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

NOTICE OF VIOLATION BY TEXAS	§	
BIG SPRING LP FOR VIOLATIONS OF	§	PUBLIC UTILITY COMMISSION
16 TAC § 25.55 AND ERCOT NODAL	§	
PROTOCOLS § 3.21(3), CONCERNING	§	
FAILURE TO COMPLY WITH	§	OF TEXAS
WINTER WEATHER EMERGENCY	§	
PREPAREDNESS REPORTING	§	
REQUIREMENTS	§	

PROPOSED ORDER

This Order addresses the agreement between Commission Staff and Texas Big Spring LLC¹ regarding Commission Staff's notice of violation to Texas Big Spring concerning winter weather emergency preparedness reporting requirements under 16 Texas Administrative Code (TAC) § 25.55. Commission Staff recommends that Texas Big Spring pay to the Commission an administrative penalty of \$80,000. Texas Big Spring 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 Texas Big Spring stipulated to the following findings of fact.

Respondent

1. Texas Big Spring is a Delaware limited liability company registered with the Texas secretary of state under filing number 7685711.
2. Texas Big Spring is a wholly-owned subsidiary of Caltex Holdings, LLC.
3. Texas Big Spring generates electricity to be sold at wholesale in the Electric Reliability Council of Texas (ERCOT) power region under power generation company registration number 20126.
4. Texas Big Spring is registered with ERCOT as a resource entity.

¹ Texas Big Spring changed its name from Texas Big Spring, LP to Texas Big Spring, LLC. *See Application of Texas Big Spring, LLC to Amend its Power Generation Company Registration*, Docket No. 53469, Notice of Approval (May 9, 2022).

5. Texas Big Spring operates two ERCOT-registered generation resources with a combined nameplate generation capacity of 34.32 megawatts: SGMTN - SIGNALMT (with 27.72 MW) and SGMTN - SIGNALM2 (with 6.6 MW).
6. Texas Big Spring manages and is responsible for its operations in the ERCOT power region, including maintaining compliance with ERCOT Nodal Protocols and Commission rules.

Notice of Violation

7. On December 8, 2021, Commission Staff filed its notice of violation. Commission Staff alleged that Texas Big Spring violated 16 TAC § 25.55, concerning winter weather emergency preparedness reporting requirements, and ERCOT Nodal Protocols § 3.21(3), concerning declaration completion of generation resource winter weatherization preparations reporting requirements.

Petition

8. 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 Texas Big Spring.
9. Commission Staff alleged that Texas Big Spring violated 16 TAC § 25.55(c)(2) by not timely submitting the required winter weather readiness report for SGMTN – SIGNALM2 to ERCOT by December 1, 2021.
10. Commission Staff further alleged that, because Texas Big Spring did not submit the required winter weather readiness report by December 1, 2021, Texas Big Spring was not exempt from submitting a declaration of completion of generation resource winter weatherization preparations under 16 TAC § 25.55(c)(5) and, therefore, Texas Big Spring violated ERCOT Nodal Protocols § 3.21(3) by not timely submitting the required declaration of completion of generation resource winter weatherization preparations report for SGMTN - SIGNALM2 to ERCOT by December 1, 2021.

Notice

11. On December 8, 2021, Commission Staff sent Texas Big Spring a copy of the notice of violation via certified mail.

12. The copy of the notice of violation sent by Commission Staff to Texas Big Spring briefly summarized the alleged violations, stated the amount of the recommended administrative penalty, and provided information regarding Texas Big Spring'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

13. On February 9, 2022, the Commission referred this matter to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.
14. On February 23, 2022, the Commission filed a preliminary order listing the issues to be addressed in this proceeding.
15. In SOAH Order No. 2 filed on April 6, 2022, the SOAH administrative law judge (ALJ) set a hearing on the merits for February 15-17, 2023.
16. On December 16, 2022, Commission Staff filed a settlement agreement, including attachments, between Commission Staff and Texas Big Spring.
17. In SOAH Order No. _____ filed on _____, 2022, the SOAH ALJ dismissed the proceeding from SOAH's docket and remanded it to the Commission.

Evidentiary Record

18. In Order No. _____ filed on _____, 2022, the SOAH ALJ admitted the following evidence into the record of this proceeding: (a) Commission Staff's petition to determine a violation and impose an administrative penalty, filed on December 8, 2021; (b) Texas Big Spring's request for hearing, filed on December 27, 2021; (c) the agreement and all attachments filed on December 16, 2022; and (d) the parties' proposed order, filed on December 16, 2022.

Compliance with 16 TAC § 25.55(c)(2)

19. Texas Big Spring submitted a winter weather readiness report for SGMN – SIGNALMT to ERCOT on December 1, 2021.
20. Texas Big Spring did not submit a winter weather readiness report for SGMN - SIGNALM2 to ERCOT by December 1, 2021.

21. Texas Big Spring submitted the winter weather readiness report for SGMTN - SIGNALM2 to ERCOT on December 8, 2021.

Compliance with ERCOT Nodal Protocols § 3.21(3)

22. Texas Big Spring was exempt from filing a declaration of completion of generation resource winter weatherization preparations under 16 TAC § 25.55(c)(5) for SGMTN – SIGNALMT.
23. Texas Big Spring was not exempt from filing a declaration of completion of generation resource winter weatherization preparations under 16 TAC § 25.55(c)(5) for SGMTN - SIGNALM2 and Texas Big Spring did not submit the required declaration of completion of generation resource winter weatherization preparations report for SGMTN - SIGNALM2 to ERCOT by December 1, 2021.
24. The parties agreed that, because Texas Big Spring submitted the winter weather readiness report for SGMTN - SIGNALM2 to ERCOT on December 8, 2021, Texas Big Spring did not need to submit a declaration of completion of generation resource winter weatherization preparations.

Agreement

25. Commission Staff recommended, and Texas Big Spring has agreed to pay, an administrative penalty of \$80,000 – \$20,000 per year, over four years – for final settlement of the investigation.

Seriousness of Violation and Risk of Harm

26. The information provided in each winter weather readiness report was critical for ERCOT's and the Commission's reliability-planning operations.
27. An inherent risk to the health, safety, and welfare of the public is involved in a threat to the reliability of the electric grid.
28. 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

29. Commission records do not indicate a history of investigations of Texas Big Spring for violations of PURA, Commission rules, or ERCOT Nodal Protocols.

30. Texas Big Spring timely submitted its winter weather readiness report for its generation resource SGMTN – SIGNALMT to ERCOT on November 29, 2021.
31. The agreed administrative penalty of \$80,000 is sufficient and necessary to deter future violations of rules governing weather preparation and other requirements related to grid reliability.

Corrective Action

32. Texas Big Spring asserted that it submitted one winter weather readiness report for both its generation resources believing one report could cover both generation resources.
33. Texas Big Spring received the notice of violation on December 8, 2021, and it submitted the winter weather readiness report for SGMTN – SIGNALM2 on the same day, December 8, 2021.
34. TBS has taken or agreed to take agreed to take the following actions to ensure internal processes and its own actions are compliant with all applicable regulatory requirements going forward:
 - (a) Acquire an allocation of a time of a director of compliance from an affiliated entity, which will be dedicated to Texas Big Spring's compliance obligations in the ERCOT power region and with Commission rules;
 - (b) Acquire an allocation of time of a vice president level executive of Environment, Health and Safety from an affiliated entity, which will be dedicated to Texas Big Spring's compliance obligations in the ERCOT power region and with Commission rules;
 - (c) Acquire an allocation of time of a regulatory compliance engineer from an affiliated entity, which will be dedicated to Texas Big Spring's compliance obligations with Commission rules, ERCOT Protocols, and North American Electric Reliability Corporation rules; and
 - (d) Create an additional scope of work for two member of Texas Big Spring's management team, which will be dedicated to implementation of the regulatory and technical obligations determined by the personnel described above.

- (e) The total cost to Texas Big Spring to address and resolve underlying contributing factors that resulted in the violations is \$250,000 over the next four years from the date of the parties' agreement.
- (f) Texas Big Spring agreed to submit confidential status reports with the Commission Staff regarding the progress of implementation of the above actions, beginning one year after the date of a final order in this proceeding, and continuing annually thereafter until the four-year commitment period ends.
- (g) Texas Big Spring agreed to maintain compliance with the Commission's substantive rules and applicable regulatory requirements.

Other Considerations that Justice May Require

- 35. Texas Big Spring engaged in one or more settlement discussions with Commission Staff to resolve this matter.
- 36. Texas Big Spring cooperated with Commission Staff's investigation.

The Commission makes the following findings of fact.

Informal Disposition

- 37. More than 15 days have passed since completion of all notice requirements in this proceeding.
- 38. No person filed a protest or motion to intervene
- 39. Texas Big Spring and Commission Staff are the only parties to this proceeding.
- 40. Based on the agreement between Texas Big Spring and Commission Staff, no hearing is necessary.
- 41. Commission Staff recommended approval of the agreement.
- 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 jurisdiction over this matter under PURA² §§ 14.051, 14.054, 15.023, and 35.0021.
2. SOAH exercised jurisdiction over this matter under Texas Government Code § 2003.049 and PURA § 14.053.
3. Texas Big Spring is a generation entity as that term is defined under 16 TAC § 25.55(b)(3).
4. SGMTN – SIGNALM2 is a resource as that term is defined in 16 TAC § 25.55(b)(6).
5. Under 16 TAC § 25.55(c)(2), Texas Big Spring was required to submit to ERCOT a winter weather readiness report for SGMTN – SIGNALM2 by December 1, 2021.
6. Texas Big Spring did not submit a WWRR winter weather for SGMTN – SIGNALM2 by December 1, 2021, as required by 16 TAC § 25.55(c)(2).
7. Under 16 TAC § 25.55(c)(5), a generation entity that submitted a winter weather readiness report to ERCOT by December 1, 2021 was exempt from ERCOT Nodal Protocols § 3.21(2).
8. Texas Big Spring was not exempt from ERCOT Nodal Protocols § 3.21(3).
9. Under PURA § 15.023(b-1), the Commission may impose penalties for a violation of a provision of PURA § 35.0021.
10. Commission Staff considered the factors required under PURA § 15.023(c) and 16 TAC § 22.246(c)(3) when recommending an administrative penalty.
11. The Commission's executive director sent notice to Texas Big Spring of Commission Staff's investigation into this matter, the results of the investigation, information about Texas Big Spring'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).
12. The agreement meets the requirements of 16 TAC § 22.246(h).
13. The Commission processed this docket in accordance with the requirements of applicable statutes and Commission rules.

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

14. 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. Texas Big Spring must pay an administrative penalty in the amount of \$80,000– \$20,000 per year, over four years – to the Commission. Texas Big Spring must remit the first payment of \$20,000 of the administrative penalty on or before 30 calendar days after the date the Commission signs this Order, and shall make the following three \$20,000 payments on or before the annual anniversary of 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

3. Texas Big Spring must file an affidavit of payment in this docket no later than five calendar days after remitting payment.
4. Texas Big Spring must comply with the terms of the agreement and this Order.
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 resolves only the claims and potential enforcement actions related to Texas Big Spring's December 2021 winter-weather readiness report requirements and declaration of completion of generation resource winter weatherization preparations reporting requirements as 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. 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 _____ 2023.

PUBLIC UTILITY COMMISSION OF TEXAS

PETER LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER

KATHLEEN JACKSON, COMMISSIONER