



## Filing Receipt

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

<b>NOTICE OF VIOLATION BY OCI</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>ALAMO 1, LLC FOR VIOLATIONS OF</b>	<b>§</b>	
<b>16 TAC § 25.55 CONCERNING WINTER</b>	<b>§</b>	<b>OF</b>
<b>WEATHER READINESS REPORTING</b>	<b>§</b>	
<b>REQUIREMENTS</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>

**SOAH ORDER NO. 3**  
**MODIFYING PROCEDURAL SCHEDULE; ADOPTING PROTECTIVE ORDER;**  
**AND ISSUING SUBPOENA**

**I. MODIFYING PROCEDURAL SCHEDULE**

On May 12, 2022, the parties filed a Joint Motion for Agreed Changes to Procedural Schedule. The motion is **GRANTED**. The procedural schedule set out in SOAH Order No. 2 is revised as follows:

May 19, 2022	Revised deadline for Staff to file objections and responses to OCI's First RFI
Aug. 12, 2022	Revised deadline for OCI to Serve Discovery on Staff's Direct Testimony
Aug. 12, 2022	Revised deadline for OCI to file its Direct Testimony
Aug. 26, 2022	Revised deadline for Staff to file objections to OCI's Direct Testimony
Aug. 29, 2022	Revised deadline for Staff to serve discovery on OCI's Direct Testimony
Sept. 2, 2022	Revised deadline for Staff to file its Rebuttal Testimony
Sept. 9, 2022	Revised deadline for OCI's response to Staff's objections to OCI's Direct Testimony
Sept. 12, 2022	Revised deadline for OCI to file objections to Staff's Rebuttal Testimony
Sept. 22, 2022	Revised deadline for Staff's response to OCI's objections to Staff's Rebuttal Testimony
Sept. 29, 2022	Revised deadline for OCI to serve discovery on Staff's Rebuttal Testimony
Sept. 30, 2022	Revised deadline for Stipulation of Uncontested Matters

Sept. 30, 2022	Revised Prehearing Settlement Conference
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## II. ADOPTING PROTECTIVE ORDER

On May 13, 2022, the parties filed a Joint Motion for Protective Order (Joint Motion). The Administrative Law Judge (ALJ) finds that the Joint Motion has merit. Accordingly, the Joint Motion is **GRANTED**, and the protective order attached as Exhibit A to the Joint Motion is **APPROVED** and **ADOPTED** and shall govern the handling, exchanging, and storing of confidential materials between the parties in this proceeding.

## III. ISSUING SUBPOENA

On May 13, 2022, OCI Alamo 1 LLC (OCI) filed a Motion for Issuance of Subpoena, requesting the issuance of a subpoena duces tecum (Subpoena) to non-party Electric Reliability Council (ERCOT) pursuant to Tex. Government Code §§ 2001.089, .103 and 16 Tex. Admin. Code § 22.145. The Subpoena seeks information related to ERCOT's evaluation of any reliability risk or harm caused to ERCOT by OCI's alleged untimely filings. OCI states that, without waiving any right to object the discovery sought, ERCOT's General Counsel has agreed to accept service of the Subpoena, making service by a law officer unnecessary. No objection to the motion was filed.

The ALJ finds that OCI has shown good cause for the issuance of a subpoena duces tecum. The motion is **GRANTED**. An executed copy of the subpoena is attached to this order.

**SIGNED May 23, 2022.**



DANIEL WISEMAN  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

**SOAH DOCKET NO. 473-22-1661  
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<b>ALAMO 1 LLC FOR VIOLATIONS OF</b>	§	<b>BEFORE THE STATE OFFICE</b>
<b>16 TAC § 25.55 CONCERNING</b>	§	
<b>WINTER WEATHER</b>	§	<b>OF</b>
<b>PREPAREDNESS REPORTING</b>	§	<b>ADMINISTRATIVE HEARINGS</b>
<b>REQUIREMENTS</b>	§	

**THE STATE OF TEXAS**

**SUBPOENA FOR THE PRODUCTION OF INFORMATION OF  
THE ELECTRIC RELIABILITY COUNCIL OF TEXAS**

**To: ERCOT**

**Registered Agent:**

Mr. Chad Seely, General Counsel  
Electric Reliability Council of Texas  
8000 Metropolis Drive, Bldg E, Ste 100  
Austin, Texas 78744  
[chad.seely@ercot.com](mailto:chad.seely@ercot.com)

Greetings:

**YOU ARE HEREBY COMMANDED** to produce responses certified under oath to the certain requests for information attached as Attachment A, propounded at the instance of OCI Alamo 1 LLC in the above-styled and numbered Docket, by and through their legal counsel. Additionally, you are commanded to produce responsive materials within 20 days of being served this subpoena, at the office of Enoch Kever PLLC, Attn: Carolyn E. Shellman, 7600 N. Capital of Texas Highway, Building B, Suite 200, Austin, TX 78731.

Pursuant to Texas Rule of Civil Procedure 176.8(a), **ERCOT** is notified that failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both.

Issued at the request of OCI Alamo 1 LLC and their attorney of record, Carolyn E. Shellman, and given under my hand and seal of the State Office of Administrative Hearings, this 23rd day of May, 2022.

A handwritten signature in black ink, appearing to read 'Daniel Wiseman', written over a horizontal line.

Daniel Wiseman  
Administrative Law Judge  
State Office of Administrative Hearings

# **ATTACHMENT A**

## **OCI Alamo 1 LLC's First RFI's to ERCOT**

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

<b>NOTICE OF VIOLATION BY OCI</b>	§	
<b>ALAMO 1 LLC FOR VIOLATIONS OF</b>	§	<b>BEFORE THE STATE OFFICE</b>
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<b>WINTER WEATHER</b>	§	<b>OF</b>
<b>PREPAREDNESS REPORTING</b>	§	<b>ADMINISTRATIVE HEARINGS</b>
<b>REQUIREMENTS</b>	§	

**OCI ALAMO 1 LLC’S FIRST REQUEST  
FOR INFORMATION TO THE ELECTRIC RELIABILITY COUNCIL OF TEXAS**

OCI Alamo 1 LLC (“OCI”) requests that you answer and provide information in response to the attached questions under oath. OCI further requests that you answer the questions in the order in which they are asked with as much detail so as to fully present all of the relevant facts.

**Instructions**

Please answer the attached questions on separate pages and copy the question immediately above the answer to each question. Following each answer, please identify the witness or witnesses who will sponsor each of your answers at the hearing in this PUC Docket No. 52929. These questions are continuing in nature and, should there be a change in circumstances that would modify or change any of your answers, then, in such case, please change or modify such answer and submit such changed answer as a supplement to the original answer within twenty (20) calendar days of your discovery that such change or modification is appropriate.

In answering these requests for information, you are requested to furnish such information as is available to you, including information which you are able to obtain by due diligence from your present or former attorneys, accountants, investigators, consultants, employees, agents, and persons acting on your behalf. To the extent any information responsive to a general question is also responsive to another more specific question, provide the information in response to the more specific request.

To the extent any question calls for you to provide documents, furnish such documents in native format, with all formulas intact.

If you are unable to answer any request fully and completely after exercising due diligence to make inquiry and to secure information, you are to answer such request as fully and completely

as you can and to specify the portions which you are unable to answer in such request. In addition to specifying those portions, you are to state with regard to each portion:

- (1) The fact on which you base the contention that you are unable to answer that portion;
- (2) The knowledge, information, and belief you have concerning that portion; and
- (3) The acts done and inquiries made by you in attempting to answer such request.

The singular includes the plural and the plural includes the singular.

Masculine, feminine, or neuter pronouns do not exclude the other genders.

The words “document” and “documents” have the broadest meaning that can be ascribed to them pursuant to the Texas Rules of Civil Procedure. Among other things, the words “document” and “documents” mean the final form and **all drafts and revisions of any kind** of written or graphic matter, original or reproduced copy, however produced or reproduced, of any kind and of every kind, and all copies therefrom that are different in any way from the original regardless of whether designated “confidential,” “privileged,” or otherwise restricted. Without limiting the generality of the foregoing, the words “document” and “documents” also include information stored or maintained on, or which could be reproduced from, any form of physical or electronic storage or storage device including, without limitation, film, microfilm, computer printout, disk or diskette, magnetic tape, cassette, phonographic disc, videotape, compact disk, DVD, flash drive or similar means.

The words “and” and “or” shall be construed conjunctively or disjunctively as necessary to bring within each request all documents which might otherwise be construed as outside its scope.

The words “communication” and “communications” include, without limitation of their generality, both written and oral: statements, representations, discussions, conversations, speeches, meetings, remarks, questions, answers, panel discussions and symposia. These words include, without limitation of their generality, both communications and statements that are face-to-face and those that are transmitted by any writing or document or by media of any kind. These words also include any communications and statements that are transmitted electronically or wirelessly, through means such as, but not limited to, email or text messages.

The words “identify” and “identification,” when used with respect to a natural person or persons, mean to state the name, address(es) and telephone number(s) of each such person. If any

of the foregoing information is not available, state any other available means of identifying such person.

The words “identify” and “identification,” when used in reference to a person other than a natural person, mean to set forth its:

- (1) full name or title;
- (2) nature or organization, including the state under which the same was organized or incorporated;
- (3) address and telephone number (with area code prefix); and
- (4) principal line of business.

If any of the foregoing information is not available, state any other available means of identifying such person.

The words “identify” and “describe,” when used in reference to a fact, mean to state not only the fact itself, but also:

- (1) its date, time, and place;
- (2) the name, address, and telephone number of each person with knowledge of the fact;
- (3) whether the act is supported by an oral communication, a document, or other event; and
- (4) any other evidence that supports such fact.

The words “identify” and “identification,” when used in reference to a document, mean to state:

- (1) its date;
- (2) its author;
- (3) its addressee;
- (4) the type of document (e.g., letter, memorandum, receipt, invoice, schedule, report, telegram, chart, photograph, etc.); and
- (5) its present location and identity of its custodian. If any document was, but is no longer, in your possession, custody, or control, or is no longer in existence, explain why.

If any of the foregoing information is not available, state any other available means of identifying such document. If a document is one of a series of pages contained in a book, pamphlet, binder, folder, microfilm (or other storage device), include in your identification of such document(s) any

available numerical reference (or other aid) to the pages and line or other portion thereof at which the information referred to can be found. A true and correct copy of any document may be produced and filed with your Answers hereto in lieu of the above information.

The words “identify” and “describe,” when used with respect to an oral communication, mean:

- (1) to state the substance of each such oral communication;
- (2) to state the exact words used by each person participating in the oral communication;
- (3) to identify each speaker;
- (4) to identify each person present at the making or reception of such oral communication;
- (5) to specify the date, time, and place of each oral communication;
- (6) to identify each person repeating such oral communication;
- (7) to identify every document which records, memorializes, or relates to all or part of such communication; and
- (8) to identify the mode of such communication (e.g., telephone, face-to-face, etc.).

The words “person” and “persons” as used herein, mean all individuals and entities, and shall be deemed to include natural persons, firms, partnerships, associations, organizations, joint ventures, corporations, and any other entities.

The words “relate,” “related,” “relates,” and “relating,” as used herein, mean involving, relating to, referring to, having any relationship to, pertaining to, evidencing or constituting evidence of, in whole or in part.

All computer readable data should be provided on CD ROMs, DVDs or flash drives for use on PC-compatible machines. OCI will provide a sufficient amount of CDs, DVDs, or flash drives if requested by you before time for your response.

If you have any question concerning the attached Questions or any of these instructions, please contact Carolyn Shellman at (512) 615-1203.

Unless the specific question permits a longer time period, answers to this Request for Information should be served on OCI and filed with the Public Utility Commission of Texas within twenty (20) calendar days from your receipt of said request. Service on OCI should be made as follows:

Carolyn Shellman  
William A. Moore  
Mandy Kimbrough  
ENOCH KEVER PLLC  
7600 N. Capital of Texas Hwy  
Building B, Ste 200  
Austin, Texas 78731  
(512) 615-1198 (fax)  
[cshellman@enochkever.com](mailto:cshellman@enochkever.com)  
[bmoore@enochkever.com](mailto:bmoore@enochkever.com)  
[mkimbrough@enochkever.com](mailto:mkimbrough@enochkever.com)

**Respectfully submitted,**

**ENOCH KEVER PLLC**  
Carolyn Shellman  
State Bar No. 18196200  
William A. Moore  
State Bar No. 00794330  
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[mkimbrough@enochkever.com](mailto:mkimbrough@enochkever.com)

By: \_\_\_\_\_  
Attorneys for OCI Alamo 1 LLC

## **CERTIFICATE OF SERVICE**

I certify that on May \_\_\_, 2022, a true copy of OCI Alamo 1's First Request for Information was served by email, as directed in the July 16, 2020 Second Order Suspending Rules in Project No. 50664, on the following:

Chad Seely  
Electric Reliability Council of Texas  
8000 Metropolis Drive, Building E  
Suite 100  
Austin, Texas 78744  
[chad.seely@ercot.com](mailto:chad.seely@ercot.com)

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Lynn Needles

### **ADDITIONAL DEFINITIONS**

1. The words “you,” “your,” “ERCOT,” “ERCOT Staff,” and “ERCOT personnel” mean the Electric Reliability Council of Texas, Inc., its attorneys, employees, consultants, contractors, or representatives.
2. “Concerning” means constituting, arising out of, incident to, referring to, mentioning, bearing upon, reflecting, evidencing, affecting, concerning or relating in any manner to the transaction, communication, document, individual, entry, act, object, conference, activity or thing identified.
3. “NOV” or “Notice of Violation” means the Notice of Violation filed in Docket No. 52929.
4. “ERCOT Protocols” or “Protocols” means the ERCOT Protocols as such exist or existed at the time period in question.
5. “PUC” or “PUCT” means the Public Utility Commission of Texas.
6. “PUC Staff” or “PUCT Staff” means employees of the Public Utility Commission of Texas, along with its attorneys, consultants, contractors, or representatives engaged to assist those employees in performing the duties and responsibilities of the Public Utility Commission of Texas.

**OCI ALAMO 1 LLC'S FIRST REQUEST  
FOR INFORMATION TO ERCOT**

- OCI 1-1** Please provide all communications between ERCOT and PUC Staff related to the allegations described in PUC Staff's Notice of Violation filed in this proceeding (the NOV or PUC Docket No. 52929) regarding OCI Alamo 1, LLC (OCI).
- OCI 1-2** Please provide all communications between ERCOT employees related to the allegations described in the NOV.
- OCI 1-3** Please provide all communications between ERCOT 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.
- 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.
- 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.
- 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.
- 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.
- 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.
- OCI 1-9** Please provide all documents that describe how ERCOT prioritized inspections of generation facilities to validate generation facilities' WWRRs and assess those generation facilities' preparations for winter weather.
- OCI 1-10** Please provide all documents and communications that describe how ERCOT determined the method, manner, and nature of the inspections ERCOT or its inspection contractor(s) would conduct in order to validate the generation facilities' WWRRs and assess the efficacy of those generation facilities' preparations for winter weather.
- OCI 1-11** Please provide all communications within ERCOT or 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 WWRR filed by OCI; and (h) impacts to onsite inspection schedules caused by any alleged untimely filing of a WWRR by OCI.

- OCI 1-12** 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.
- OCI 1-13** 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.
- OCI 1-14** 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.
- OCI 1-15** For each facility identified in RFIs 1-13 and 1-14, please provide all documents and communications related to scheduling each on-site inspection identified in the responses to those RFIs.
- OCI 1-16** For each facility identified in RFIs 1-13 and 1-14, 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.
- OCI 1-17** Please provide a detailed description and quantification of every harm to ERCOT grid reliability ERCOT asserts was actually and directly caused by the alleged untimely filing of a WWRR by OCI, along with all documents, calculations, and methodologies that demonstrate any such alleged harm to ERCOT grid reliability.
- OCI 1-18** Please specifically identify and quantify every harm that ERCOT asserts 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 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.
- OCI 1-19** Please provide all documents and communications that support an allegation (as contained within the NOV) that any untimely filing of a WWRR is non-remediable.
- OCI 1-20** Please provide all documents and communications related to any circumstance, within the last 10 years, in which ERCOT did not timely file with the PUC any required report, response, notification, or any other document.
- OCI 1-21** Please provide all documents and communications in ERCOT's possession related to any circumstance, within the last 10 years, 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.

- OCI 1-22** Please provide all communications between ERCOT and PUC Staff, within the last 10 years, 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.
- OCI 1-23** Please identify each distribution list ERCOT used to disseminate information relevant to PUC Substantive Rule 25.55 and the WWRRs to OCI, including the email address(es) associated with OCI for each distribution list.
- OCI 1-24** Please provide all communications between ERCOT and OCI between September 1, 2021 and March 1, 2022 regarding:
- a. the requirement and process to file a WWRR in December 2021;
  - b. the filing of a WWRR by OCI;
  - c. weatherization of OCI facilities;
  - d. the NOV filed in this Docket No. 52929;
  - e. inspections of any OCI facilities for compliance with weatherization requirements;
  - f. any other subject matter related to the allegations in the NOV filed in this Docket No. 52929; and
  - g. anything not covered above that is related to the filing of any document, report, or the deadlines related to the filing of same, specifically including all communications related to winter readiness reporting at ERCOT or at the PUCT.
- OCI 1-25** Please provide the full text of the WWRRs filed by OCI, along with the date the WWRRs were received by ERCOT.
- OCI 1-26** Please provide copies of all communications between ERCOT and PUCT Staff in 2021 regarding:
- a. the development, requirements contained in, process to be followed to publicize, implement and enforce, and the adoption of PUC Substantive Rule 25.55; and
  - b. the development, requirements contained in, and process to be followed to publicize, implement, receive and review the WWRR form.
- OCI 1-27** Please provide copies of all internal ERCOT documents and any communications between ERCOT and PUCT Staff regarding:
- a. the use of DocuSign as a means for distributing and/or receiving the WWRR form; and
  - b. the training ERCOT staff received on PUCT Substantive Rule 25.55, the WWRR, and the submission/filing process.
- OCI 1-28** Please provide a copy of each Request for Information (formal or informal) ERCOT received from PUCT Staff related to PUCT Docket No. 52929 and ERCOT's responses to such Requests, including any communication regarding the request(s) (a) between ERCOT and PUCT Staff or (b) among ERCOT employees.
- OCI 1-29** Please provide a list of the date, time, sender, and recipient for each attempt by ERCOT to send to OCI the link to the DocuSign process by which OCI was to submit its WWRRs.

- OCI 1-30** For each attempt listed in response to RFI 1-29, please provide a copy of the communication from ERCOT and indicate whether the communication was successful or unsuccessful (e.g., the communication would be unsuccessful if it “bounced” back to ERCOT, was identified as “undeliverable,” or otherwise identified by ERCOT’s systems as not received by OCI).
- OCI 1-31** For each attempt listed in response to RFI 1-29 that was identified in response to RFI 1-30 as unsuccessful, please provide documentation explaining why or how ERCOT identified the attempt as unsuccessful and please provide any and all information available to ERCOT identifying any and all reasons that the message attempt was unsuccessful.