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Public Utility Commission of Texas

TO: Chairman Peter M. Lake
Commissioner Will McAdams
Commissioner Lori Cobos
Commissioner Jimmy Glotfelty
Commissioner Kathleen Jackson

All Parties of Record

FROM: Office of Policy and Docket Management

RE: **PUC Docket No. 52931**
SOAH Docket No. 473-22-1662 – *Notice of Violation by Texas Big Spring LP for Violations of 16 TAC § 25.55 and ERCOT Nodal Protocols § 3.21(3), Concerning Failure to Comply with Winter Weather Emergency Preparedness Reporting Requirements.*

DATE: January 26, 2023

The Commission will consider a proposed order in this docket at a future open meeting. The parties shall file corrections or exceptions to the proposed order on or before 3:00 pm on Monday, February 6, 2023.

On February 9, 2022, the Commission referred this proceeding to the State Office of Administrative Hearings. Subsequently, the docket was returned to the Commission.

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

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

This Order addresses the agreement between Commission Staff and Texas Big Spring LLC (Texas Big Spring) 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

The Commission makes the following findings of fact.

Respondent

1. Texas Big Spring LLC is a Delaware limited liability company registered with the Texas secretary of state under filing number 7685711.
2. By notice of approval filed in Docket No. 53469¹ on May 9, 2022, the Commission approved a name change from Texas Big Spring, LP to Texas Big Spring, LLC.
3. Texas Big Spring is a wholly owned subsidiary of Caltex Holdings, LLC.

¹ *Application of Texas Big Spring, LLC to Amend Its Power Generation Company Registration*, Docket No. 53469, Notice of Approval (May 9, 2022).

4. Texas Big Spring generates electricity to be sold at wholesale in the Electric Reliability Council of Texas region (the ERCOT region) under power generation company registration number 20126.
5. Texas Big Spring is registered with Electric Reliability Council of Texas, Inc. (ERCOT) as a generation entity.
6. Texas Big Spring operates two ERCOT-registered generation resources with a combined nameplate generation capacity of 34.32 megawatts: SGMN - SIGNALMT has 27.72 MW of nameplate capacity, and SGMN - SIGNALM2 has 6.6 MW.
7. Texas Big Spring manages and is responsible for its operations in the ERCOT region, including maintaining compliance with ERCOT Nodal Protocols and Commission rules.

Notice of Violation

8. On December 8, 2021, Commission Staff filed its notice of violation. Commission Staff alleged that Texas Big Spring violated 16 TAC § 25.55 and ERCOT Nodal Protocols § 3.21(3).

Petition

9. 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.
10. 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 SGMN - SIGNALM2 to ERCOT by December 1, 2021.
11. 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 violated ERCOT Nodal Protocols § 3.21(3) by not timely submitting the required declaration of completion of generation-resource winter-weatherization preparations report for SGMN - SIGNALM2 to ERCOT by December 1, 2021.

Notice

12. On December 8, 2021, Commission Staff sent Texas Big Spring a copy of the notice of violation by certified mail.
13. 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

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 April 6, 2022, the SOAH administrative law judge (ALJ) set a hearing on the merits for February 15 through 17, 2023.
17. On December 16, 2022, Commission Staff filed a settlement agreement, including attachments, between Commission Staff and Texas Big Spring.
18. In SOAH Order No. 4 filed on December 28, 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 December 28, 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 a 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 January 6, 2023.

Compliance with 16 TAC § 25.55(c)(2)

20. Texas Big Spring submitted a winter-weather readiness report for SGMNTN - SIGNALMT to ERCOT on November 29, 2021.

21. Texas Big Spring did not submit a winter-weather readiness report for SGMN - SIGNALM2 to ERCOT by December 1, 2021.
22. Texas Big Spring submitted the winter-weather readiness report for SGMN - SIGNALM2 to ERCOT on December 8, 2021.

Compliance with ERCOT Nodal Protocols § 3.21(3)

23. Texas Big Spring did not submit a declaration of completion of generation-resource winter-weatherization preparations report for SGMN - SIGNALM2 to ERCOT by December 1, 2021.
24. The parties agreed that, because Texas Big Spring submitted the winter-weather readiness report for SGMN - 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 agreed to pay, a total administrative penalty of \$80,000 for final settlement of the investigation.
26. Commission Staff and Texas Big Spring agreed that Texas Big Spring would pay the administrative penalty in an amount of \$20,000 per year over four years. They agreed that the first payment would be made within 30 calendar days of the date of this Order and that the remaining three payments would be made on or before the annual anniversary of the date of this Order.

Seriousness of Violation and Risk of Harm

27. The information provided in each winter-weather readiness report was critical for ERCOT's and the Commission's reliability-planning operations.
28. An inherent risk to the health, safety, and welfare of the public is involved in a threat to the reliability of the electric grid.
29. 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

30. Commission records do not indicate a history of investigations of Texas Big Spring for violations of PURA,² Commission rules, or ERCOT Nodal Protocols.
31. Texas Big Spring timely submitted its winter-weather readiness report for its generation resource SGMTN - SIGNALMT to ERCOT on November 29, 2021.
32. 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

33. Texas Big Spring asserted that it submitted one winter-weather readiness report for both its generation resources because it believed one report could cover both generation resources.
34. 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.
35. Texas Big Spring has taken, or agreed to take, the following actions to ensure internal processes and its own actions are compliant with all applicable regulatory requirements:
 - (a) Acquire from an affiliated entity a time allocation of approximately 100 hours per year of a director of compliance, which will be dedicated to Texas Big Spring's compliance obligations in the ERCOT region and compliance with Commission rules;
 - (b) Acquire from an affiliated entity a time allocation of approximately 100 hours per year of a vice-president-level executive of environment, health, and safety, which will be dedicated to Texas Big Spring's compliance obligations in the ERCOT region and compliance with Commission rules;
 - (c) Acquire from an affiliated entity a time allocation of approximately 100 hours per year of a regulatory compliance engineer, which will be dedicated to Texas Big

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

Spring's compliance obligations with Commission rules, ERCOT Protocols, and North American Electric Reliability Corporation rules; and

- (d) Create an additional scope of work, estimated to be at least 100 hours per year, for two members of Texas Big Spring's management team, which will be dedicated to implementing the regulatory and technical obligations determined by the personnel described above.
- 36. The total cost to Texas Big Spring to address and resolve underlying contributing factors that resulted in the violations is at least \$250,000 over the next four years from the date of the parties' agreement.
 - 37. Texas Big Spring agreed to submit confidential status reports to the Division of Compliance and Enforcement regarding the progress of implementing the above corrective actions, beginning one year after the date of this Order and continuing annually thereafter until the four-year commitment period ends.
 - 38. Texas Big Spring agreed to maintain compliance with the Commission's substantive rules and applicable regulatory requirements.

Other Considerations That Justice May Require

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

Informal Disposition

- 41. More than 15 days have passed since the completion of all notice required in this proceeding.
- 42. No person filed a protest or motion to intervene.
- 43. Texas Big Spring and Commission Staff are the only parties to this proceeding.
- 44. Based on the agreement between Texas Big Spring and Commission Staff, no hearing is necessary.
- 45. 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 PURA §§ 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 in 16 TAC § 25.55(b)(3).³
4. SGMN - 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 SGMN - SIGNALM2 by December 1, 2021.
6. Texas Big Spring violated 16 TAC § 25.55(c)(2) by not submitting a winter-weather readiness report for SGMN - SIGNALM2 by December 1, 2021.
7. Texas Big Spring was exempt under 16 TAC § 25.55(c)(5) from filing a declaration of completion of generation-resource winter-weatherization preparations for SGMN - SIGNALMT under ERCOT Nodal Protocols § 3.21(3) because Texas Big Spring had timely submitted a winter-weather readiness report to ERCOT for that generation resource.
8. Because Texas Big Spring did not timely submit a winter-weather readiness report to ERCOT for SGMN - SIGNALM2, Texas Big Spring was not exempt under 16 TAC § 25.55(c)(5) from filing a declaration of completion of generation-resource winter-weatherization preparations for that generation resource and therefore violated ERCOT Nodal Protocols § 3.21(3).
9. The administrative penalty approved by this Order is based on the factors listed in PURA § 15.023(c) and 16 TAC § 22.246(c)(3).

³ Citations to 16 TAC § 25.55 are to the rule in effect at the time the notice of violation and petition were filed. A new version of the rule became effective October 20, 2022.

10. In accordance with 16 TAC §§ 22.241(a)(2) and 22.246(f)(2), 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.
11. The agreement meets the requirements of 16 TAC § 22.246(h).
12. The Commission processed this docket in accordance with the requirements of PURA, the Administrative Procedure Act,⁴ and Commission rules.
13. 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. Texas Big Spring must pay an administrative penalty in the total amount of \$80,000 to the Commission in payments of \$20,000 per year over four years. Texas Big Spring must remit the first administrative-penalty payment of \$20,000 on or before 30 calendar days after the date of this Order. Texas Big Spring must make the remaining three \$20,000 administrative-penalty payments on or before the annual anniversary of the date of this Order. Payment of the administrative penalty must 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, Texas Big Spring must file an affidavit attesting to payment. The affidavits must be filed in *Compliance Filings for Docket No. 52931 (Notice of Violation by Texas Big Spring LP for Violations of 16 TAC*

⁴ Tex. Gov't Code chapter 2001.

§ 25.55 and ERCOT Nodal Protocols § 3.21(3), Concerning Failure to Comply with Winter-Weather Emergency-Preparedness Reporting Requirements, Docket No. 54598.

4. Texas Big Spring must comply with the terms of the agreement and this Order.
5. Beginning one year after the date of this Order and continuing annually thereafter until the four-year commitment period ends, Texas Big Spring must submit confidential status reports to the Division of Compliance and Enforcement regarding the progress of implementing the corrective actions described in this Order.
6. The Commission is not constrained in any manner from requiring additional action or penalties for matters that are not resolved by this Order.
7. 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.
8. 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.
9. 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 _____ 2023.

PUBLIC UTILITY COMMISSION OF TEXAS

PETER M. LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER

KATHLEEN JACKSON, COMMISSIONER