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

NOTICE OF VIOLATION BY OCI	§	BEFORE THE STATE OFFICE
ALAMO 1 LLC FOR VIOLATIONS OF	§	
16 TAC § 25.55 CONCERNING	§	
WINTER WEATHER	§	OF
PREPAREDNESS REPORTING	§	
REQUIREMENTS	§	ADMINISTRATIVE HEARINGS

NOTICE OF SETTLEMENT AGREEMENT AND REQUEST FOR APPROVAL

The Staff of the Public Utility Commission of Texas (Commission) and OCI Alamo 1, LLC (OCI) (collectively, the Parties) jointly file this Notice of Settlement Agreement in the above-styled docket pursuant to 16 Texas Administrative Code (TAC) §22.246(h)(1)(B). The Parties have entered into a Settlement Agreement, which is attached to this Notice as Attachment A, and seek Commission approval of the Settlement Agreement pursuant to 16 TAC §22.246(h)(1)(C).

Dated: September 2, 2022

Respectfully Submitted,

PUBLIC UTILITY COMMISSION OF TEXAS

**DIVISION OF COMPLIANCE AND
ENFORCEMENT**

Barksdale English
Division Director

/s/Van Moreland _____
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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 September 2, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/Van Moreland _____
Van Moreland

ATTACHMENT A

**SOAH DOCKET NO. 473-22-1661
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NOTICE OF VIOLATION BY OCI	§	BEFORE THE STATE OFFICE
ALAMO 1, LLC FOR VIOLATIONS OF	§	
16 TAC § 25.55, CONCERNING	§	OF
WINTER WEATHER READINESS	§	
REPORTING REQUIREMENTS	§	ADMINISTRATIVE HEARINGS

SETTLEMENT AGREEMENT

The Staff of the Public Utility Commission of Texas (Commission) and OCI Alamo 1 LLC (OCI) enter into this settlement agreement and report to the Commission. The agreement resolves and concludes all matters at issue in Commission Staff's December 8, 2021 Notice of Violation (NOV), concerning winter weather emergency preparedness reporting requirements under 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 PURA¹ §§ 14.051, 14.054, 15.023, and 35.0021.
3. On December 8, 2021, Commission Staff filed a NOV recommending an administrative penalty be assessed against OCI for failure to comply with winter weather emergency preparedness reporting required under 16 TAC § 25.55(c)(2).
4. For the reasons discussed herein, Commission Staff recommends, and OCI agrees to pay, an administrative penalty of \$100,000 to resolve the matters of this proceeding as 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 OCI to improve its

¹ Public Utility Regulatory Act, TEX. UTIL. CODE §§ 11.001-66.016 (PURA).

compliance efforts,² as well as other relevant factors under the Commission's substantive rules.

Registration and Description of Facilities

6. OCI is a power generation company (PGC) that sells electric energy at wholesale in the ERCOT power region.
7. OCI is registered as a PGC with the Commission under PGC registration number 20301.
8. OCI is the ERCOT-registered resource entity responsible for two separate ERCOT-registered generation resources with a combined nameplate generation capacity of 40.18 megawatts (MW).
9. OCI is a wholly-owned subsidiary of OCI Solar San Antonio LLC.
10. OCI manages and is responsible for its 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 generation shortage as extreme winter weather throughout the state of Texas caused electric generation facilities and gas supply facilities to freeze over.
12. In response to the February 2021 generation crisis brought on by winter storm Uri, the Texas Legislature enacted PURA § 35.0021, requiring the Commission to develop the weather preparation standards necessary to ensure the reliability of electric generation in ERCOT 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 measures to be completed for each generation resource in the ERCOT power region no later than December 1, 2021.
14. Under 16 TAC § 25.55(c)(2), each resource 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

² See paragraph 24, *infra* (discussing new and annual compliance-related expenditures undertaken by OCI).

requirement was to advise ERCOT 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 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 OCI generation resources to the email address associated with OCI's authorized representative in ERCOT's records.

Compliance with 16 TAC § 25.55(c)(2)

17. OCI is the ERCOT-registered resource entity responsible for two ERCOT-registered generation resources: OCI_ALM1 – ASTRO1 and OCI_ALM1 – UNIT1.
18. OCI is a generation entity, as that term is defined under 16 TAC § 25.55(b)(3).
19. OCI_ALM1 – ASTRO1 and OCI_ALM1 – UNIT1 are each resources, as that term is defined under 16 TAC § 25.55(b)(6).
20. Under 16 TAC § 25.55(c)(2), OCI was required to submit to ERCOT a WWRR for each of OCI_ALM1 – ASTRO1 and OCI_ALM1 – UNIT1 by December 1, 2021.
21. OCI did not submit a WWRR for OCI_ALM1 – ASTRO1 and OCI_ALM1 – UNIT1 to ERCOT by December 1, 2021.
22. OCI submitted the WWRR for OCI_ALM1 – UNIT1 on December 8, 2021, and submitted the WWRR for OCI_ALM1 – ASTRO1 to ERCOT on December 9, 2021.

Corrective Action

23. With regard to the winter weather emergency preparedness reporting requirement under 16 TAC § 25.55(c)(2), OCI 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. OCI timely submitted its Declaration for OCI_ALM1 – ASTRO1 and OCI_ALM1 – UNIT1 to ERCOT on November 1, 2021, before the December 1, 2021 deadline.
 - c. OCI asserts that the following factors contributed to it submitting the WWRRs after December 1, 2021:
 - i. Its regulatory compliance personnel having an incomplete understanding of the difference between the Declaration and the WWRR;
 - ii. Its failure to monitor and update OCI personnel points-of-contact with ERCOT, resulting in gaps in communication of critical information and instructions;
 - iii. Imprecise and ineffective communication by OCI personnel with appropriate ERCOT personnel, resulting in delayed understanding of filing requirements and deadlines; and
 - iv. Internal IT security systems creating a barrier to timely receipt of DocuSign links, which can be addressed by updating contact information and monitoring.
 - d. OCI recognizes that, as an ERCOT market participant, it is OCI's responsibility to understand how changes in the regulatory landscape impact the rules and requirements applicable to OCI's operations.
 - e. OCI asserts, and Commission Staff acknowledges, that both of the OCI resources were compliant with the winter weather preparation standards established under 16 TAC § 25.55(c)(1) by December 1, 2021.
24. In order to address internal deficiencies and to ensure that OCI is fully compliant with all applicable regulatory requirements going forward, OCI has taken or has committed to taking the following corrective actions to increase training and industry/regulatory knowledge for OCI personnel, formalize and document compliance responsibilities within

the organization, and regularly assess the effectiveness of steps taken to improve compliance performance:

- a. Retain a third-party compliance consultant to:
 - i. Conduct PUC and ERCOT regulatory and protocol compliance audits (to audit, assess and improve compliance with PUC regulations and ERCOT protocols); and
 - ii. Develop a compliance table/chart, a single-source reference material illustrating each applicable regulation/protocol, its substantive requirements, its filing or submission deadlines, plus other pertinent and relevant information.
 - b. Create a Regulatory/Compliance Specialist function to:
 - i. Monitor day to day regulatory rulemakings and protocols;
 - ii. Maintain PUCT and ERCOT registration status;
 - iii. Advise Operations with compliance-related requirements and support internal escalation procedures to ensure unresolved or arising issues are addressed quickly;
 - iv. Submit filings/reports, including implementation of DocuSign signing protocols; and
 - v. Conduct quarterly audits or assessments.
25. OCI agrees to provide status reports to the Division of Compliance and Enforcement regarding the progress of implementation of the remediation action plan described above in paragraph 24 beginning one year after the date of a final order in this proceeding and continuing annually thereafter until the end of a three-year commitment period. OCI estimates that the corrective actions implemented by OCI will result in a total cost of \$300,000 over a three-year period.
26. The parties have attached to this settlement agreement an affidavit executed by Sabah N. Bayatli, Vice President, Project Development, EPC, and Operations of OCI Solar San Antonio LLC, that describes OCI's commitment to taking the corrective actions detailed

above and confirms OCI's commitment to fulfilling the above-described compliance-related activities through the three-year commitment term of the remediation action plan described above in paragraph 24.

Settlement Terms

27. Commission Staff recommends, and OCI agrees to pay, a total administrative penalty of \$100,000 in full and final settlement of the matters in this proceeding.
28. 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):

- 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.*** Commission Staff asserts that OCI's failure to timely submit the required WRRs is a serious violation of the highest degree. Commission Staff recommends that the nature, circumstances, and gravity of the violation supports the imposition of significant penalties

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.

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 WRR requirement under 16 TAC § 25.55(c)(2) was to ensure ERCOT and the Commission 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 WRRs were necessary to inform regulators 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 ERCOT and Commission reliability planning operations.

Commission Staff asserts that OCI's tardiness in submitting its WWRRs posed a potential hazard to regulators' ability to accurately account for the resources' generation capabilities which could interfere with the Commission and ERCOT's mission to ensure the reliability of the electric grid. Commission Staff asserts that when reliability of the electric grid is threatened, there is an inherent risk to the health, safety, and welfare of the public.

- b. ***The economic harm to property or the environment caused by the violation.*** OCI's failure to timely submit its WWRRs did not cause any actual economic harm to property or the environment. However, Commission Staff asserts that because the failure to timely file the WWRRs posed a potential hazard to ERCOT's reliability planning operations, the violations carried a risk of causing economic harm until the violations were cured.
- c. ***The history of previous violations.*** Commission records do not indicate a prior history of investigations of OCI 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 as the cost of doing business. It is Commission Staff's position that given the facts and circumstances specific to OCI, the \$100,000 agreed administrative penalty in this proceeding is significant enough and necessary to deter future violations of rules governing weather preparation and other reliability-focused requirements.
- e. ***Efforts to correct the violation.*** ERCOT transmitted the DocuSign envelope to OCI several times but issues addressed in the proposed remediation plan prevented its effective receipt. However, as soon as OCI became aware of the December 1, 2021

deadline to submit its WWRRs, it took immediate action to comply with the requirement, filing them on December 8, 2021, and December 9, 2021, within 72 hours of its actual receipt of the DocuSign envelope. OCI has proactively taken steps to correct internal deficiencies and to enhance its compliance programs. These expenditures are directly targeted to guide OCI's operations in the ERCOT market by ensuring, at a corporate level, that those responsible for OCI'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, OCI has budgeted \$300,000 over the next three years from the date of this agreement to address and resolve underlying contributing factors that resulted in its not filing WWRRs for its two resources by December 1, 2021. It is Commission Staff's position that these expenditures have been made in the public interest and warrant a reduction of the original recommended administrative penalty.

In consideration of OCI and OCI's efforts to enhance its compliance program, it is Commission Staff's position that the agreed \$100,000 administrative penalty amount is appropriate when considered as part of this factor.

- f. ***Any other matter that justice may require.*** Commission Staff's December 8, 2021 NOV recommended a total administrative penalty of \$1,100,000—\$250,000 per generation resource for OCI's initial failure to timely file its WWRRs, and \$50,000 per day, or \$350,000 total, that the WWRRs were not filed by OCI beyond the December 1, 2021 deadline—be assessed. In light of the mitigating factors described above, OCI's ultimate preparedness and its resources' readiness for the winter season, and OCI's commitment to take remedial compliance measures as outlined in this agreement, Commission Staff now recommends that the assessment of an agreed administrative penalty of \$100,000 is a reasonable and fair outcome in this proceeding and is in the public interest.

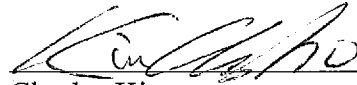
Upon consideration of all relevant factors, Commission Staff recommends that an administrative penalty of \$100,000 adequately reflects the gravity of the matters involved in this proceeding and strikes the balance required by PURA § 15.023(c) and 16 TAC § 22.246(c)(3).

29. OCI acknowledges Commission Staff's assertions forming the basis for the violations alleged in the NOV and agrees to resolve this proceeding as described in this settlement agreement and attached Proposed Order.
30. OCI 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.
31. OCI fully cooperated with Commission Staff's investigation.
32. OCI 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.
33. Unless specifically provided for in this agreement, OCI waives any notice and procedures that might otherwise be authorized or required in this proceeding.
34. Nothing in this agreement shall limit Commission Staff's ability to perform its enforcement functions as set forth in PURA and the Commission rules.
35. This Agreement fully resolves the NOV and all claims and potential enforcement actions related to OCI's December 2021 winter weather readiness report filings or the facts and events described in this Agreement and the attached Proposed Order.
36. 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.
37. The parties contemplate that this agreement will be approved pursuant to 16 TAC § 22.246(h)(1)(C). In the event the Commission changes the terms of this agreement, the

parties agree that any party adversely affected by that 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.


38. This agreement is the final and entire agreement between the parties regarding the matters described herein and supersedes all other communications among the parties or their representatives regarding its terms. 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. OCI 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.



Charles Kim
President & CEO
OCI Solar San Antonio LLC

Date: 8/24/2022



Van Moreland
Attorney
PUC Division of Compliance and Enforcement
Public Utility Commission of Texas

Date: 9/1/2022

**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	§ § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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AFFIDAVIT OF SABAH BAYATLI

STATE OF TEXAS §

COUNTY OF BEXAR §

Before me, the undersigned authority, on this day personally appeared Sabah Bayatli, and being by me duly sworn, under oath declared that the following statements are true and correct:

My name is Sabah Bayatli. I am employed as Vice President, Project Development, EPC & Operations of OCI Solar San Antonio LLC. I am over the age of 18 years and am competent to make this Affidavit. I have personal knowledge of the facts contained herein.

In my current role, I am responsible for overseeing and developing the 3-year program of compliance-related activities OCI has committed to undertake in support of the Settlement Agreement in this docket.

These activities were designed to increase training and industry/regulatory knowledge among OCI personnel, formalize and document compliance responsibilities within our organization, and provide for regular assessment of the effectiveness of all steps taken to improve compliance performance. The components of this program were designed to remediate the various factors that resulted in OCI's submitting its Winter Weatherization Readiness Report after the December 1, 2021 deadline.

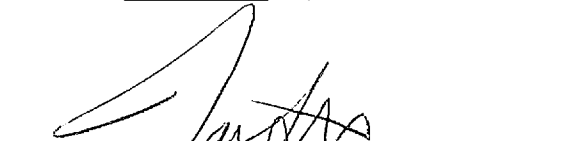
OCI recognizes its responsibility as an ERCOT market participant to understand and comply with rules and regulations applicable to its generation resources.

OCI confirms its commitment to fulfilling the remediation action plan as described in the Settlement Agreement if it is approved by the Public Utility Commission of Texas.

SIGNED on this the 24th day of August 2022.


SABAH BAYATLI, AFFIANT

SWORN TO AND SUBSCRIBED BEFORE ME on this the 24th day of August 2022.


Notary Public in and for the State of Texas

