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**SOAH DOCKET NO. 473-22-1661
PUC DOCKET NO. 52929**

**NOTICE OF VIOLATION BY OCI
ALAMO 1, LLC FOR VIOLATIONS
OF 16 TAC § 25.55, CONCERNING
WINTER WEATHER READINESS
REPORTING REQUIREMENTS**

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**BEFORE THE

STATE OFFICE OF
ADMINISTRATIVE HEARINGS**

**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1, LLC'S FIRST REQUEST
FOR INFORMATION TO PUBLIC UTILITY COMMISSION STAFF**

The Staff (Staff) of the Public Utility Commission of Texas (Commission) files the following responses to OCI Alamo 1, LLC's First Request for Information to Commission Staff.

Dated: May 19, 2022

Respectfully Submitted,

PUBLIC UTILITY COMMISSION OF TEXAS

**DIVISION OF COMPLIANCE AND
ENFORCEMENT**

Barksdale English
Division Director

/s/Van Moreland
Van Moreland
State Bar No. 24088087
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7163
(512) 936-7268 (facsimile)
van.moreland@puc.texas.gov

SOAH DOCKET NO. 473-22-1661
DOCKET NO. 52929

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 May 19, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/Van Moreland
Van Moreland

**SOAH DOCKET NO. 473-22-1661
PUC DOCKET NO. 52929**

**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
FOR INFORMATION TO COMMISSION STAFF**

OCI 1-1 Please provide all communications between ERCOT and PUC Staff related to the allegations described in Staff's Notice of Violation filed in this proceeding (the NOV) regarding OCI Alamo 1, LLC (OCI).

RESPONSE:

Please see documents bates labeled STAFF000001-STAFF108, produced in connection with this response.

Prepared by: Van Moreland

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**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
FOR INFORMATION TO COMMISSION STAFF**

OCI 1-2 Please provide all communications between ERCOT employees related to the allegations described in the NOV.

RESPONSE:

Other than what has been produced in response to OCI 1-1, Commission Staff is not in possession of information responsive to this request.

Prepared by: Van Moreland

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PUC DOCKET NO. 52929**

**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
FOR INFORMATION TO COMMISSION STAFF**

OCI 1-3 Please provide all communications between PUC Staff and any PUC Commissioner related to: (a) the allegations described in the NOV; (b) any entity's alleged failure to timely file a Winter Weather Readiness Report (WWRR); or (c) proposed enforcement actions or administrative penalties for any alleged violation of 16 TAC § 25.55.

RESPONSE:

Please see documents bates labeled STAFF000109-STAFF000110 produced in connection with this response and Commission Staff's Notice of Violation filed in Docket No. 52929 on December 8, 2021.

Prepared by: Van Moreland

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PUC DOCKET NO. 52929**

**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
FOR INFORMATION TO COMMISSION STAFF**

OCI 1-4 Please provide ERCOT's schedule, as it existed on December 1, 2021, for conducting inspections of generating facilities to evaluate their preparations for winter weather.

RESPONSE:

To the extent Commission Staff possesses information responsive to this request, please see documents bates labeled STAFF00113-STAFF000118, produced in connection with this response.

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PUC DOCKET NO. 52929**

**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
FOR INFORMATION TO COMMISSION STAFF**

OCI 1-5 Please provide ERCOT's schedule, as it existed on December 8, 2021, for conducting inspections of generating facilities to evaluate their preparations for winter weather.

RESPONSE:

Commission Staff does not possess information responsive to this request.

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**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
FOR INFORMATION TO COMMISSION STAFF**

OCI 1-6 Please provide ERCOT's schedule, as it existed on December 15, 2021, for conducting inspections of generating facilities to evaluate their preparations for winter weather.

RESPONSE:

Commission Staff does not possess information responsive to this request.

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**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
FOR INFORMATION TO COMMISSION STAFF**

OCI 1-7 Please provide ERCOT's schedule, as it existed on December 22, 2021, for conducting inspections of generating facilities to evaluate their preparations for winter weather.

RESPONSE:

Commission Staff does not possess information responsive to this request.

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PUC DOCKET NO. 52929**

**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
FOR INFORMATION TO COMMISSION STAFF**

OCI 1-8 Please provide ERCOT's schedule, as it existed on December 29, 2021, for conducting inspections of generating facilities to evaluate their preparations for winter weather.

RESPONSE:

Commission Staff does not possess information responsive to this request.

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**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
FOR INFORMATION TO COMMISSION STAFF**

OCI 1-9 Please provide all documents that describe prioritization of inspections by ERCOT to assess generation facilities' preparations for winter weather.

RESPONSE:

To the extent Commission Staff possesses information responsive to this request, please see documents bates labeled STAFF000119-000126, produced in connection with this response.

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**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
FOR INFORMATION TO COMMISSION STAFF**

OCI 1-10 Please provide all communications between ERCOT and its winter weather preparation inspection contractor(s)—including without limitation Filsinger Energy Partners—and all documents created by or for ERCOT or its winter weather preparation inspection contractor(s), pertaining to: (a) prioritization of inspections of generation facilities to evaluate preparations for winter weather, including without limitation communications and documents prepared pursuant to the direction in PURA § 35.0021(c-1) that ERCOT “shall prioritize inspections . . . based on risk level”; (b) identification of solar facilities to which site visits would or did occur relating to assessment of preparations for winter weather; (c) identification of energy storage facilities to which site visits would or did occur relating to assessment of preparations for winter weather; (d) evaluations of potential impacts to ERCOT grid reliability posed by any hypothetical or actual failure to prepare solar facilities for winter weather; (e) evaluations of potential impacts to ERCOT grid reliability posed by any hypothetical or actual failure to prepare energy storage facilities for winter weather; (f) inspections of OCI facilities; (g) receipt or evaluation of any WWRP filed by OCI; and (h) impacts to onsite inspection schedules caused by any alleged untimely filing of a WWRP by OCI.

RESPONSE:

Commission Staff is not in possession, nor aware of the existence, of information responsive to this request.

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PUC DOCKET NO. 52929**

**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
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OCI 1-11 Please provide a list identifying every generation facility, by name, location, fuel type (e.g., coal, natural gas, nuclear, solar, wind, etc.), total MW installed capacity, and date of on-site inspection, at which ERCOT or its contractor(s) conducted an on-site inspection in December 2021 or January 2022 to assess preparations for winter weather.

RESPONSE:

Staff objects to this request. Please see Objections by Commission Staff to OCI's First Request for Information. Subject thereto, and without waiving objection please see documents bates labeled STAFF00113-STAFF000118, produced in connection with this response.

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PUC DOCKET NO. 52929**

**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
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OCI 1-12 Please provide a list specifically identifying each solar generation facility, by name, owner, location, total MW installed capacity, and date of on-site inspection, at which ERCOT or its contractor(s) conducted an on-site inspection in December 2021 or January 2022 to assess preparations for winter weather.

RESPONSE:

Staff objects to this request. Please see Objections by Commission Staff to OCI's First Request for Information. Subject thereto, and without waiving objection please see documents bates labeled STAFF00113-STAFF000118, produced in connection with this response.

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**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
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OCI 1-13 Please provide a list specifically identifying each energy storage facility, by name, owner, location, total MW installed capacity, and date of on-site inspection, at which ERCOT or its contractor(s) conducted an on-site inspection in December 2021 or January 2022 to assess preparations for winter weather.

RESPONSE:

Staff objects to this request. Please see Objections by Commission Staff to OCI's First Request for Information. Subject thereto, and without waiving objection please see documents bates labeled STAFF00113-STAFF000118, produced in connection with this response.

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**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
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OCI 1-14 For each facility identified in RFIs 1-12 and 1-13, please provide all documents and communications related to scheduling each on-site inspection identified in the responses to those RFIs.

RESPONSE:

Commission Staff Objects to this Request. Please see Objections of Commission Staff to OCI's First Request for Information. Subject thereto, and without waiving objection please see documents bates labeled STAFF00113-STAFF000118, produced in connection with this response.

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**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
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OCI 1-15 For each facility identified in RFIs 1-12 and 1-13, please provide all documents and communications containing or related to ERCOT's and its contractor(s) assessments of any threat to, or actual detrimental impact on, ERCOT grid reliability caused by: (a) any scheduling or re-scheduling of any on-site inspection of the facility; or (b) any insufficient preparation for winter weather at the facility.

RESPONSE:

Subject to the responses and objections to RFIs 1-12 and 1-13, and without waiving objection, Commission Staff is not in possession, nor is aware of the existence, of information responsive to this request.

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**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
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OCI 1-16 Please provide a detailed description and quantification of every harm to ERCOT grid reliability actually and directly caused by the alleged untimely filing of a WWRR by OCI, along with all documents, calculations, and methodologies that PUC Staff intends to rely upon to demonstrate any such alleged harm to ERCOT grid reliability.

RESPONSE:

Commission Staff objects to this Request. Please see Objections of Commission Staff to OCI's First Request for Information. Subject thereto, and without waiving objection, please see Commission Staff's Notice of Violation, Commission Staff's Petition to Determine Violation and Impose Administrative Penalty, and Direct Testimony filed by Commission Staff in this docket to the extent that such responsive information exists.

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PUC DOCKET NO. 52929**

**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
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OCI 1-17 Please specifically identify and quantify every harm that PUC Staff intends to allege in this proceeding was actually and directly caused by the alleged untimely filing of a WWRR by OCI in each of the following categories, along with all documents, calculations, and methodologies that PUC Staff intends to rely upon to demonstrate any alleged harm: (a) public health; (b) public safety; (c) public economic welfare; (d) economic harm to property; and (e) economic harm to the environment.

RESPONSE:

Commission Staff objects to this Request. Please see Objections of Commission Staff to OCI's First Request for Information. Subject thereto, and without waiving objection, please see Commission Staff's Notice of Violation, Commission Staff's Petition to Determine Violation and Impose Administrative Penalty, and Direct Testimony filed by Commission Staff in this docket.

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PUC DOCKET NO. 52929**

**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
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OCI 1-18 Please provide all documents and communications that support PUC Staff's allegation that any untimely filing of a WWRR is non-remediable.

RESPONSE:

Please see Commission Staff's Notice of Violation, Commission Staff's Petition to Determine Violation and Impose Administrative Penalty, and Direct Testimony filed by Commission Staff in this docket.

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PUC DOCKET NO. 52929**

**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
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OCI 1-19 Please provide all documents and communications related to any circumstance in which PUC Staff requested an extension of time to file a document required to be filed by a certain date in any PUC proceeding or any litigated proceeding before any tribunal.

RESPONSE:

Commission Staff objects to this request. Please see Objections by Commission Staff to OCI's First Request for Information.

Prepared by: Van Moreland

**SOAH DOCKET NO. 473-22-1661
PUC DOCKET NO. 52929**

**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
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OCI 1-20 Please provide all documents and communications related to any circumstance in which ERCOT did not timely file at the PUC any required report, response, notification, or any other document.

RESPONSE:

Commission Staff objects to this request. Please see Objections by Commission Staff to OCI's First Request for Information.

Prepared by: Van Moreland

**SOAH DOCKET NO. 473-22-1661
PUC DOCKET NO. 52929**

**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
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OCI 1-21 Please provide all documents and communications related to any circumstance in which PUC Staff did not timely file at the PUC or with any tribunal any required report, pleading, response, notification, or any other document.

RESPONSE:

Commission Staff objects to this request. Please see Objections by Commission Staff to OCI's First Request for Information.

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PUC DOCKET NO. 52929**

**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
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OCI 1-22 Please provide PUC docket numbers for all proceedings in which PUC Staff has asserted that an untimely filing is a non-remediable offense.

RESPONSE:

Commission Staff is unaware of the existence of any responsive information.

Prepared by: Van Moreland

**SOAH DOCKET NO. 473-22-1661
PUC DOCKET NO. 52929**

**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
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OCI 1-23 Please provide all PUC decisions and Texas cases known to PUC Staff in which the Commission or a court has determined that an untimely filing is a non-remediable offense.

RESPONSE:

Commission Staff is unaware of the existence of any responsive information.

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PUC DOCKET NO. 52929**

**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
FOR INFORMATION TO COMMISSION STAFF**

OCI 1-24 Please provide all communications between ERCOT and PUC Staff in which ERCOT requested an extension of time or a revised deadline on which to file or provide any document, report, notification, or other document.

RESPONSE:

Commission Staff objects to this request. Please see Objections by Commission Staff to OCI's First Request for Information.

Prepared by: Van Moreland

**SOAH DOCKET NO. 473-22-1661
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**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
FOR INFORMATION TO COMMISSION STAFF**

OCI 1-25 Please provide all communications, orders, notices of violation, or other documents in which PUC Staff has asserted that an untimely filing is punishable as a non-remediable, strict liability offense.

RESPONSE:

Commission Staff is unaware of the existence of any responsive information.

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SOAH DOCKET NO. 473-22-1661
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**COMMISSION STAFF'S RESPONSE TO OCI ALAMO 1 LLC'S FIRST REQUEST
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OCI 1-26 Please provide the full text of 16 TAC § 25.8 as it existed on December 1, 2021.

RESPONSE:

§25.8. Classification System for Violations of Statutes, Rules, and Orders Applicable to Electric Service Providers.

- (a) **Purpose.** The purpose of this rule is to establish a classification system for violations of the Public Utility Regulatory Act (PURA) and related commission rules and orders, and to establish a range of penalties that may be assessed for each class of violations.
- (b) **Classification system.**
 - (1) **Class C violations.**
 - (A) Penalties for Class C violations may not exceed \$1,000 per violation per day.
 - (B) The following violations are Class C violations:
 - (i) failure to file a report or provide information required to be submitted to the commission under this chapter within the timeline required;
 - (ii) failure by an electric utility, retail electric provider, or aggregator to investigate a customer complaint and appropriately report the results within the timeline required;
 - (iii) failure to update information relating to a registration or certificate by the commission within the timeline required; and
 - (iv) a violation of the Electric no-call list.
 - (2) **Class B violations.**
 - (A) Penalties for Class B violations may not exceed \$5,000 per violation per day.
 - (B) All violations not specifically enumerated as a Class C or Class A violation shall be considered Class B violations.
 - (3) **Class A violations.**
 - (A) Penalties for Class A violations may not exceed \$25,000 per violation per day.
 - (B) The following types of violations are Class A violations if they create economic harm in excess of \$5,000 to a person or persons, property, or the environment, or create an economic benefit to the violator in excess of \$5,000; create a hazard or potential hazard to the health or safety of the public; or cause a risk to the reliability of a transmission or distribution system or a portion thereof.
 - (i) A violation related to the wholesale electric market, including protocols and other requirements established by an independent organization;
 - (ii) A violation related to electric service quality standards or reliability standards established by the commission or an independent organization;
 - (iii) A violation related to the code of conduct between electric utilities and their competitive affiliates;
 - (iv) A violation related to prohibited discrimination in the provision of electric service;
 - (v) A violation related to improper disconnection of electric service;
 - (vi) A violation related to fraudulent, unfair, misleading, deceptive, or anticompetitive business practices;

- (vii) Conducting business subject to the jurisdiction of the commission without proper commission authorization, registration, licensing, or certification;
- (viii) A violation committed by ERCOT;
- (ix) A violation not otherwise enumerated in this paragraph (3)(B) of this subsection that creates a hazard or potential hazard to the health or safety of the public;
- (x) A violation not otherwise enumerated in this paragraph (3)(B) of this subsection that creates economic harm to a person or persons, property, or the environment in excess of \$5,000, or creates an economic benefit to the violator in excess of \$5,000; and
- (xi) A violation not otherwise enumerated in this paragraph (3)(B) of this subsection that causes a risk to the reliability of a transmission or distribution system or a portion thereof.

- (c) **Application of enforcement provisions of other rules.** To the extent that PURA or other rules in this chapter establish a range of administrative penalties that are inconsistent with the penalty ranges provided for in subsection (b) of this section, the other provisions control with respect to violations of those rules.

Assessment of administrative penalties. In addition to the requirements of §22.246 of this title (relating to Administrative Penalties), a notice of violation recommending administrative penalties shall indicate the class of violation.

Prepared by: Van Moreland