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PUC DOCKET NO. 52929

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

COMMISSION STAFF'S PROPOSED LIST OF ISSUES

On December 8, 2021, the Executive Director of the Public Utility Commission of Texas (Commission) filed a formal Notice of Violation (NOV) against OCI Alamo 1, LLC (Alamo) for continuing violations of 16 Texas Administrative Code (TAC) § 25.55(c)(2), concerning Alamo's failure to comply with winter weather emergency preparedness reporting requirements, and recommended the assessment of an initial administrative penalty in the amount of \$1,100,000.¹ On December 23, 2021, Alamo filed a request for hearing on the amount of the administrative penalty recommended in the NOV.

On January 13, 2022, the Commission filed an Order Requesting Lists of Issues, permitting Commission Staff to file in this docket a list of issues to be addressed in the docket by January 24, 2022. Therefore, this pleading is timely filed.

I. PROPOSED LIST OF ISSUES

Under PURA² § 15.023(d), the Commission may order a person against whom an administrative penalty may be assessed may request a hearing on the occurrence of a violation, the amount of the proposed penalty, or both. In such instances, the Commission must refer the hearing to the State Office of Administrative Hearings.³ The SOAH administrative law judge must promptly issue to the Commission a proposal for decision about the occurrence of the violation and the amount of a proposed penalty.

¹ Due to the continuing nature of the violations, the NOV recommended that the administrative penalty assessed against Alamo increase by \$50,000 per resource per day the violations of 16 Tex. Admin. Code (TAC) continued after the date of the NOV.

² Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016 (PURA).

³ PURA § 15.023(f).

Winter Weather Readiness Report requirement

1. With respect to generation resource OCI_ALM1 – ASTRO1:
 - a. Was Alamo required to submit to ERCOT a Winter Weather Readiness Report (WWRR) on behalf of OCI_ALM1 – ASTRO1 by December 1, 2021 pursuant to 16 TAC § 25.55(c)(2)?
 - b. On what date did Alamo submit to ERCOT a WWRR on behalf of OCI_ALM1 – ASTRO1?
 - c. Did Alamo timely submit to ERCOT a WWRR on behalf of OCI_ALM1 – ASTRO1 16 TAC § 25.55(c)(2)?
2. With respect to electric generation unit OCI_ALM1 – UNIT1:
 - a. Was Alamo required to submit to ERCOT a WWRR on behalf of OCI_ALM1 – UNIT1 by December 1, 2021 under 16 TAC § 25.55(c)(2)?
 - b. On what date did Alamo submit to ERCOT a WWRR on behalf of OCI_ALM1 – UNIT1?
 - c. Did Alamo timely submit to ERCOT a WWRR on behalf of OCI_ALM1 – UNIT1 in compliance with 16 TAC § 25.55(c)(2)?

Administrative penalties for violation of 16 TAC § 25.55(c)(2)

3. Under PURA § 15.023, what is the maximum amount of administrative penalty the Commission is authorized to assess against Alamo for the following violation categories:
 - a. Alamo's initial violations to timely submit the WWRRs for its generation resources OCI_ALM1 – ASTRO1 and OCI_ALM1 – UNIT1 to ERCOT by December 1, 2021; and
 - b. Alamo's continuing violations for the ongoing failure to have the WWRRs for its generation resources OCI_ALM1 – ASTRO1 and OCI_ALM1 – UNIT1 on record with ERCOT until December 9, 2021.
4. Were Alamo's violations of 16 TAC § 25.55(c)(2) remedied within 31 days of receiving notice of the violations?

- a. If the violations of 16 TAC § 25.55(c)(2) were remedied within 31 days of receiving notice of the violations, were the violations accidental or inadvertent?⁴
 - b. If the violations were accidental or inadvertent, what evidence supports such a determination?
5. What is the appropriate amount of administrative penalties to be assessed against Alamo for the violations of 16 TAC § 25.55(c)(2) considering the following factors:⁵
- a. The seriousness of the violation, including the nature, circumstances, extent, and gravity of a prohibited act, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;
 - b. The economic harm to property or the environment caused by the violation;
 - c. The history of previous violations;
 - d. The amount necessary to deter future violations;
 - e. Efforts to correct the violation; and
 - f. Any other matter that justice may require.

Dated: January 24, 2022

Respectfully Submitted,

PUBLIC UTILITY COMMISSION OF TEXAS

**DIVISION OF COMPLIANCE AND
ENFORCEMENT**

Barksdale English
Division Director

/s/Van Moreland
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⁴ PURA § 15.024(c).

⁵ PURA § 15.023(c).

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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 January 24, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/Van Moreland _____
Van Moreland