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Executive Director

## *Public Utility Commission of Texas*

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TO: Stephen Journeay  
Commission Counsel

All Parties of Record

FROM: Katie Moore Marx *KMM*  
Administrative Law Judge

RE: **Docket No. 52930** – *Notice of Violation by Shell Oil Company for Violations of 16 TAC § 25.55 and ERCOT Nodal Protocols § 3.21, Concerning Winter Weather Readiness Reporting Requirements*

DATE: November 2, 2022

Enclosed is the Proposed Order in the above-referenced case. By copy of this memo, the parties to this proceeding are being served with the Proposed Order.

Please place this docket on an open meeting agenda for the Commissioners' consideration. Please notify me and the parties of the open meeting date. The parties must file corrections or exceptions to the Proposed Order by November 16, 2022.

**If a party proposes a correction or exception, the party must fully explain the correction or exception and must provide a citation to the record to support the correction or exception.**

**If there are no corrections or exceptions, no response is necessary.**

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**DOCKET NO. 52930**

<b>NOTICE OF VIOLATION BY SHELL</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>OIL COMPANY FOR VIOLATIONS OF</b>	<b>§</b>	
<b>16 TAC § 25.55 AND ERCOT NODAL</b>	<b>§</b>	<b>OF TEXAS</b>
<b>PROTOCOLS § 3.21, CONCERNING</b>	<b>§</b>	
<b>WINTER WEATHER READINESS</b>	<b>§</b>	
<b>REPORTING REQUIREMENTS</b>	<b>§</b>	

**PROPOSED ORDER**

This Order addresses the agreement between Commission Staff and Shell USA, Inc. relating to Commission Staff's investigation of Shell for violations of 16 Texas Administrative Code (TAC) § 25.55(c)(2)<sup>1</sup> and Electric Reliability Council of Texas (ERCOT) Nodal Protocols § 3.21(3), relating to failure to comply with winter weather emergency preparedness reporting requirements. The agreement also serves as a report to the Commission under 16 TAC § 22.246(h)(1). Commission Staff recommends that Shell pay to the Commission an administrative penalty of \$200,000. Shell 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**

Commission Staff and Shell stipulated to the following facts.

**Respondent**

1. Shell is a Delaware corporation registered with the Texas secretary of state under filing number 1320306.
2. Prior to March 1, 2022, Shell did business and was registered with the Texas secretary of state under the name Shell Oil Company. On March 1, 2022, Shell Oil Company was renamed Shell USA, Inc.

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<sup>1</sup> The petition in this matter was filed on December 8, 2021. Subsequently, the Commission amended 16 TAC § 25.55, effective October 20, 2022. Accordingly, all references and citations to 16 TAC § 25.55 in this Order are made to the version in effect at the time the petition was filed.

3. From May 31, 2001 until December 10, 2021, Shell was registered with the Commission, under the name Shell Oil Company, as a self-generator under self-generator registration number 70025.
4. On December 10, 2021, self-generator registration number 70025 was amended to reflect P.M.I. Services North America, Inc. as the owner of self-generator number 70025 and to rename the facilities as Deer Park Refining Limited Partnership.<sup>2</sup>
5. On December 1, 2021, and at all times relevant to the violations at issue in this proceeding, Shell was the ERCOT-registered resource entity responsible for the management, operation, and regulatory compliance of the generation facilities registered under self-generator registration number 70025.

#### **Facilities**

6. The generation facilities registered with the Commission under self-generation registration number 70025 are located at the Deer Park Refinery in Deer Park, Texas and are comprised of four on-site electric generators with a combined nameplate capacity of 268.2 megawatts.
7. On December 1, 2021 and at all times relevant to the violations at issue in this proceeding, each of the four generation facilities at the Deer Park Refinery was registered with ERCOT as a “generation resource.”

#### **Violations: Winter Weather Readiness Reports**

8. On December 1, 2021, Shell was the ERCOT-registered resource entity responsible for the four ERCOT-registered generation resources located at the Deer Park Refinery: SL – SL\_G1, SL – SL\_G2, SL – SL\_G3, and SL – SL\_G4.
9. Shell did not submit winter weather readiness reports for the four Deer Park Refinery generation resources to ERCOT by December 1, 2021.
10. Shell asserted that its failure to timely file the required winter weather readiness reports was unintentional and caused, in part, by a miscommunication with ERCOT and, in part, by a mistaken registration of the four Deer Park Refinery generation facilities as “generation resources” rather than “settlement only generators” in the ERCOT records.

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<sup>2</sup> *Application of Deer Park Refining Limited Partnership to Amend its Self-Generator Registration*, Docket No. 52814, Notice of Approval (Dec. 10, 2021).

11. Shell asserted that (a) the four Deer Park Refinery generation facilities functioned as settlement only generators; (b) settlement only generators were exempt from the reporting requirements under 16 TAC § 25.55(c)(2); (c) Shell mistakenly believed that the four Deer Park Refinery generation facilities were registered as settlement only generators; and (d) each of the four Deer Park Refinery generation facilities was fully compliant with all physical preparation measures required under 16 TAC § 25.55(c)(1) by December 1, 2021.
12. Shell submitted winter weather readiness reports for the four Deer Park Refinery generation facilities to ERCOT on December 8, 2021.

**Violations: Declaration Submission Requirements**

13. Shell did not submit a declaration of completion of generation resource winter weatherization preparations to ERCOT by December 1, 2021.
14. As part of the October 21, 2022 agreement, Commission Staff and Shell stipulated that Shell's December 8, 2021 submission of winter weather readiness reports for the four Deer Park Refinery generation facilities also satisfies Shell's obligation to submit a declaration of completion of generation resource winter weatherization preparations under ERCOT Nodal Protocols § 3.21(3).

**Notice**

15. On December 8, 2021, Commission Staff mailed notice of the executive director's notice of violation and report and of Commission Staff's petition to determine violations and impose administrative penalties by certified mail, return receipt requested, to the designated contact for Shell listed in the Commission's records.

**Corrective Action**

16. Shell cooperated with Commission Staff's investigation.
17. Shell acknowledges the basis for the violations as detailed in this Order.
18. Shell asserts that it was compliant with all physical winter weather preparation requirements by December 1, 2021.
19. On January 6, 2022, the ERCOT registration for each of the four Deer Park Refinery generation facilities was amended to reclassify each of the generation resources as "settlement only generators."

20. Shell no longer has any ownership interest in the four Deer Park Refinery generation facilities, has no future compliance responsibilities related to the four Deer Park Refinery generation facilities, and is no longer affiliated with Commission self-generator registration number 70025.
21. Shell no longer directly owns or controls any generation resource in the ERCOT power region and is no longer registered in its own right with ERCOT as a resource entity.

**Agreement**

22. On October 21, 2022, Commission Staff and Shell entered into an agreement in which Commission Staff recommended, and Shell agreed to pay, an administrative penalty of \$200,000 for the violations described in this Order.
23. On October 21, 2022, Commission Staff filed a copy of the agreement with the Commission's filing clerk.

The Commission makes the following findings of fact.

**Evidentiary Record**

24. In Order No. 9 filed on November 1, 2022, the ALJ admitted the following evidence into the record of this proceeding: (a) the notice of violation and report to the Commission filed on December 8, 2021; (b) Commission Staff's petition to determine a violation and impose an administrative penalty filed on December 8, 2021; (c) Shell's request for a hearing filed on December 23, 2021; (d) the agreed motion to abate the proceeding pending settlement discussions filed on January 7, 2022; and (e) the agreement, including all attachments and confidential attachments, filed on October 21, 2022.

**Informal Disposition**

25. At least 15 days have passed since the completion of notice requirements.
26. No person filed a protest or motion to intervene.
27. Shell and Commission Staff are the only parties to this proceeding.
28. By agreement of the parties, no hearing is needed.
29. Commission Staff recommended approval of the agreement.
30. 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>3</sup> §§ 14.051, 14.054, 15.023, and 35.0021.
2. On December 1, 2021, Shell was a self-generator registered with the Commission under 16 TAC § 25.109.
3. On December 1, 2021, Shell was a generation entity as defined under 16 TAC § 25.55(b)(2).
4. On December 1, 2021, each of the four Deer Park Refinery generation facilities was a generation resource as defined under 16 TAC § 25.55(b)(3).
5. Under PURA § 35.0021(b), the Commission is required to establish rules requiring providers of electric generation service in the ERCOT power region to implement measures to prepare the provider's generation assets to provide adequate electric generation service during a weather emergency.
6. Under 16 TAC § 25.55(c)(2) a generation entity in the ERCOT power region was required to submit to ERCOT a winter weather readiness report for each of its generation resources by no later than December 1, 2021.
7. Shell violated 16 TAC § 25.55(c)(2) by failing to submit to ERCOT a winter weather readiness report for each of the four Deer Park Refinery generation resources by December 1, 2021.
8. Shell continued to violate 16 TAC § 25.55(c)(2) on each day from December 2, 2021, through December 7, 2021, by failing to submit the winter weather readiness reports for each of the four Deer Park Refinery generation resources.
9. Under ERCOT Nodal Protocols § 3.21(3), each resource entity in the ERCOT region was required to submit to ERCOT, by December 1, 2021, a declaration of completion of generation resource winter weatherization preparations stating that, at the time of submission, each generation resource under the resource entity's control has completed or

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<sup>3</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

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.

10. Shell violated ERCOT Nodal Protocols § 3.21(3) by failing to submit to ERCOT a declaration of completion of generation resource winter weatherization preparations or winter weather readiness report by December 1, 2021.
11. Shell continued to violate ERCOT Nodal Protocols § 3.21(3) on each day from December 2, 2021 until December 7, 2021 by failing to submit a declaration of completion of generation resource winter weatherization preparations or winter weather readiness report.
12. As stipulated by the October 21, 2022 agreement, Shell's December 8, 2021 submission of the winter weather readiness reports for each of the four Deer Park Refinery generation facilities remedied the continuing violations of both 16 TAC § 25.55(c)(2) and ERCOT Nodal Protocols § 3.21(3).
13. Under PURA § 15.023, the Commission has authority to impose administrative penalties for violations of PURA and rules adopted under the authority of PURA.
14. Under PURA § 15.023(b-1) and 16 TAC § 25.8(b)(3)(A), the Commission may assess administrative penalties of up to \$1,000,000 per violation per day for violations of 16 TAC § 25.55(c).
15. Under 16 TAC § 25.8(b)(3)(B)(i), the violations of ERCOT Nodal Protocols § 3.21(3) described herein are Class A violations.
16. Under 16 TAC § 25.8(b)(3)(A), the Commission may impose a penalty of up to \$25,000 per violation per day for a Class A violation.
17. Commission Staff provided notice of the December 8, 2021 notice of violation and report to the Commission in accordance with 16 TAC § 22.246(f).
18. The December 8, 2021 notice of violation and report to the Commission, as supplemented by the agreement, satisfies the requirements of 16 TAC § 22.246(h)(1).



19. The Commission processed this docket in accordance with applicable statutes and Commission rules.
20. 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 administrative penalty to the extent provided in this Order.
2. Shell must comply with the terms of the agreement and this Order.
3. Shell must pay an administrative penalty in the amount of \$200,000 to the Commission. Shell is required to 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  
P.O. Box 13326  
Austin, Texas 78711
4. Shell must file an affidavit of payment of the administrative penalty in this docket no later than five calendar days after remitting the payment.
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 resolves only the violations identified in 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 \_\_\_\_\_ day of \_\_\_\_\_ 2022.

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**PETER M. LAKE, CHAIRMAN**

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**WILL MCADAMS, COMMISSIONER**

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**LORI COBOS, COMMISSIONER**

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**JIMMY GLOTFELTY, COMMISSIONER**

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**KATHLEEN JACKSON, COMMISSIONER**