT) and public utility commissions across the country to identify and ensure that management is aware of changes in the regulatory landscape.
27. It is Eurus Energy's intention to continue to contract with the above-described consultants, or to engage others to perform the same or similar compliance-related functions, on an annual basis for the foreseeable future.
28. Bull Creek asserts that the corrective actions implemented by Eurus Energy in response to the violations at issue in this proceeding will result in a total recurring cost of approximately \$285,500 per year.
29. The parties have attached to this settlement agreement an affidavit executed by Hidenori Mitsuoka, President of Eurus Energy, providing additional detail on the corrective actions

undertaken in response to the NOV and confirming that Eurus Energy's expectation to continue undertaking the above-described compliance-related costs on an annual basis for the foreseeable future.

30. Commission Staff recommends that the expenses undertaken by Bull Creek and Eurus Energy to hire additional compliance personnel, expand existing compliance programs, and enhance internal familiarity with current and evolving regulatory requirements in the ERCOT power region represent corrective action directly tailored to address the cause of the violations at issue in this proceeding and prevent future violations from occurring.

#### **Administrative Penalty**

31. Under PURA § 15.023, the Commission has authority to impose administrative penalties for violations of PURA and Commission Rules.
32. Under PURA § 15.023(b-1), the Commission may assess an administrative penalty of up to \$1,000,000 per violation per day for a violation of 16 TAC § 25.55(c)(2).<sup>5</sup>
33. Commission Staff recommends, and Bull Creek agrees to pay, a total administrative penalty of \$100,000 in full and final settlement of its violations of 16 TAC § 25.55(c)(2).

#### **Factors to Determine Penalty**

34. In support of the agreed administrative penalty, Commission Staff provides the following analysis of factors to be considered when determining a reasonable and appropriate administrative penalty, as required under PURA § 15.023(c) and 16 TAC § 22.246(c)(3). Bull Creek acknowledges Commission Staff's assertion of the factors' applicability to the underlying violations but does not admit to the accuracy of the analysis, including but not limited to the analysis of whether the initial late filings constitute non-remediable violations. Additionally, Bull Creek acknowledges the below facts as presented by

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<sup>5</sup> Prior to March 17, 2022, the penalty classification system under 16 TAC § 25.8(b) categorized Class A violations—the highest class of violations contemplated under the then-existing classification system—as violations subject to a maximum penalty of \$25,000 per violation per day. However, under PURA § 15.023(b-1), violations of rules adopted under PURA § 35.0021 are subject to a maximum penalty of \$1,000,000 per violation per day. On March 17, 2022, 16 TAC § 25.8(b) was amended to include violations of rules adopted under PURA § 35.0021 as Class A violations subject to an enhanced penalty of \$1,000,000 per violation per day.

Commission Staff, but does not admit that its untimely filing of the WWRRs caused the harm described herein.

- a. *The seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts, and the hazard or potential hazard created to the health, safety, or economic welfare of the public.* Bull Creek's failure to timely submit the required WWRRs are serious violations of the highest degree. Commission Staff recommends that the nature, circumstances, and gravity of the violations support the imposition of significant penalties. As discussed above, Bull Creek does not admit to the accuracy of Commission Staff's analysis, but does acknowledge its late filing of the WWRRs and further agrees to resolve Commission Staff's investigation of this matter in accordance with this settlement agreement.

During the week of February 14, 2021, extreme winter weather throughout the state led to an unprecedented electric generation shortage in the ERCOT power region as facilities froze over, leaving millions of Texans without power for several days at a time. The widespread and long-lasting power outages in sub-freezing temperatures caused human suffering and pervasive property damage for Texans throughout the ERCOT region.

After the February 2021 winter storm, the Commission adopted 16 TAC § 25.55 in order to protect the health, safety, and economic welfare of the public and to prevent the recurrence of a winter weather public emergency. The primary purpose of the WWRR requirement under 16 TAC § 25.55(c)(2) was to ensure the Commission and ERCOT that each generation resource had completed all preparation requirements and would be a reliable source of electric generation in the event of another winter storm. However, to the extent there were delays in completing the preparations for certain resources, the WWRRs were necessary to inform the Commission and ERCOT of each resource's progress, outstanding activities, expected maintenance outages, and estimated date of completion. Therefore, the information provided in each WWRR was critical for reliability planning operations.

Bull Creek's failure to timely submit its WRRs delayed the Commission and ERCOT's ability to accurately account for the resources' generation capabilities and interfered with the Commission and ERCOT's mission to ensure the reliability of the electric grid. When reliability of the electric grid is threatened, there is an inherent risk to the health, safety, and welfare of the public. Therefore, Commission Staff believes that the nature and gravity of Bull Creek's violations in this proceeding warrant the imposition of significant administrative penalties.

- b. ***The economic harm to property or the environment caused by the violation.*** Bull Creek's failure to timely submit its WRRs did not cause any actual economic harm to property or the environment. However, a lack of information about the winter weather readiness of any resource inherently poses a potential risk to ERCOT's reliability planning operations. Therefore, Commission Staff asserts that the violations carried a risk of causing economic harm until the violations were cured.
- c. ***The history of previous violations.*** The Commission's enforcement records do not indicate any prior history of investigations of Bull Creek for violations of PURA, the Commission rules, or ERCOT Nodal Protocols.
- d. ***The amount necessary to deter future violations.*** Since the February 2021 winter storm, the Commission has repeatedly emphasized the importance of compliance with *all* requirements related to grid reliability. Additionally, the Commission has expressed concern that, in some cases, administrative penalties may not serve a deterrent purpose if they do not have a financial impact that exceeds what may be considered "the cost of doing business." It is Commission Staff's position that, given the facts and circumstances specific to Bull Creek, the \$100,000 agreed administrative penalty in this proceeding is appropriate and necessary to deter future violations of rules governing weather preparation and other reliability-focused requirements.
- e. ***Efforts to correct the violation.*** Although Bull Creek cannot retroactively remedy its failure to meet the December 1, 2021 deadline to submit its WRRs, Bull Creek

late-submitted its WRRs to ERCOT on December 8, 2021, within 24 hours of becoming aware of and receiving the NOV.

Additionally, as detailed above in paragraphs 26 through 30, Eurus Energy has proactively undertaken significant expense to correct the internal deficiencies that resulted in Bull Creek's violations of 16 TAC § 25.55(c)(2) and prevent similar violations in the future. These expenditures were directly targeted to guide Bull Creek's operations in the ERCOT market by ensuring, at a corporate level, that those responsible for Bull Creek's operations are aware of the practical impact of Commission rulemakings and other changes in the regulatory landscape. In addition to the \$100,000 agreed administrative penalty, Eurus Energy has budgeted annually, on a recurring basis, approximately \$285,500 per year going forward to address and resolve the underlying factors that contributed to the violations included in the NOV. It is Commission Staff's position that these expenditures have been made in the public interest.

In consideration of Bull Creek and Eurus Energy's efforts to correct the violations, it is Commission Staff's position that the agreed \$100,000 administrative penalty amount is appropriate when considered under this factor.

- f. ***Any other matter that justice may require.*** In light of the factors discussed above and the additional considerations described below, Commission Staff recommends that an agreed administrative penalty of \$100,000 is a reasonable and fair outcome in this proceeding.

Bull Creek has provided Commission Staff with documentation that further supports the reasonableness of a \$100,000 administrative penalty in the instant case.<sup>6</sup> This documentation is commercially and competitively sensitive and was provided to Commission Staff only in the interest of settlement. Accordingly, the documentation is included with this agreement as a confidential attachment for the Commission's consideration. Should the Commission wish to discuss this

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<sup>6</sup> Attachment B (filed confidentially).

information with Bull Creek, Bull Creek will make its representatives available with Commission Staff for an *in camera* inspection and discussion.

Upon consideration of all relevant factors, Commission Staff recommends that an administrative penalty of \$100,000 adequately reflects the gravity of the violations involved in this proceeding and strikes the balance required by PURA § 15.023(c) and 16 TAC § 22.246(c)(3).

**Settlement Terms**


35. Bull Creek acknowledges the basis for the violations described in this settlement agreement and attached Proposed Order.
36. Bull Creek was provided proper notice of Commission Staff's investigation in this matter, the results of the investigation, information about its right to a hearing, and an opportunity to explain its activities.
37. Bull Creek fully cooperated with Commission Staff's investigation.
38. Bull Creek participated in one or more settlement discussions with Commission Staff, the purpose of which was to amicably resolve this matter, which was the subject of the investigation
39. Unless specifically provided for in this agreement, Bull Creek waives any notice and procedures that might otherwise be authorized or required in this proceeding.
40. Nothing in this agreement shall limit Commission Staff's ability to perform its enforcement functions as set forth in PURA and the Commission rules.
41. 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.

42. 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.
43. This agreement is the final and entire agreement between the parties regarding Bull Creek's violations of the provisions described herein and supersedes all other communications among the parties or their representatives regarding its terms.
44. 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.
45. Bull Creek 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:

/s/ Courtney Dean Date: 10/7/2022  
Courtney Dean  
Attorney- Division of Compliance & Enforcement  
Public Utility Commission of Texas  
1701 N. Congress Ave.  
Austin, Texas 78711

 Date: 10/03/2022  
Hidenori Mitsuoka  
Eurus Energy America Corporation  
President

## AFFIDAVIT

STATE OF CALIFORNIA           §  
  §  
COUNTY OF SAN DIEGO       §

Before me, the undersigned notary public, on this day personally appeared Hidenori Mitsuoka, to me known to be the person whose name is subscribed to the foregoing instrument, who being duly sworn according to law, deposes and says:

“1. My name is Hidenori Mitsuoka. I am over the age of eighteen years and am a resident of the State of California. I am competent to testify to all the facts stated in this Affidavit, and I have the authority to make this Affidavit on behalf of Eurus Energy America Corporation (“Eurus Energy”), on behalf of its wholly-owned subsidiary Bull Creek Wind, LLC (“Bull Creek”).

2. I swear or affirm in my capacity as President of Eurus Energy, I have personal knowledge of the facts as stated in this Affidavit which is given in support of the Settlement Agreement and Report to the Commission (“SAPO”) in Public Utility Commission of Texas (“PUCT” or “Commission”) Docket No. 52925. I further swear or affirm that all of the statements and/or representations made in this affidavit are true, complete, and correct to the best of my knowledge.

3. I swear or affirm that Bull Creek is the ERCOT-registered Resource Entity and PUCT-registered Power Generation Company for wind generation resources BULLCRK – WND1 and BULLCRK – WND2.

4. I further swear or affirm that Bull Creek did not submit the Winter Weather Readiness Reports (“WWRRs”) for BULLCRK – WND1 and BULLCRK – WND2 by December 1, 2021 as required by 16 Tex. Admin. Code (“TAC”) § 25.55. I further swear or affirm that the WWRRs were submitted on December 8, 2021.

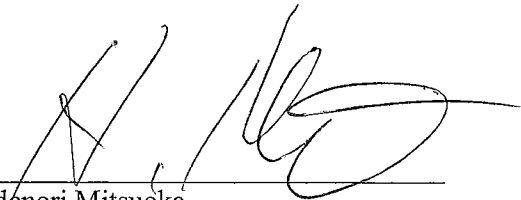
5. I further swear or affirm that the facts describing Bull Creek’s actions and inactions giving rise to the violations as described in the SAPO for PUCT Docket No. 52925 are true and correct.

6. I further swear or affirm that the description of numerous compliance measures Eurus Energy and Bull Creek have adopted, as discussed in the SAPO to prevent future similar violations of Commission Rules, is true and correct, and that Eurus Energy and Bull Creek will work in good faith to carry out the compliance efforts referenced therein. I further swear or affirm that Eurus Energy and Bull Creek will file the required status reports as discussed in the SAPO.

7. I further swear or affirm that the job descriptions and projected expenditures described in SAPO paragraphs 26(a) – 26(c) are true and correct to the best of my knowledge and that any estimate of expenditure has been made as the result of Eurus’ financial analysis of the likely projected cost to Eurus Energy and Bull Creek.

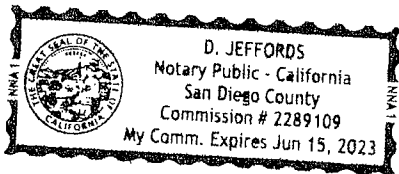
8. I swear or affirm that any assertions of confidentiality regarding this response have been made with a good faith belief that an exception to public disclosure under Chapter 552 of the Texas Government Code applies to the information provided.”

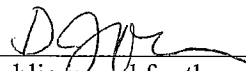
Further affiant sayeth not.

  
Hidénori Mitsuoka  
President  
Eurus Energy America Corporation

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

SWORN TO AND SUBSCRIBED TO BEFORE ME on the 3rd day of October, 2022.



  
Notary Public in and for the  
State of California

My Commission Expires On:

**DOCKET NO. 52925**

<b>NOTICE OF VIOLATION BY BULL</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>CREEK WIND LLC FOR VIOLATIONS</b>	<b>§</b>	
<b>OF 16 TAC § 25.55, CONCERNING</b>	<b>§</b>	<b>OF TEXAS</b>
<b>FAILURE TO COMPLY WITH</b>	<b>§</b>	
<b>WINTER WEATHER EMERGENCY</b>	<b>§</b>	
<b>PREPAREDNESS REPORTING</b>	<b>§</b>	
<b>REQUIREMENTS</b>	<b>§</b>	

**MOTION TO ADMIT EVIDENCE**

On October 7, 2022, the Staff of the Public Utility Commission of Texas (Commission) and Bull Creek Wind LLC (Bull Creek) filed a settlement agreement resolving all matters at issue concerning 16 Texas Administrative Code (TAC) § 25.55, related to the submission of winter weather readiness reports.

**I. MOTION TO ADMIT EVIDENCE**

For the purpose of supporting the Commission's Order in this proceeding, Commission Staff, on behalf of itself and Bull Creek, moves to admit the following items into the record of this proceeding as evidence:

- a) The notice of violation and report to the Commission filed on December 8, 2021 (Interchange Item No. 2);
- b) Commission Staff's petition to determine a violation and impose an administrative penalty filed on December 8, 2021 (Interchange Item No. 3);
- c) Bull Creek's request for a hearing filed on December 23, 2021 (Interchange Item No. 4);
- d) Bull Creek's agreed motion to abate the proceeding pending settlement discussions filed on January 7, 2022 (Interchange Item No. 5); and
- e) The settlement agreement, including all attachments and confidential attachments, filed on October 7, 2022.

## **II. PROPOSED ORDER**

Attached to this pleading is the parties' proposed order. If adopted, the proposed order would resolve all matters at issue in this proceeding. Commission Staff, on behalf of the parties, respectfully requests that a final order be issued consistent with the settlement agreement.

## **III. CONCLUSION**

Commission Staff, on behalf of the parties, respectfully requests that the above-listed items be admitted as evidence into the record of this proceeding and that a final order be issued consistent with the evidence.

Dated: October 7, 2022

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS**

**DIVISION OF COMPLIANCE AND  
ENFORCEMENT**

Barksdale English  
Division Director

/s/ Courtney Dean  
Courtney N. Dean  
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(512) 936-7235  
(512) 936-7268 (facsimile)  
courtney.dean@puc.texas.gov

**DOCKET NO. 52925**

**CERTIFICATE OF SERVICE**

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on October 7, 2022 in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Courtney Dean  
Courtney N. Dean

**Attachment A:  
Proposed Order**

**DOCKET NO. 52925**

<b>NOTICE OF VIOLATION BY BULL</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>CREEK WIND LLC FOR VIOLATIONS</b>	<b>§</b>	
<b>OF 16 TAC § 25.55, CONCERNING</b>	<b>§</b>	<b>OF TEXAS</b>
<b>FAILURE TO COMPLY WITH</b>	<b>§</b>	
<b>WINTER WEATHER EMERGENCY</b>	<b>§</b>	
<b>PREPAREDNESS REPORTING</b>	<b>§</b>	
<b>REQUIREMENTS</b>	<b>§</b>	

**PROPOSED ORDER**

This Order addresses the agreement between Commission Staff and Bull Creek Wind LLC regarding the December 8, 2021 notice of violation concerning requirements established under 16 Texas Administrative Code (TAC) § 25.55(c)(2). Commission Staff recommends that Bull Creek pay an administrative penalty of \$100,000. Bull Creek agrees to pay the recommended penalty. The Commission approves the administrative penalty to the extent provided in this Order.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Respondent**

1. Bull Creek a Delaware limited liability corporation registered with the Texas secretary of state under filing number 800794974.
2. Bull Creek is a power generation company (PGC) that sells electric energy at wholesale in the ERCOT power region.
3. Bull Creek is registered with the Commission under PGC number 20228.

**Notice of Violation and Report to the Commission**

4. On December 8, 2021, the Commission's executive director filed a notice of violation and report to the Commission determining that Bull Creek violated 16 TAC § 25.55(c)(2) on December 1, 2021 by failing to timely submit a winter weather readiness report for each of its two generation resources and that Bull Creek continued to violate 16 TAC § 25.55(c)(2) each day after December 1, 2021 until the requisite winter weather readiness reports were submitted.

5. The executive director recommended administrative penalties be imposed for the initial and continuing violations of 16 TAC § 25.55(c)(2).
6. On December 8, 2021, following the issuance of the notice of violation, Commission Staff filed a petition to determine violations and impose administrative penalties, consistent with the executive director's report.

### **Notice**

7. On December 8, 2021, Commission Staff mailed notice of the executive director's notice of violation and report and of Commission Staff's petition to determine violations and impose administrative penalties by certified mail, return receipt requested, to the designated contact for Bull Creek listed in the Commission's records.

### **Proceeding Before the Commission**

8. On December 23, 2021, Bull Creek filed a request for hearing on the amount of the administrative penalties recommended in the December 8, 2021 notice of violation.
9. On January 7, 2021, Bull Creek filed an agreed motion to abate the proceeding pending settlement discussions between the parties.
10. On January 11, 2021, the administrative law judge (ALJ) issued Order No. 1, abating the proceeding.
11. On October 7, 2022, Commission Staff and Bull Creek filed an executed settlement agreement in this docket.

### **Evidence**

12. In Order No. \_\_ filed on \_\_\_\_, 2022, the ALJ admitted the following items into the evidentiary record: (a) the notice of violation and report to the Commission filed on December 8, 2021; (b) Commission Staff's petition to determine a violation and impose an administrative penalty filed on December 8, 2021; (c) Bull Creek's request for a hearing filed on December 23, 2021; (d) Bull Creek's agreed motion to abate the proceeding pending settlement discussions filed on January 17, 2022; and (e) the settlement agreement, including all attachments and confidential attachments, filed on October 7, 2022.

**Winter Weather Readiness Report Requirement**

13. Bull Creek is the ERCOT-registered resource entity responsible for two ERCOT-registered generation resources: BULLCRK – WND1 and BULLCRK – WND2.
14. Bull Creek did not submit to ERCOT a winter weather readiness report for either of its generation resources by December 1, 2021.
15. Bull Creek late-submitted the winter weather readiness reports for both of its generation resources on December 8, 2021.

**Corrective Action**

16. Bull Creek asserts that it was compliant with all physical winter weather preparation requirements by December 1, 2021, as confirmed by a physical site inspection conducted by ERCOT on December 9, 2021.
17. On December 1, 2021, Bull Creek submitted to ERCOT a declaration of completion of generation resource winter weatherization preparations (declaration) in compliance with ERCOT Nodal Protocol § 3.21(3).
18. Bull Creek asserts that its failure to timely submit its winter weather readiness reports was unintentional and caused by a mistaken belief that the submission of Bull Creek's declaration on December 1, 2021 would also satisfy the winter weather readiness reporting requirement.
19. To correct the internal deficiencies that led to the violations at issue in this proceeding, Bull Creek and its parent company contracted with consultants and hired additional compliance personnel to expand existing compliance programs, monitor and respond to changes in the regulatory landscape, and increase internal understanding of the Commission rules and ERCOT Nodal Protocols. Bull Creek intends to maintain additional compliance efforts consistent with those described in the settlement agreement to continue for the foreseeable future, with an annual, recurring cost of at least approximately \$285,500 per year.

**Settlement Agreement**

20. Bull Creek cooperated with Commission Staff's investigation.

21. Bull Creek acknowledges the basis for the violations described in this Order.
22. On October 7, 2022, Commission Staff and Bull Creek entered into a settlement agreement in which Commission Staff recommended, and Bull Creek agreed to pay, an administrative penalty of \$100,000 for the violations described in this Order.
23. On October 7, 2022, Commission Staff filed a copy of the executed settlement agreement with the Commission's filing clerk.

## **II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over this matter under PURA §§ 14.051, 14.054, 15.023, and 35.0021.
2. Bull Creek is a PGC registered with the Commission under PURA § 39.351 and 16 TAC § 25.109.
3. Bull Creek is a generation entity in the ERCOT power region, as the term generation entity is defined under 16 TAC § 25.55(b)(3).
4. BULLCRK – WND1 and BULLCRK – WND2 are generation resources in the ERCOT power region, as the term generation resource is defined under 16 TAC § 25.55(b)(4).
5. Under PURA § 35.0021(b), the Commission is required to establish rules requiring providers of electric generation service, including power generation companies, in the ERCOT power region to prepare generation assets to provide adequate electric generation service during a weather emergency.
6. Under 16 TAC § 25.55(c)(2), a generation entity in the ERCOT power region was required to submit a winter weather readiness report for each of its generation resources no later than December 1, 2021.
7. Bull Creek violated 16 TAC § 25.55(c)(2) on December 1, 2021 by failing to submit the winter weather readiness reports for its generation resources by the December 1, 2021 deadline.
8. Bull Creek continued to violate 16 TAC § 25.55(c)(2) on each day from December 2, 2021 through December 7, 2021 by failing to submit the winter weather readiness reports.

9. Under PURA § 15.023, the Commission has authority to impose administrative penalties for violations of PURA and rules adopted under the authority of PURA.
10. The Commission has the authority to impose administrative penalties of up to \$1,000,000 per violation per day for violations of 16 TAC § 25.55(c)(2).<sup>1</sup>
11. Commission Staff provided notice of the December 8, 2021 notice of violation and report to the Commission in accordance with 16 TAC § 22.246(f).
12. The December 8, 2021 notice of violation and report to the Commission, as supplemented by the settlement agreement, satisfies the requirements of 16 TAC § 22.246(h)(1).
13. The Commission processed this docket in accordance with applicable statutes and Commission rules.

### III. Ordering Paragraphs

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

1. Bull Creek must comply with the terms of this Order.
2. The Commission approves the agreed administrative penalty to the extent provided in this Order.
3. Within 30 days of this Order, Bull Creek must pay an administrative penalty of \$100,000. Payment of the administrative penalty must be made by check payable to the Public Utility Commission of Texas. The check must reference this docket number and must be sent to the following address:

Public Utility Commission of Texas  
ATTN: Fiscal Services  
P.O. Box 13326  
Austin, Texas 77711

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<sup>1</sup> Prior to March 17, 2022, the penalty classification system under 16 TAC § 25.8(b) categorized Class A violations—the highest class of violations contemplated under the then-existing classification system—as violations subject to a maximum penalty of \$25,000 per violation per day. However, under PURA § 15.023(b-1), violations of rules adopted under PURA § 35.0021 are subject to a maximum penalty of \$1,000,000 per violation per day. On March 17, 2022, 16 TAC § 25.8(b) was amended to include violations of rules adopted under PURA § 35.0021 as Class A violations subject to an enhanced penalty of \$1,000,000 per violation per day.

4. No later than five calendar days after remitting payment of the \$100,000 administrative penalty, Bull Creek must file an affidavit and supporting documentation demonstrating that the payment was made.
5. This Order resolves only the claims identified in this Order.
6. The Commission is not constrained in any manner from requiring additional action or penalties for matters that are not resolved by this agreement.
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 agreement.
8. 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 \_\_\_\_\_, 2022.

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**PETER M. LAKE, CHAIRMAN**

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**WILL MCADAMS, COMMISSIONER**

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**LORI COBOS, COMMISSIONER**

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**JIMMY GLOTFELTY, COMMISSIONER**

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**KATHLEEN JACKSON, COMMISSIONER**

**Attachment B:**  
**Filed Confidentially**