



## Filing Receipt

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**SOAH DOCKET NO. 473-22-1662  
DOCKET NO. 52931**

<b>NOTICE OF VIOLATION BY TEXAS</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>BIG SPRING LP FOR VIOLATIONS OF</b>	<b>§</b>	
<b>16 TAC § 25.55 AND ERCOT NODAL</b>	<b>§</b>	
<b>PROTOCOLS § 3.21(3), CONCERNING</b>	<b>§</b>	
<b>FAILURE TO COMPLY WITH</b>	<b>§</b>	<b>OF</b>
<b>WINTER WEATHER EMERGENCY</b>	<b>§</b>	
<b>PREPAREDNESS REPORTING</b>	<b>§</b>	
<b>REQUIREMENTS</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>

**NOTICE OF SETTLEMENT AGREEMENT AND REQUEST FOR APPROVAL**

The Staff of the Public Utility Commission of Texas (Commission) and Texas Big Spring, LLC<sup>1</sup> (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: December 16, 2022

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS**

**DIVISION OF COMPLIANCE AND  
ENFORCEMENT**

Barksdale English  
Division Director

/s/Van Moreland \_\_\_\_\_  
Van Moreland  
State Bar No. 24088087  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7163  
(512) 936-7268 (facsimile)  
van.moreland@puc.texas.gov

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<sup>1</sup> Formerly known as Texas Big Spring, LP.

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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 December 16, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/Van Moreland  
Van Moreland

# **ATTACHMENT A**

**SOAH DOCKET NO. 473-22-1662  
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<b>REQUIREMENTS</b>	§	<b>ADMINISTRATIVE HEARINGS</b>

**SETTLEMENT AGREEMENT**

The Staff of the Public Utility Commission of Texas (Commission) and Texas Big Spring, LLC<sup>1</sup> (TBS) enter into this settlement agreement and report to the Commission. The agreement resolves and concludes all matters at issue in or related to Commission Staff's December 8, 2021 Notice of Violation (NOV), regarding TBS's alleged violations of 16 Texas Administrative Code (TAC) § 25.55 and ERCOT Nodal Protocols § 3.21(3); including all issues that were brought or could have been brought in SOAH Docket No. 473-22-1662, and Commission Docket No. 52931.

**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 PURA<sup>2</sup> §§ 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 TBS for violations of 16 TAC § 25.55(c)(2).
4. For the reasons discussed herein, Commission Staff recommends, and TBS agrees to pay, an administrative penalty of \$80,000 in full settlement of all matters at issue in or related to Commission Staff's December 8, 2021 Notice of Violation (NOV), regarding TBS's alleged violations of 16 Texas Administrative Code (TAC) § 25.55 and ERCOT Nodal

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<sup>1</sup> On April 8, 2022, TBS applied to amend its power generation company registration number 20126 to reflect its change in name from Texas Big Spring, LP to Texas Big Spring, LLC. On May 9, 2022, the Commission approved TBS's application.

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

Protocols § 3.21(3); including all issues that were brought or could have been brought in SOAH Docket No. 473-22-1662, and Commission Docket No. 52931 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 TBS to improve its compliance efforts,<sup>3</sup> as well as other relevant factors under the Commission's substantive rules.

#### **Registration and Description of Facilities**

6. TBS is a power generation company (PGC) that sells electric energy at wholesale in the Electric Reliability Council of Texas (ERCOT) power region.
7. TBS is registered as a PGC with the Commission under PGC registration number 20126.
8. TBS is the ERCOT-registered Generation Entity responsible for two separate ERCOT-registered Generation Resources with separate Resource IDs (SGMTN - SIGNALMT with 27.72 MW and SGMTN - SIGNALM2 with 6.6 MW) with a combined nameplate generation capacity of 34.32 megawatts (MW).
9. TBS is a Generation Entity as that term is defined in 16 TAC §25.55(b)(3)
10. TBS is a wholly-owned subsidiary of Caltex Holdings, LLC.
11. TBS manages and is responsible for its operations in the ERCOT power region, including maintaining compliance with applicable ERCOT and Commission rules. TBS has engaged Terra-Gen Operating Company, LLC to manage its operations in ERCOT and maintain compliance.

#### **Winter Weather Preparation Standards & Reporting Requirements**

12. 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 to freeze over.

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<sup>3</sup> See paragraph 31, *infra* (discussing new and annual compliance-related expenditures undertaken by TBS).

13. 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 the electric generation during future extreme winter weather events.
14. Under the authority of PURA § 35.0021(b), the Commission adopted 16 TAC § 25.55, which established a series of winter weather preparation activities to be completed by a Generation Entity for each Generation Resource under its control in the ERCOT power region no later than December 1, 2021.
15. 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 (WWRR) for each resource under its control no later than December 1, 2021. The purpose of the WWRR 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.
16. ERCOT utilized an online service known as DocuSign to distribute the WWRR form for each Generation Resource to the associated Generation Entity, monitor the progress of each WWRR form, and receive each WWRR form upon completion.
17. On November 12, 2021, ERCOT sent a WWRR DocuSign link for each of the two TBS Generation Resources to the email address associated with TBS's authorized representative in ERCOT's records.

**Violations of 16 TAC § 25.55(c)(2)**

18. SGMNTN – SIGNALMT and SGMNTN – SIGNALM2 each qualify as a separate Generation Resource, as that term is defined under 16 TAC § 25.55(b)(4).
19. Commission Staff asserts that under 16 TAC § 25.55(c)(2), TBS was required to submit to ERCOT a WWRR for both SGMNTN – SIGNALMT and SGMNTN – SIGNALM2 no later than December 1, 2021.
20. TBS asserts that it submitted a single WWRR intended to cover the entire Generation Entity on November 29, 2021, under the DocuSign sent to SGMNTN – SIGNALMT.

21. TBS asserts that it did not submit a separate WWRR for its SGMTN – SIGNALM2 to ERCOT by December 1, 2021 because TBS believed its submission under the SGMTN – SIGNALMT DocuSign covered the entire Generation Entity. TBS asserts that the content of the WWRR prepared by TBS covered the entire Generation Entity, but TBS submitted the WWRR only under the SGMTN – SIGNALMT DocuSign.
22. TBS received the NOV on December 8, 2021, and it submitted the WWRR for SGMTN – SIGNALM2 within hours on the same day, December 8, 2021.
23. TBS admits that it violated 16 TAC § 25.55(c)(2) on December 1, 2021 by failing to separately submit the WWRR for its SGMTN – SIGNALM2 Generation Resource by December 1, 2021.
24. Regarding the SGMTN – SIGNALM2 Generation Resource, TBS admits that its violation of 16 TAC § 25.55(c)(2) mentioned in paragraph no. 23 was ongoing from December 2, 2021 through December 8, 2021 when it submitted a separate WWRR for that Generation Resource.

**Violations of ERCOT Nodal Protocol § 3.21(3)**

25. 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.
26. Under 16 TAC § 25.55(c)(5), a Generation Entity that timely submitted a WWRR to ERCOT by December 1, 2021 was exempt from the Declaration requirement under ERCOT Nodal Protocol § 3.21(3) for the 2021 calendar year.
27. After submitting its WWRR on November 29, 2021, TBS did not submit a Declaration to ERCOT by December 1, 2021 because it believed it was exempt under 16 TAC § 25.55(c)(5).



28. Commission Staff contends that TBS was not exempt from the requirement to submit a Declaration by December 1, 2021 because it did not timely submit a separate WWRR to ERCOT on behalf of the SGMTN – SIGNALM2 Generation Resource.
29. Commission Staff contends that TBS violated ERCOT Nodal Protocol § 3.21(3) on December 1, 2021 by failing to submit its Declaration to ERCOT by December 1, 2021.
30. When TBS filed a WWRR for SGMTN - SIGNALM2 on December 8, 2021, TBS met the conditions for waiver of the requirement to file a Declaration under 16 TAC 25.55(c)(5).

**Corrective Action**

31. With regard to its violations of 16 TAC § 25.55(c)(2), TBS asserts the following:
  - a. TBS asserts that it untimely submitted the WWRR due to the following:
    - i. TBS filed a timely and complete WWRR on November 29, 2021, covering all resources under TBS’ control. TBS is comprised of multiple wind energy turbines tied to a single electrical substation, a single electrical meter for the purpose of measuring output from the TBS facility, and a single generation interconnect with the ERCOT grid. Accordingly, TBS has always treated this facility as single facility. TBS filed the WWRR on November 29, 2021 via the DocuSign sent to SGMTN – SIGNALMT. TBS had filed its declarations of weatherization preparedness reports collectively in a single submission for years prior to this new, more robust filing requirement, and those prior declarations had been accepted by ERCOT. The WWRR at issue in these proceedings was accepted by ERCOT for SGMTN – SIGNALMT, and there were no concerns expressed about TBS’s preparedness.
    - ii. The NOV at issue here is based on the fact that, although TBS evaluated the entire facility for the WWRR, TBS failed to file a separate WWRR for SGMTN – SIGNALM2, one of the two “resource IDs” assigned by ERCOT to this single Generation Entity. Upon receipt of the notice of violation and having already conducted the evaluation covering SGMTN – SIGNALM2,

TBS immediately filed a separate WWRR for the SGMTN – SIGNALM2 resource.

- iii. The error leading to the NOV relating to failing to file a separate WWRR for SGMTN – SIGNALM2 was caused by the mistaken belief that the two resource IDs could be addressed in a single filing.
- b. TBS recognizes that, as an ERCOT market participant, it is TBS's responsibility to understand how changes in the regulatory landscape impact the rules and requirements applicable to TBS's operations.
- c. TBS asserts, and Staff acknowledges, that both of the TBS resources were compliant with the winter weather preparation standards established under 16 TAC § 25.55(c)(1) by December 1, 2021.
- d. In order to address the internal processes at issue in the NOV and to ensure that TBS is fully compliant with all applicable regulatory requirements going forward, TBS has taken or has committed to taking the following corrective actions:
  - i. TBS will make the following investments relating to the identification of, and compliance with, ERCOT/PUC regulatory obligations:
  - ii. Acquire an allocation of approximately 100 hours-per-year (approximately 5%) of the Director of Compliance's time from an affiliate to dedicate to the compliance obligations of TBS, including ERCOT/PUC obligations;
  - iii. Acquire an allocation of approximately 100 hours-per-year (approximately 5%) of the Vice President of EH&S's time from an affiliate to dedicate to the compliance obligations of TBS, including ERCOT/PUC obligations;
  - iv. Acquire an allocation of approximately 100 hours-per-year (approximately 5%) from an affiliate of a new position to be created for a NERC/ERCOT/PUC Compliance Engineer from dedicated to ensuring technical compliance with regulatory obligations, including ERCOT/PUC obligations; and
  - v. Create an additional scope of work, estimated to be at least 100 hours-per-year (approximately 5%), for two members of the TBS management team's

time dedicated to the implementation of the regulatory and technical obligations set forth above.

32. TBS asserts that the corrective actions implemented by TBS in response to the violations at issue in this proceeding will result in a total cost of at least \$250,000 over a four-year period.
33. TBS agrees to confidentially file status reports with the Division of Compliance and Enforcement regarding the progress of implementation of the remediation action plan described above in paragraph 31 beginning one year after the date of a final order in this proceeding and continuing annually thereafter until the four-year commitment period set forth above ends.
34. The parties have attached to this settlement agreement an affidavit executed by Mr. Matthew W. Scobee, Senior Vice President and COO of TBS that provides additional detail on the corrective actions taken in response to the NOV and that confirms TBS's commitment to continue fulfilling the above-described compliance-related activities through the four-year commitment term of the remediation action plan described above in paragraph 31.

**Settlement Terms**

35. Commission Staff recommends, and TBS agrees to pay, a total administrative penalty of \$80,000 – \$20,000 per year, over four years – in full and final settlement of its violations of 16 TAC § 25.55(c)(2). These payments will be made on or before December 1 each year. TBS agrees to remit the first payment of \$20,000 of the administrative penalty on or before 30 calendar days after the date the Commission signs an order addressing this agreement, and shall make the following three \$20,000 payments on or before the annual anniversary of the date the Commission signs the order addressing this agreement. Payment of the administrative penalty may be made by check payable to the Public Utility Commission of Texas. The check must reference this PUC docket and must be sent to the following address:

Public Utility Commission of Texas  
ATTN: Fiscal Services  
PO Box 13326

Austin, TX 78711-3326

36. 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 TBS's failure to timely submit the required WWRR for its SGM-TN-SIGNALM2 ERCOT registered generation resource is a violation of the provisions set forth above in paragraph 15. Commission Staff recommends that the nature, circumstances, and gravity of the violation support the imposition of penalties consistent with the above provisions.

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 WWRR 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 WWRRs were necessary to inform regulators of each resource's progress, outstanding activities, expected maintenance outages, and estimated date of completion. Therefore, Commission Staff asserts the information provided in each WWRR was critical for ERCOT and Commission reliability planning operations.

Commission Staff asserts that TBS's tardiness in submitting its WWRR delayed regulators' ability to accurately account for the resources' generation capabilities

and interfered 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. Commission Staff acknowledges that TBS' two resources were prepared for winter weather operations consistent with the requirements of 16 TAC § 25.55(c).

- b. ***The economic harm to property or the environment caused by the violation.*** TBS's failure to timely submit its WWRR did not cause any actual economic harm to property or the environment. However, because the failure to timely file the WWRR interfered with 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 that TBS has a prior history of 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 TBS, the \$80,000 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.*** Although TBS failed to meet the December 1, 2021 deadline to submit its WWRR on the second Generation Resource, TBS late-submitted its WWRR for the SGM-TN-SIGNALM2 generation resource to ERCOT on December 8, 2021, within 24 hours of its knowledge and receipt of the NOV. Additionally, as detailed above in paragraphs 31 through 34, TBS has proactively taken steps to correct any internal deficiencies that resulted in TBS's violations of

16 TAC § 25.55(c)(2) and ERCOT Nodal Protocol § 3.21(3) and prevent similar violations in the future. These expenditures were directly targeted to guide TBS's operations in the ERCOT market by ensuring, at a corporate level, the identification of, and compliance with, ERCOT/PUC regulatory obligations. In addition to the \$80,000 agreed administrative penalty, TBS has budgeted \$250,000 over the next four years from the date of this agreement to address and resolve the underlying contributing factors resulting in the violations included in the NOV. 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 TBS and TBS's efforts to correct the violations, it is Commission Staff's position that the agreed \$80,000 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 \$725,000 be assessed for TBS's violations of 16 TAC § 25.55(c)(2) and ERCOT Nodal Protocol § 3.21(3). In light of the mitigating factors described above, TBS's ultimate preparedness and its resources' readiness for the winter season, and TBS'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 \$80,000 – \$20,000 per year, over four years – is a reasonable and fair outcome in this proceeding and is in the public interest.

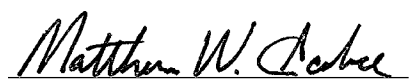
Upon consideration of all relevant factors, Commission Staff recommends that an administrative penalty of \$80,000 adequately reflects the gravity of the violations and is consistent with the facts involved in this proceeding and strikes the balance required by PURA § 15.023(c) and 16 TAC § 22.246(c)(3).

37. TBS 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.

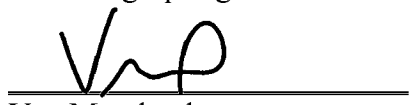
38. TBS fully cooperated with Commission Staff's investigation.
39. TBS participated in multiple settlement discussions with Commission Staff, the purpose of which was to amicably resolve this matter, which was the subject of the investigation.
40. Because the issues in this matter are amicably resolved, TBS withdraws its December 27, 2021 request for a hearing.
41. Unless specifically provided for in this agreement, TBS waives any notice and procedures that might otherwise be authorized or required in this proceeding.
42. Nothing in this agreement shall limit Commission Staff's ability to perform its enforcement functions as set forth in PURA and the Commission rules. This settlement agreement constitutes a full and final settlement and release of all disputes, known or unknown, of any type arising out of or related to the events described herein, including Commission Staff's December 8, 2021 Notice of Violation (NOV), TBS's alleged violations of 16 TAC § 25.55 and ERCOT Nodal Protocols § 3.21(3); and all issues that were brought or could have been brought in SOAH Docket No. 473-22-1662, and Commission Docket No. 52931.
43. 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. Except as expressly set forth herein, nothing in this agreement nor any act or omission relating thereto is or shall be considered an admission, concession, or acknowledgment of any liability. 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.

44. 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.
45. This agreement is the final and entire agreement between the parties regarding TBS's violations of the provisions 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. Each party to this agreement warrants that it has read this agreement carefully; knows the contents thereof; has relied solely on its own judgment, belief, and knowledge; has had the ability to consult counsel; except for representations expressly set forth herein, neither has been influenced by or is relying on any other representation or statement (oral or otherwise), or the lack thereof; and signs this agreement as its free act.

**EXECUTED** by the parties by their authorized representatives designated below.

  
Matthew W. Scobee  
Senior Vice President and COO  
Texas Big Spring LLC

Date: 12/14/2022

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

Date: 12/8/2022



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**AFFIDAVIT OF MATTHEW W. SCOBEE**

STATE OF TEXAS           §  
COUNTY OF COMAL       §

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

My name is Matthew W. Scobee, I am an authorized officer of Texas Big Spring, LLC ("Texas Big Spring") and my title is Sr. Vice President and COO. 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 4-year program of compliance-related activities Texas Big Spring 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 Texas Big Spring 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 Texas Big Spring's submitting its Winter Weatherization Readiness Report for SGMTN – SIGNLM2 after the December 1, 2021 deadline.

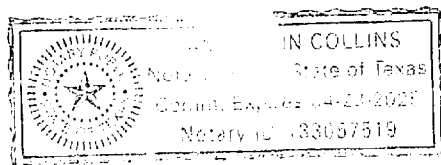
Texas Big Spring recognizes its responsibility as an ERCOT market participant to understand and comply with rules and regulations applicable to its generation resources.


Texas Big Spring 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 14th day of December, 2022.

  
MATTHEW W. SCOBEE, AFFIANT

SWORN TO AND SUBSCRIBED BEFORE ME on this the 14<sup>th</sup> day of December 2022.



  
Notary Public in and for the State of Texas