



Control Number: 52929



Item Number: 42



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

<b>NOTICE OF VIOLATION BY OCI</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>ALAMO 1, LLC FOR VIOLATIONS OF</b>	<b>§</b>	
<b>16 TAC § 25.55, CONCERNING</b>	<b>§</b>	<b>OF TEXAS</b>
<b>WINTER WEATHER READINESS</b>	<b>§</b>	
<b>REPORTING REQUIREMENTS</b>	<b>§</b>	

**ORDER**

This Order addresses the agreement between Commission Staff and OCI Alamo 1, LLC regarding Commission Staff's notice of violation to OCI Alamo 1 concerning winter-weather emergency-preparedness reporting requirements under 16 Texas Administrative Code (TAC) § 25.55. Commission Staff recommends that OCI Alamo 1 pay to the Commission an administrative penalty of \$100,000. OCI Alamo 1 agrees to pay the administrative penalty recommended by Commission Staff. 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. OCI Alamo 1 is a Delaware limited liability company registered with the Texas secretary of state under filing number 801700888.
2. OCI Alamo 1 is a wholly owned subsidiary of OCI Solar San Antonio LLC.
3. OCI Alamo 1 generates electricity to be sold at wholesale in the Electric Reliability Council of Texas region (the ERCOT region) under power generation company registration number 20301.
4. OCI Alamo 1 does not own a transmission or distribution facility in Texas and does not have a certificated service area.
5. OCI Alamo 1 is registered with Electric Reliability Council of Texas, Inc. (ERCOT) as a resource entity.



6. OCI Alamo 1 operates two ERCOT-registered generation resources with a combined nameplate generation capacity of 40.18 megawatts: OCI\_ALM1 – ASTRO 1 and OCI\_ALM1 – UNIT1.
7. OCI Alamo 1 manages and is responsible for its operations in the ERCOT region, including maintaining compliance with ERCOT Protocols and Commission rules.

**Notice of Violation**

8. On December 8, 2021, Commission Staff filed its notice of violation. Commission Staff alleged that OCI Alamo 1 violated 16 TAC § 25.55 concerning winter-weather emergency-preparedness reporting requirements.
9. The notice of violation recommended a total administrative penalty of \$1,100,000 based on a \$250,000 base penalty for each of OCI Alamo 1's two generation resources and an additional \$50,000 penalty per resource per day from December 2, 2021 through December 7, 2021.

**Petition**

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

**Notice**

12. On December 8, 2021, Commission Staff sent OCI Alamo 1 a copy of the notice of violation by certified mail.
13. The copy of the notice of violation sent by Commission Staff to OCI Alamo 1 briefly summarized the alleged violation, stated the amount of the recommended administrative penalty, and provided information about OCI Alamo 1'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**

14. On February 9, 2022, the Commission referred this matter to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.
15. On February 23, 2022, the Commission filed a preliminary order listing the issues to be addressed in this proceeding.
16. In SOAH Order No. 2 filed on March 25, 2022, the SOAH administrative law judge (ALJ) set a hearing on the merits for January 11–13, 2023.
17. On September 2, 2022, Commission Staff filed an agreement, including attachments, between Commission Staff and OCI Alamo 1.
18. In SOAH Order No. 4 filed on September 6, 2022, the SOAH ALJ dismissed the proceeding from SOAH’s docket and remanded it to the Commission.

**Evidentiary Record**

19. In SOAH Order No. 4 filed on September 6, 2022, the ALJ admitted the following evidence into the record of this proceeding: Commission Staff’s petition to determine a violation and impose an administrative penalty, filed on December 8, 2021; OCI Alamo 1’s request for a hearing, filed on December 22, 2021; the agreement and all attachments, filed on September 2, 2022; and the parties’ proposed order filed on September 2, 2022.

**Compliance with 16 TAC § 25.55(c)(2)**

20. OCI Alamo 1 did not submit a winter-weather readiness report for either OCI\_ALM1 – ASTRO1 or OCI\_ALM1 – UNIT1 to ERCOT by December 1, 2021.
21. OCI Alamo 1 submitted the winter-weather readiness report for OCI\_ALM1 – UNIT1 on December 8, 2021 and the winter-weather readiness report for OCI\_ALM1 – ASTRO1 on December 9, 2021.

**Agreement**

22. Commission Staff recommended, and OCI Alamo 1 agreed to pay, an administrative penalty of \$100,000 for final settlement of the investigation.



**Seriousness of Violation and Risk of Harm**

23. The information provided in each winter-weather readiness report was critical for ERCOT's and the Commission's reliability-planning operations.
24. An inherent risk to the health, safety, and welfare of the public is involved in a threat to the reliability of the electric grid.
25. The failure to provide winter-weather readiness reports carried a risk of causing economic harm until the violations were cured.

**Compliance History and Deterrence of Future Violations**

26. Commission records do not indicate a history of investigations of OCI Alamo 1 for violations of PURA, Commission rules, or ERCOT's Nodal Protocols.
27. OCI Alamo 1 timely filed its declaration of completion of generation-resource winter-weatherization preparations to ERCOT for OCI\_ALM1 – ASTRO1 and OCI\_ALM1 – UNIT1 on November 1, 2021.
28. The agreed administrative penalty of \$100,000 is sufficient and necessary to deter future violations of rules governing weather preparation and other requirements related to grid reliability.

**Corrective Action**

29. Once OCI Alamo 1 became aware of the December 1, 2021 deadline for winter-weather readiness reports, it took immediate action to comply and filed its winter-weather readiness reports within 72 hours of actually receiving the DocuSign envelope for submitting the reports.
30. OCI Alamo 1 indicated that the following actions have been taken to resolve the issues identified in this Order:
  - (a) Engaging in a self-review of all applicable Commission regulations and ERCOT Protocols;
  - (b) Reviewing and updating all of OCI Alamo 1's contact information on file with the Commission and ERCOT;



- (c) Establishing redundant internal and external communication procedures to ensure that all applicable OCI Alamo 1 employees receive Commission and ERCOT regulatory updates and timely respond to them; and
  - (d) Enhancing information-technology procedures to ensure proper outside communications are not blocked or are otherwise received in a timely manner.
- 31. OCI Alamo 1 agreed to implement a remediation action plan that has a specified term with an expected financial expenditure.
  - 32. OCI Alamo 1 has budgeted \$300,000 over the next three years from the date of the parties' agreement to address and resolve underlying contributing factors that resulted in the violations.
  - 33. The remediation action plan set forth in the agreement includes OCI Alamo 1 engaging with a third-party compliance consulting firm to audit, assess, and improve compliance with Commission rules and ERCOT Protocols and to develop resource materials tailored to the Commission's and ERCOT's rules and Protocols, substantive requirements, and filing and submission deadlines as well as any other pertinent and relevant information.
  - 34. The remediation action plan set forth in the agreement includes developing, establishing, and maintaining an internal compliance specialist function for the following activities: monitoring day-to-day regulatory rulemakings and protocols; maintaining Commission and ERCOT registration status; advising and supporting the company with compliance-related requirements to ensure unresolved or arising issues are addressed in a timely manner; submitting filings and reports, including implementation of DocuSign protocols; and conducting quarterly audits and assessments.
  - 35. OCI Alamo 1 agreed to maintain compliance with the Commission's substantive rules and applicable regulatory requirements.

**Other Considerations That Justice May Require**

- 36. OCI Alamo 1 engaged in one or more settlement discussions with Commission Staff to resolve this matter.
- 37. OCI Alamo 1 cooperated with Commission Staff's investigation.



**Informal Disposition**

38. More than 15 days have passed since the completion of notice provided in this docket.
39. No person filed a protest or motion to intervene.
40. OCI Alamo 1 and Commission Staff are the only parties to this proceeding.
41. Based on the agreement between OCI Alamo 1 and Commission Staff, no hearing is necessary.
42. This decision is not adverse to any party.

**II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. The Commission has authority over this matter under PURA<sup>1</sup> §§ 14.051, 15.023, and 35.0021.
2. SOAH exercised jurisdiction over this proceeding under Texas Government Code § 2003.049 and PURA § 14.053.
3. OCI\_ALM1 – ASTRO1 and OCI\_ALM1 – UNIT1 are each a resource as that term is defined in 16 TAC § 25.55(b)(6).
4. OCI Alamo 1 is a generation entity as that term is defined in 16 TAC § 25.55(b)(3).
5. Under 16 TAC § 25.55(c)(2), OCI Alamo 1 was required to submit to ERCOT a winter-weather readiness report for OCI\_ALM1 – ASTRO1 and OCI\_ALM1 – UNIT1 by December 1, 2021.
6. OCI Alamo 1 violated 16 TAC § 25.55(c)(2) by not submitting the required winter-weather readiness reports for either of its two resources by December 1, 2021.
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. The administrative penalty approved by this Order is appropriate in consideration of the factors listed in PURA § 15.023(c) and 16 TAC § 22.246(c)(3).

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<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.



9. In accordance with 16 TAC §§ 22.241(a)(2) and 22.246(f)(2), the Commission's executive director sent notice to OCI Alamo 1 of Commission Staff's investigation into this matter, the results of the investigation, and information about OCI Alamo 1's right to a hearing and its opportunity to explain its activities.
10. The agreement meets the requirements of 16 TAC § 22.246(h).
11. The Commission processed this docket in accordance with the requirements of PURA and Commission rules.
12. This proceeding meets the requirements for informal disposition under 16 TAC § 22.35.

### **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 administrative penalty to the extent provided in this Order.
2. OCI Alamo 1 must pay an administrative penalty in the amount of \$100,000 to the Commission. OCI Alamo 1 must remit payment of the full amount of the administrative penalty on or before 30 calendar days after the date of 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
3. No later than five calendar days after remitting payment, OCI Alamo 1 must file in this docket an affidavit attesting to payment.
4. OCI Alamo 1 must comply with the terms of the agreement and this Order.
5. The Commission is not constrained in any manner from requiring additional action or penalties for matters that are not resolved by this Order.

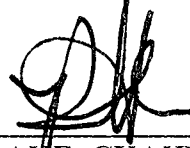


6. This Order fully resolves all claims and potential enforcement actions related to OCI Alamo 1's December 2021 winter-weather readiness report filings or the facts and events described in the agreement and this Order.
7. Entry of this Order does not indicate the Commission's endorsement or approval 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. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.



Signed at Austin, Texas the 20<sup>th</sup> day of October 2022.

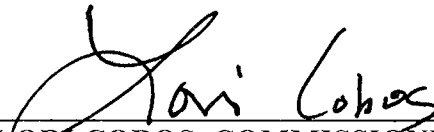
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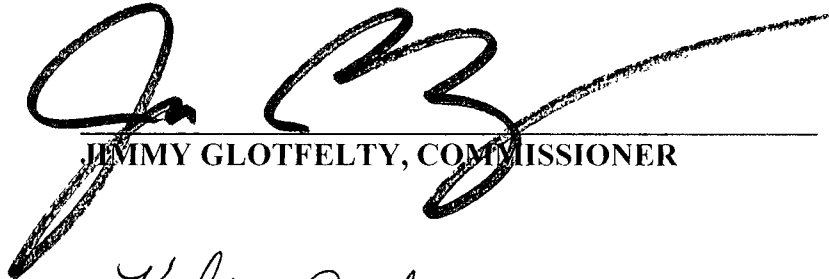
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