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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

JOINT MOTION TO ADMIT EVIDENCE AND REMAND PROCEEDING

On September 2, 2022, the Staff of the Public Utility Commission of Texas (Commission) and OCI Alamo 1, LLC (OCI) (collectively, the Parties) jointly filed a Notice of Settlement Agreement in the above-styled docket. If approved by the Commission, this agreement would resolve all the issues in Docket No. 52929, regarding Commission Staff's Notice of Violation by OCI Alamo 1, LLC for Violations of 16 TAC § 25.55 concerning winter weather preparedness reporting requirements.

I. MOTION TO ADMIT

For the purpose of supporting the Commission's order in this proceeding, Commission Staff, on behalf of the Parties, moves to admit the following items into the record of this proceeding as evidence.

- a) Commission Staff's petition to determine violation and impose an administrative penalty (Interchange Item No. 3).
- b) OCI's request for hearing (Interchange Item No. 4).
- c) The settlement agreement and all attachments filed on September 2, 2022.
- d) The proposed order attached to this motion as Attachment 1.

II. MOTION TO REMAND PROCEEDING

Commission Staff, on behalf of the Parties, is filing an agreed proposed order that addresses and resolves all issues in this proceeding. The parties request that the administrative law judge issue an order dismissing this proceeding from the State Office of Administrative Hearings docket and remanding it to the Commission for consideration of the settlement agreement and proposed order. Commission Staff is authorized to represent that OCI supports this motion and entry of the proposed order.

III. PROPOSED ORDER

Attached to this pleading is the Parties' agreed proposed order. Commission Staff, on behalf of OCI, respectfully requests entry of a final order consistent with the Parties' Settlement Agreement.

IV. 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, the proceeding be remanded back to the Commission, and an order consistent with the foregoing motions be entered.

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 1

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

NOTICE OF VIOLATION BY OCI	§	PUBLIC UTILITY COMMISSION
ALAMO 1, LLC FOR VIOLATIONS OF	§	
16 TAC § 25.55, CONCERNING	§	OF TEXAS
FAILURE TO COMPLY WITH	§	
WINTER WEATHER EMERGENCY	§	
PREPAREDNESS REPORTING	§	
REQUIREMENTS	§	

PROPOSED ORDER

This Order addresses the agreement between Commission Staff and OCI Alamo 1 LLC (OCI) regarding Commission Staff's notice of violation to OCI concerning winter weather emergency preparedness reporting requirements under 16 Texas Administrative Code (TAC) § 25.55. The Commission approves the agreement and issues this Order resolving and concluding all matters related to this investigation.

I. Findings of Fact

Commission Staff and OCI stipulated to the following findings of fact.

Respondent

1. OCI is a Delaware limited liability company registered to do business in Texas with the Texas Secretary of State under filing number 801700888.
2. OCI is a power generation company (PGC) that sells electric energy at wholesale in the ERCOT power region under PGC registration number 20301.
3. OCI is a wholly-owned subsidiary of OCI Solar San Antonio LLC.
4. OCI is registered with ERCOT as a resource entity and operates two ERCOT-registered generation resources with a combined nameplate generation capacity of 40.18 megawatts: OCI_ALM1 – ASTRO 1 and OCI_ALM1 – UNIT1.
5. OCI manages and is responsible for its operations in the ERCOT power region, including maintaining compliance with ERCOT and Commission rules.
6. OCI is a generation entity, as that term is defined under 16 TAC § 25.55(b)(3).

7. OCI_ALM1 – ASTRO1 and OCI_ALM1 – UNIT1 are each resources, as that term is defined under 16 TAC § 25.55(b)(6).

Notice of Violation

8. On December 8, 2021, Commission Staff filed its notice of violation, alleging violations by OCI of 16 TAC § 25.55, concerning winter weather emergency preparedness reporting requirements (NOV).

Petition

9. On December 8, 2021, Commission Staff filed its petition to determine violation and impose an administrative penalty in connection with the NOV filed against OCI.
10. Commission Staff alleged that OCI violated 16 TAC § 25.55(c)(2) by not timely submitting required winter weather readiness reports (WRRRs) by December 1, 2021.

Notice

11. On December 8, 2021, Commission Staff sent OCI a copy of the NOV via certified mail. Commission Staff provided OCI with notice of the results of its investigation and provided information about OCI's right to a hearing as to the occurrence of the violation or continuing violation, the amount of the penalty, or both.

Referral to SOAH

12. On February 9, 2022, the Commission referred this matter to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.
13. On February 23, 2022, the Commission filed a preliminary order detailing the issues to be addressed in the hearing on the merits.

Proceedings Before SOAH

14. In SOAH Order No. 2 filed on March 25, 2022, the SOAH administrative law judge (ALJ) adopted a procedural schedule and set a hearing on the merits.
15. On September 2, 2022, Commission Staff filed a settlement agreement, including attachments, between Commission Staff and OCI.

16. On September 2, 2022, Commission Staff and OCI filed a joint motion to admit evidence and remand this proceeding back to the Commission from SOAH.
17. In SOAH Order No. ___ filed on ____, 2022, the SOAH ALJ remanded the proceeding back to the Commission.

Compliance with 16 TAC § 25.55(c)(2)

18. Under 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.
19. Each generation entity was required under 16 TAC § 25.55(c)(2) to submit to ERCOT a winter weather readiness report (WWRR) for each of its resources no later than December 1, 2021.
20. OCI did not submit a WWRR for OCI_ALM1 – ASTRO1 and OCI_ALM1 – UNIT1 to ERCOT by December 1, 2021.
21. 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.

Evidentiary Record

22. On September 2, 2022, OCI and Commission Staff filed a joint motion to admit evidence.
23. In Order No. ___ filed on ____, 2022, the administrative law judge admitted the following evidence into the record of this proceeding: (a) Commission Staff's petition to determine violation and impose an administrative penalty; (b) OCI's request for hearing; (c) the parties' settlement agreement and all attachments filed on September 2, 2022; and (d) a proposed order.

Agreement

24. OCI cooperated with Commission Staff's investigation.
25. OCI engaged in one or more settlement discussions with Commission Staff to amicably resolve this matter.

26. On September 1, 2022, Commission Staff and OCI entered into an agreement resolving the investigation described in this Order. Commission Staff recommended, and OCI has agreed to pay, an administrative penalty of \$100,000 for final settlement of the investigation.
27. OCI indicated that actions have been taken to resolve the issues identified in this Order, which include:
 - Engaging in a self-review of all applicable PUC regulations and ERCOT protocols;
 - Reviewing and updating all OCI contact information on file with the PUCT and ERCOT;
 - Establishing redundant internal and external communication procedures to ensure all applicable OCI employees receive PUC and ERCOT regulatory updates and timely respond thereto; and,
 - Enhancing IT procedures to ensure proper outside communications are not blocked or are otherwise received in a timely manner.
28. OCI has agreed to undertake the implementation of a remediation action plan that has a specified term with an expected financial expenditure. The remediation action plan set forth in the settlement agreement between the parties includes the following actions to be taken:
 - Engage with a third-party/outside compliance consulting firm to (a) conduct an audit, assess, and improve compliance with PUC and ERCOT regulations and (b) develop resource materials tailored to PUC and ERCOT regulations and protocols, substantive requirements, filing and submission deadlines, and any other pertinent and relevant information; and
 - Develop, establish, and maintain an internal compliance specialist function to (a) monitor day-to-day regulatory rulemakings and protocols; (b) maintain PUCT and ERCOT registration status; (c) advise and support the company with compliance-related requirements to ensure unresolved or arising issues are addressed in a timely manner; (d) submit filings and reports, including implementation of DocuSign protocols; and, (e) conduct quarterly audits and assessments.
29. OCI agreed to maintain compliance with the Commission's substantive rules and applicable regulatory requirements.

30. On September 2, 2022, Commission Staff filed a copy of the executed settlement agreement with the Commission's filing clerk.

The Commission makes the following findings of fact.

Informal Disposition

31. More than 15 days have passed since completion of all notice requirements.
32. OCI and Commission Staff are the only parties to this proceeding.
33. Based on agreement between the Parties, no hearing is necessary.
34. Commission Staff recommended approval of the agreement.
35. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over this matter under PURA §§ 14.051, 14.054, 15.023, and 35.0021.
2. OCI is a generation entity as defined under 16 TAC § 25.55(b)(3).
3. 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 no later than December 1, 2021.
4. 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.
5. OCI did not submit the required winter weather readiness reports for either of its two generation resources by December 1, 2021, as required by 16 TAC § 25.55(c)(2).
6. Under PURA § 15.023, the Commission has authority to impose administrative penalties for violations of PURA and Commission rules.
7. Under PURA § 15.023(b-1), the Commission may impose a penalty of up to \$1,000,000 per violation per day for a violation of a provision of PURA § 35.0021.

8. Commission Staff considered the factors required under PURA § 15.023(c) and 16 TAC § 22.246(c)(3) when determining and recommending a reasonable and appropriate administrative penalty.
9. OCI was provided proper notice of Commission Staff's investigation into this matter, the results of the investigation, information about OCI's right to a hearing, and an opportunity to explain its activities, as required by 16 TAC §§ 22.241(a)(2) and 22.246(f)(2).
10. The filing of the agreement meets the requirements of 16 TAC § 22.246(h).
11. The Commission processed this docket in accordance with the requirements of applicable statutes and Commission rules.
12. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

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

1. The Commission approves the settlement agreement and the administrative penalty to the extent provided in this Order.
2. OCI must comply with the terms of the settlement agreement and this Order.
3. OCI must pay an administrative penalty in the amount of \$100,000 to the Commission. OCI must remit payment of the full amount of the administrative penalty on or before 30 calendar days after the date the Commission signs this Order. Payment of the administrative penalty may be made by check payable to the Public Utility Commission of Texas. The check must reference this docket and must be sent to the following address:

Public Utility Commission of Texas
ATTN: Fiscal Services
PO Box 13326
Austin, TX 78711-3326
4. OCI must file an affidavit of payment in this docket no later than five calendar days after remitting payment.

5. The Commission is not constrained in any matters from requiring additional action or penalties for matters that are not resolved by this Order.
6. This Order 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 the settlement agreement and this Order.
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. All other motions and any other requests for general or specific relief, if not expressly granted, are denied.

Signed at Austin, Texas the _____ day of _____ 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

PETER LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER

KATHLEEN JACKSON, COMMISSIONER