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PUC DOCKET NO. 52931

NOTICE OF VIOLATION BY TEXAS	§	PUBLIC UTILITY COMMISSION
BIG SPRING LP FOR VIOLATIONS OF	§	
16 TAC § 25.55 AND ERCOT NODAL	§	OF TEXAS
PROTOCOLS § 3.21(3), CONCERNING	§	
FAILURE TO COMPLY WITH	§	
WINTER WEATHER EMERGENCY	§	
PREPAREDNESS 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 Texas Big Spring LP (Big Spring) for continuing violations of 16 Texas Administrative Code (TAC) § 25.55(c)(2) and Electric Reliability Council of Texas (ERCOT) Nodal Protocols § 3.21(3), concerning Big Spring's failure to comply with winter weather emergency preparedness reporting requirements, and recommended the assessment of an initial administrative penalty in the amount of \$2,375,000.¹ On December 23, 2021, Big Spring 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 or 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

¹ Due to the continuing nature of the violations, the NOV recommended that the administrative penalty assessed against Big Spring increase by \$50,000 per resource per day the violations of 16 Tex. Admin. Code (TAC) continued after the date of the NOV, and by \$25,000 per day the violation of ERCOT Nodal Protocols § 3.21(3) 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).

promptly issue to the Commission a proposal for decision about the occurrence of the violation and the amount of a proposed penalty.

Winter Weather Readiness Report requirement

1. With respect to generation resource SGMTN – SIGNALM2:
 - a. Was Big Spring required to submit to ERCOT a Winter Weather Readiness Report (WWRR) on behalf of SGMTN – SIGNALM2 by December 1, 2021 pursuant to 16 TAC § 25.55(c)(2)?
 - b. On what date did Big Spring submit to ERCOT a WWRR on behalf of SGMTN – SIGNALM2?
 - c. Did Big Spring timely submit to ERCOT a WWRR on behalf of SGMTN – SIGNALM2 in compliance with 16 TAC § 25.55(c)(2)?

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

2. Under PURA § 15.023, what is the maximum amount of administrative penalty the Commission is authorized to assess against Big Spring for the following violation categories:
 - a. Big Spring's initial violations to timely submit the WWRRs for its generation resource SGMTN – SIGNALM2 to ERCOT by December 1, 2021; and
 - b. Big Spring's continuing violations for the ongoing failure to have the WWRRs for its generation resource SGMTN – SIGNALM2 on record with ERCOT until December 8, 2021.
3. Were Big Spring'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?

⁴ PURA § 15.024(c).

4. What is the appropriate amount of administrative penalties to be assessed against Big Spring 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.

Declaration under ERCOT Nodal Protocols § 3.21(3)

5. Was Big Spring required to submit a Declaration of Completion of Generation Resource Winter Weatherization Preparations (Declaration) to ERCOT on behalf of its SGMTN – SIGNALM2 generation resource by December 1, 2021 under 16 TAC § 25.55(c)(5) and ERCOT Nodal Protocols § 3.21(3)?
6. If it was required to submit a Declaration, on what date did Big Spring submit the required Declaration to ERCOT?

Administrative penalties for violation of ERCOT Nodal Protocols § 3.21(3)

7. Under PURA § 15.023 and 16 TAC § 25.8, what is the maximum amount of administrative penalty the Commission is authorized to assess against Big Spring for the following violation categories:
 - a. Big Spring's initial violation to timely submit its Declaration to ERCOT by December 1, 2021; and
 - b. Big Spring's continuing violation for the ongoing failure to have its Declaration on record with ERCOT until the date specified in question 6 above.
8. Were Big Spring's violations of ERCOT Nodal Protocols § 3.21(3) remedied within 31 days of receiving notice of the violations?

⁵ PURA § 15.023(c).

- a. If the violations of ERCOT Nodal Protocols § 3.21(3) were remedied within 31 days of receiving notice of the violations, were the violations accidental or inadvertent?⁶
 - b. If the violations were accidental or inadvertent, what evidence supports such a determination?
- 9. What is the appropriate amount of administrative penalties to be assessed against Big Spring for the violations of ERCOT Nodal Protocols § 3.21(3) considering the following factors:⁷
 - 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.

⁶ PURA § 15.024(c).

⁷ PURA § 15.023(c).

Dated: January 24, 2022

Respectfully Submitted,

PUBLIC UTILITY COMMISSION OF TEXAS

**DIVISION OF COMPLIANCE AND
ENFORCEMENT**

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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