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COMPLAINT OF ENGIE ENERGY § PUBLIC UTILITY COMMISSION
MARKETING NA, INC. AND VIRIDITY §
ENERGY SOLUTIONS, INC. AGAINST § OF TEXAS
THE ELECTRIC RELIABILITY §
COUNCIL OF TEXAS, INC. §

**COMMISSION STAFF’S RESPONSE TO ENGIE ENERGY MARKETING NA, INC.’S
MOTION TO COMPEL**

The Staff of the Public Utility Commission of Texas responds to the motion to compel (Motion) of ENGIE Energy Marketing NA, Inc. (ENGIE) filed September 6, 2022. The deadline for responding to such a motion is five working days after receipt of the motion.¹ Therefore, this pleading is timely filed.

I. RESPONSE TO MOTION

ENGIE’s Motion fails to properly distinguish between issues of facts and issues of law. “Matters of statutory construction are questions of law for the court to decide rather than issues of fact.”² Furthermore, ENGIE’s Motion is based on misrepresentations of Commission Staff’s objections and last-minute rewrites of the requests that ENGIE seeks to compel. The Motion also appears to confuse the general concept of discoverability with the actual content of the requests that it seeks to compel. For the reasons discussed below, the motion should be denied in its entirety.

A. RFI ENGIE 1-1

Commission Staff objected to RFI ENGIE 1-1 “because this RFI fails to specify the information sought with ‘reasonable particularity’ as required by 16 Texas Administrative Code (TAC) § 22.144(b).”³ RFI ENGIE 1-1 recites:

State the legal theories and, in general, the factual bases of Staff’s position on the substance of the pending Complaint and Appeal, specifically with respect to, but not limited to, the following:

¹ 16 Texas Administrative Code (TAC) § 22.144(f).

² *Johnson v. City of Ft. Worth*, 774 S.W.2d 653, 656 (Tex. 1989); *see also City of San Antonio v. Public Utility Comm’n of Texas*, 506 S.W.3d 630, 646 (Tex. App.—El Paso 2016, no pet.) (reviewing the Commission’s interpretation of an ERCOT Nodal Protocol as an issue of law).

³ Commission Staff’s Objections to ENGIE’s 1st RFI to Staff at 2 (Aug. 29, 2022) (Objections).

Instead of disputing the vagueness of RFI ENGIE 1-1, as it was served, ENGIE's Motion deflects to the requirements of Texas Rule of Civil Procedure 194.2(b) regarding required disclosures.⁴ However, ENGIE has failed to provide any basis to conclude that the requirements of this rule have been deemed to meet the reasonable particularity requirement of a request for information under 16 TAC § 22.144(b)(1). Rule 194.2(b)(3) requires a party to disclose the legal theories and bases for "the responding party's claims or defenses." Commission Staff has not yet made any claims against ENGIE or Viridity, and the Complaint does not appear to contain claims against Commission Staff that might require a defense. Therefore, any such disclosure by Commission Staff would not address the "substance of the pending Complaint and Appeal" as recited by RFI ENGIE 1-1.

ENGIE's Motion also cites to inapplicable Rule 197.1, which allows a party to "ask the responding party to state the legal theories and to describe in general the factual bases for the party's claims or defenses."⁵ However, as noted above, Commission Staff has made no claims and needs no defenses. Therefore, the portion quoted in the Motion is not applicable.⁶ Moreover, RFI ENGIE 1-1 is even less precise than the requirements of this rule, and requests information about "Staff's position on the substance of the pending Complaint and Appeal," which is not limited to claims and defenses. ENGIE's Motion failed to quote the more relevant part of Rule 197.1, which recites that "an interrogatory may inquire whether a party makes a specific legal or factual contention." However, as explained in Commission Staff's Objections, ENGIE did not inquire about a *specific* legal or factual contention in this request, which is what makes the RFI objectionable for failing to identify the information sought with reasonable particularity.⁷

Commission Staff notes that ENGIE's motion takes exception to highlighting the critical timing defect with the service of RFI ENGIE 1-1. On its face, RFI ENGIE 1-1 was directed to "the pending Complaint and Appeal," which was in the process of being amended because the original complaint had been found by the Commission to not be administratively complete.⁸ Although the differences between the Original Complaint and the Amended Complaint can be

⁴ Motion at 3-4.

⁵ Motion at 4 n.7 (excerpting Tex Rule of Civil Procedure 197.1).

⁶ *Id.*

⁷ Objections at 2.

⁸ Commission Order (Jul. 14, 2022).

determined now, Commission Staff could not be expected to trust Complainants' non-binding representations regarding their intentions. Until the Amended Complaint was actually filed and served on August 18, 2022, Commission Staff was unable to determine the scope of this RFI, which was served on August 9, 2022. Therefore, under even the most generous interpretation, Complainants' premature RFI was an attempt to improperly shorten Commission Staff's response time by referencing a document that was not available when this RFI had been served. ENGIE could have easily avoided this objection by serving this RFI *after* filing the Amended Complaint, but a different path was chosen. In any case, the ALJ need not determine whether an invalid RFI can be reformed via subsequent events because the parties' agreement has effectively traversed this infirmity regarding timing.

Subpart (a)

Commission Staff objects to subpart (a) of RFI ENGIE 1-1 because the phrase "validity or invalidity" is vague and ambiguous in this context. There is no basis to determine if an alleged dispatch is valid or invalid for some unspecified purpose such that Commission Staff could respond to this request for information.⁹

Despite the issue of authorization not being raised by Commission Staff, ENGIE inexplicably asserts that "ENGIE's RFI requests discovery of information expressly authorized by Rules 194.2(b) and 197.1."¹⁰ Regardless of what information ENGIE may be *authorized* to request, its Motion has failed to address Commission Staff's actual objection to the request it actually served beyond the bare assertion that "no clarification may be necessary."¹¹ Instead, ENGIE has attempted to rewrite this subpart so that it is directed to the general concepts of applicability and compliance obligations, which is a different area of inquiry.¹² Commission Staff's objection to the original version of subpart (a) remains unrebutted. Therefore, Commission Staff's objection should be sustained, and the Motion should be denied.

Subpart (b)

Commission Staff objects to subpart (b) of RFI ENGIE 1-1 because it "fails to specify the information sought regarding 'applicability' with reasonable particularity."¹³ On its face, this

⁹ *Id.*

¹⁰ Motion at 4.

¹¹ *Id.*

¹² *Id.*

¹³ Objections at 3.

subpart requests information concerning the “applicability of ERCOT Protocol 6.5.7.6.2.2(8) . . . to the Viridity Load Resources deployment during the EEA3 event.” This request requires Commission Staff to hypothesize as to the all the ways in which this specific protocol may or may not apply to Viridity’s circumstances, which lacks reasonable particularity. Instead of attempting to narrow this request to make it reasonably particular, the Motion attempts to rewrite the request to seek information about Commission Staff’s views on Viridity’s obligations generally with respect to dispatch instructions.¹⁴ However, Commission Staff’s objection to the original version of subpart (b) remains unrebutted. Therefore, Commission Staff’s objection should be sustained, and the Motion should be denied.

Subpart (d)

Commission Staff objects to subpart (d) of RFI ENGIE 1-1 because the phrase “validity or invalidity” is vague and ambiguous in this context. There is no basis to determine if an alleged dispatch is valid or invalid for some unspecified purpose such that Commission Staff could respond to this request for information.¹⁵

Once again, the Motion has failed to address Commission Staff’s actual objection to the request it actually served beyond the bare assertion that “no clarification may be necessary.”¹⁶ Instead, ENGIE has once again attempted to rewrite this subpart so that it is directed to compliance obligations.¹⁷ Commission Staff’s objection to the original version of subpart (d) remains unrebutted. Therefore, Commission Staff’s objection should be sustained, and the Motion should be denied.

B. RFA ENGIE 1-2

ENGIE appears to dispute Commission Staff’s objection to RFA ENGIE 1-2, yet only seeks to express its views rather than compel a different response to its request.¹⁸ Therefore, this portion of the Motion appears to be an attempt to rehabilitate RFA ENGIE 1-2 for some other purpose. However, out of an abundance of caution, Commission Staff addresses this alleged grievance. Commission Staff stated that “The Complaint does not address load resources

¹⁴ Motion at 5.

¹⁵ Objections at 3.

¹⁶ Motion at 5.

¹⁷ *Id.*

¹⁸ *Id.* at 6 (The agreement reached by ENGIE and Staff as indicted in Staff’s objection to this request obviates the need for a ruling on Staff’s objection.)

individually, and it would be unduly burdensome for Commission Staff to perform an individual analysis in the first instance, especially based on third-party data that is equally available to ENGIE.”¹⁹ In contrast, ENGIE described Commission Staff’s objection as being directed to the burden of reviewing documents containing information that Complainants failed to include with their original complaint.²⁰ However, ENGIE does not appear to dispute that:

- the Amended Complaint does not address load resources individually;
- this request for admission requires Commission Staff to perform an individual analysis in the first instance; and
- this analysis would be based on third-party data that is equally available to ENGIE.

However, rather than respond with the same lack of detail as the Amended Complaint, Commission Staff agreed to analyze some of the load resources on an individual basis.²¹ Hopefully, this will help Complainants perform their own individual analyses of load resources, given the alleged “critical relevance to the issues raised in the Complaint.”²²

C. RFA ENGIE 1-3

As noted above with respect to RFA ENGIE 1-2, Commission Staff agreed to provide more analysis of individual load resources than the Amended Complaint.

D. RFA ENGIE 1-4

As noted above with respect to RFA ENGIE 1-2, Commission Staff agreed to provide more analysis of individual load resources than the Amended Complaint.

E. RFA ENGIE 1-5

ENGIE does not appear to dispute that a request for admission seeking admission of hearsay is improper.²³ However, ENGIE appears to be confused about the role of a request for admission and claims that “ENGIE is not ‘offering in evidence’ anything by simply requesting information from Staff.”²⁴ This is erroneous for at least two reasons. First, ENGIE is not simply

¹⁹ Objections at 3 (referring to the Amended Complaint as “the Complaint”).

²⁰ Motion at 6.

²¹ Objections at 3 (identifying eight specific load resources).

²² Motion at 6.

²³ *See id.* at 9-10.

²⁴ *Id.* at 9.

requesting information because RFA ENGIE 1-5 is a request for admission. It was served under the subheading “Requests for Admission”²⁵ and explicitly requests that Staff “admit or deny” an assertion. For this reason, ENGIE’s assertion that it is “entitled to discovery of any factual knowledge or opinion of Staff regardless of whether it concerns an out-of-court statement” has little to do with RFA ENGIE 1-5, which is a request for admission—not a request for information. Second, the purpose of an RFA is for admission of facts into evidence.²⁶ Texas Rule of Civil Procedure 198.3 recites that “A matter admitted under this rule is conclusively established as to the party making the admission.” Therefore, ENGIE’s claim that it is not offering anything into evidence cannot be taken at face value.

Because the assertion that ENGIE 1-5 seeks to admit is hearsay, it is improper.²⁷ By its express terms, RFA ENGIE 1-5 requests that Commission Staff admit the truth of the content of a phone call that Steve Krein allegedly had with Mike Pavo of Viridity based on an email from Steve Krein of ERCOT to Mark Patterson of ERCOT regarding that phone call.

Referring to ERCOT’s response to ENGIE and Viridity’s request for information 3-1 Bates ERCOT E/V 3-1 046, admit or deny that ERCOT instructed Viridity Load Resources to remain deployed until instructed to stop in a February 18, 2021, phone message from Steve Krein of ERCOT to Mike Pavo of Viridity. If your response contains anything other than an unqualified “admit,” provide a detailed explanation supporting your response.

That is hearsay. If ENGIE wants to rely on the content of ERCOT E/V 3-1 046, it should attempt to admit it into evidence. However, it is improper to try and subvert this requirement via an RFA directed to a party that did not produce the content. Therefore, this objection should be sustained, and the Motion should be denied.

F. RFA ENGIE 1-6

ENGIE’s argument regarding RFA ENGIE 1-6 appears to be based on a fundamental misreading of Commission Staff’s objection and its own request for admission. Commission Staff objected to this “RFA because it requires *admission* of a proposition of law, which is improper.”²⁸ However, ENGIE falsely represents Staff’s positions as arguing “that this RFI is objectionable

²⁵ ENGIE’s 1st Set of RFIs at 2.

²⁶ Tex. R. Civ. P. 198.3.

²⁷ *Gaynier v. Ginsberg*, 715 S.W.2d 749 (Tex. App.—Dallas 1986, writ ref’d n.r.e.).

²⁸ Objections at 5 (citing *Cedyco Corp. v. Whitehead*, 253 S.W.3d 877, 880 (Tex. App.—Beaumont 2008, pet. denied).

because it is *based* on a proposition of law.”²⁹ In addition to misrepresenting the basis of Staff’s objection, ENGIE also misrepresents the request, which is a request for admission—not a request for information. RFA ENGIE 1-6 reads as follows:

Referring to ERCOT Protocol 6.5.7.6.2.2, admit or deny that once deployed during an Emergency Condition, the Viridity Load Resources were obligated to deliver RRS until specifically instructed by ERCOT to stop. If your response contains anything other than an unqualified “admit,” provide a detailed explanation supporting your response.

On its face, this request seeks an admission regarding the legal obligations of Viridity Load Resources with respect to ERCOT Nodal Protocol § 6.5.7.6.2.2, which is an issue of law.³⁰ The Texas Supreme Court has held that issues of statutory interpretation are not issues of fact.³¹ ENGIE even concedes this point when it claims that the “set of facts” at issue are the legal obligations of Viridity Load Resources.³² Therefore, Commission Staff’s objection should be sustained, and the Motion should be denied.

G. RFA ENGIE 1-7

As noted above with respect to RFA ENGIE 1-2, Commission Staff agreed to provide more analysis of individual load resources than the Amended Complaint.

H. RFA ENGIE 1-8

As noted above with respect to RFA ENGIE 1-2, Commission Staff agreed to provide more analysis of individual load resources than the Amended Complaint.

I. RFA ENGIE 1-10

Commission Staff objected to this “RFA because it requires *admission* of a proposition of law, which is improper.”³³ RFA ENGIE 1-10 reads as follows:

Referring to ERCOT Protocol 6.5.7.9(4), admit or deny that ERCOT’s final

²⁹ Motion at 10.

³⁰ *Otis Eng’g Corp. v. Clark*, 668 S.W.2d 307, 312 (Tex. 1983) (“Whether a duty exists in a given case is a question of law to be determined by reference to the body of statutes, rules, and precedents that make up the law and must be determined only by the court.”); *Johnson v. City of Ft. Worth*, 774 S.W.2d 653, 656 (Tex. 1989) (“Matters of statutory construction are questions of law for the court to decide rather than issues of fact.”); *City of San Antonio v. Public Utility Comm’n of Texas*, 506 S.W.3d 630, 646 (Tex. App.—El Paso 2016, no pet.) (reviewing the Commission’s interpretation of an ERCOT Nodal Protocol as an issue of law).

³¹ *Johnson v. City of Ft. Worth*, 774 S.W.2d 653, 656 (Tex. 1989).

³² Motion at 11.

³³ Objections at 9 (citing *Cedyco Corp. v. Whitehead*, 253 S.W.3d 877, 880 (Tex. App.—Beaumont 2008, pet. denied).

Dispatch Instruction to a QSE in effect applies for all Protocol-related processes. If your response contains anything other than an unqualified "admit," provide a detailed explanation supporting your response.

Once again, ENGIE misrepresents Commission Staff's objection and misidentifies an issue of law as an issue of fact.³⁴ ENGIE even misrepresents the content of this RFA and claims that: "The 'set of facts' identified in the request involve ERCOT's Dispatch Instructions to Viridity and their effect, if any, on protocol related processes that may apply to Viridity Load Resources under the circumstances of this case."³⁵ In addition to not seeking an admission of facts, RFA ENGIE 1-10 is not specific to Viridity and is explicitly directed to an unspecified "QSE". Therefore, Commission Staff's objection should be sustained, and the Motion should be denied.

J. RFA ENGIE 1-11

As noted above with respect to RFA ENGIE 1-2, Commission Staff agreed to provide more analysis of individual load resources than the Amended Complaint.

K. RFA ENGIE 1-13

Commission Staff objected to this "RFA because it requires *admission* of a proposition of law, which is improper."³⁶ RFA ENGIE 1-13 reads as follows:

Referring to ERCOT Protocol 4.4.7.1(4), admit or deny that before 2:30 p.m. in the day ahead market, all self-arranged ancillary service quantities must be represented by physical capacity, either by Generation Resources or Load Resources, or backed by ancillary service trades. If your response contains anything other than an unqualified "admit," provide a detailed explanation supporting your response.

Once again, ENGIE misrepresents Commission Staff's objection and misidentifies an issue of law as an issue of fact.³⁷ ENGIE incorrectly describes "the operational requirements that market participants in the ancillary market must follow" as "set of facts."³⁸ However, as discussed above with RFA ENGIE 1-6, the proper interpretation of a nodal protocol is an issue of law, and it is improper to seek admission of a proposition of law. Therefore, Commission Staff's objection should be sustained, and the Motion should be denied.

³⁴ Motion at 14.

³⁵ *Id.*

³⁶ Objections at 9 (citing *Cedyco Corp. v. Whitehead*, 253 S.W.3d 877, 880 (Tex. App.—Beaumont 2008, pet. denied).

³⁷ Motion at 16-17.

³⁸ *Id.*

L. RFA ENGIE 1-14

Commission Staff objected to this “RFA because it requires *admission* of a proposition of law, which is improper.”³⁹ RFA ENGIE 1-14 reads as follows:

Referring to 16 TAC § 25.503(f)(6), admit or deny that a market participant’s bids of energy and ancillary services must be from resources that are available and capable of performing. If your response contains anything other than an unqualified “admit,” provide a detailed explanation supporting your response.

Once again, ENGIE misrepresents Commission Staff’s objection and misidentifies an issue of law as an issue of fact.⁴⁰ ENGIE incorrectly describes “the operational requirements that market participants in the ancillary market must follow” as “a set of facts.”⁴¹ However, as discussed above with RFA ENGIE 1-6, the proper interpretation of a nodal protocol is an issue of law, and it is improper to seek admission of a proposition of law. Therefore, Commission Staff’s objection should be sustained, and the Motion should be denied.

M. RFA ENGIE 1-15

Commission Staff objected to this “RFA because it requires *admission* of a proposition of law, which is improper.”⁴² RFA ENGIE 1-15 reads as follows:

Referring to 16 TAC § 25.503(g)(3), admit or deny that a market participant must not offer reliability products to the market that cannot or will not be provided if selected. If your response contains anything other than an unqualified “admit,” provide a detailed explanation supporting your response.

Once again, ENGIE misrepresents Commission Staff’s objection and misidentifies an issue of law as an issue of fact.⁴³ ENGIE incorrectly describes “the operational requirements that market participants in the ancillary market must follow” as “a set of facts.”⁴⁴ However, as discussed above with RFA ENGIE 1-6, the proper interpretation of a rule is an issue of law, and it is improper to seek admission of a proposition of law. Therefore, Commission Staff’s objection should be sustained, and the Motion should be denied.

³⁹ Objections at 9 (citing *Cedyco Corp. v. Whitehead*, 253 S.W.3d 877, 880 (Tex. App.—Beaumont 2008, pet. denied).

⁴⁰ Motion at 17-18.

⁴¹ *Id.*

⁴² Objections at 9 (citing *Cedyco Corp. v. Whitehead*, 253 S.W.3d 877, 880 (Tex. App.—Beaumont 2008, pet. denied).

⁴³ Motion at 18-19.

⁴⁴ *Id.*

N. RFA ENGIE 1-16

Commission Staff objected to this “RFA because it requires *admission* of a proposition of law, which is improper.”⁴⁵ RFA ENGIE 1-16 reads as follows:

Referring to ERCOT Protocol 8.1.1.2.1.2(3), admit or deny that a QSE's Load Resource must be loaded and capable of unloading the scheduled amount of RRS within ten minutes of instruction by ERCOT. If your response contains anything other than an unqualified “admit,” provide a detailed explanation supporting your response.

Once again, ENGIE misrepresents Commission Staff's objection and misidentifies an issue of law as an issue of fact.⁴⁶ ENGIE incorrectly describes “the operational requirements that market participants in the ancillary market must follow” as “a set of facts.”⁴⁷ However, as discussed above with RFA ENGIE 1-6, the proper interpretation of a nodal protocol is an issue of law, and it is improper to seek admission of a proposition of law. Therefore, Commission Staff's objection should be sustained, and the Motion should be denied.

O. RFA ENGIE 1-17

Commission Staff objected to this “RFA because it requires *admission* of a proposition of law, which is improper.”⁴⁸ RFA ENGIE 1-17 reads as follows:

Referring to ERCOT Protocol 3.9.1(5)(b)(iii)(E), admit or deny “ONRL” is defined as available for dispatch. If your response contains anything other than an unqualified “admit,” provide a detailed explanation supporting your response.

Once again, ENGIE misrepresents Commission Staff's objection and misidentifies an issue of law as an issue of fact.⁴⁹ ENGIE incorrectly describes “the stated definition of a term” as “a set of facts.”⁵⁰ However, as discussed above with RFA ENGIE 1-6, the proper interpretation of a nodal protocol is an issue of law, and it is improper to seek admission of a proposition of law. Therefore, Commission Staff's objection should be sustained, and the Motion should be denied.

⁴⁵ Objections at 9 (citing *Cedyco Corp. v. Whitehead*, 253 S.W.3d 877, 880 (Tex. App.—Beaumont 2008, pet. denied).

⁴⁶ Motion at 19-20.

⁴⁷ *Id.*

⁴⁸ Objections at 10 (citing *Cedyco Corp. v. Whitehead*, 253 S.W.3d 877, 880 (Tex. App.—Beaumont 2008, pet. denied).

⁴⁹ Motion at 20-21.

⁵⁰ *Id.* at 20.

P. RFA ENGIE 1-18

Commission Staff objected to this “RFA because it requires *admission* of a proposition of law, which is improper.”⁵¹ RFA ENGIE 1-18 reads as follows:

Referring to ERCOT Protocol 3.9.1(5)(b)(iii)(E), admit or deny “ONRL” is *not* defined as available for dispatch or offline under a dispatch instruction. If your response contains anything other than an unqualified “admit,” provide a detailed explanation supporting your response.

Once again, ENGIE misrepresents Commission Staff’s objection and misidentifies an issue of law as an issue of fact.⁵² ENGIE incorrectly describes “the stated definition of a term and the operational requirements that market participants in the ancillary market must follow” as “a set of facts.”⁵³ However, as discussed above with RFA ENGIE 1-6, the proper interpretation of a nodal protocol is an issue of law, and it is improper to seek admission of a proposition of law. Therefore, Commission Staff’s objection should be sustained, and the Motion should be denied.

Q. RFA ENGIE 1-19

Commission Staff objected to this “RFA because it requires *admission* of a proposition of law, which is improper.”⁵⁴ RFA ENGIE 1-19 reads as follows:

Admit or deny that a Load Resource that is offline under a deployment instruction is not loaded and capable of unloading the scheduled amount of RRS within ten minutes of instruction. If your response contains anything other than an unqualified “admit,” provide a detailed explanation supporting your response.

Once again, ENGIE misrepresents Commission Staff’s objection and misidentifies an issue of law as an issue of fact.⁵⁵ Although not explicitly identified, this request for admission seeks an admission concerning the interpretation of ERCOT Nodal Protocol § 8.1.1.2.1.2(3). As discussed above with RFA ENGIE 1-6, the proper interpretation of a nodal protocol is an issue of law, and it is improper to seek admission of a proposition of law. However, ENGIE’s Motion rewrites this request for admission as involving “the operational capabilities of Load Resources in the Ancillary

⁵¹ Objections at 10 (citing *Cedyco Corp. v. Whitehead*, 253 S.W.3d 877, 880 (Tex. App.—Beaumont 2008, pet. denied).

⁵² Motion at 21-22.

⁵³ *Id.* at 21.

⁵⁴ Objections at 10 (citing *Cedyco Corp. v. Whitehead*, 253 S.W.3d 877, 880 (Tex. App.—Beaumont 2008, pet. denied).

⁵⁵ Motion at 22-23.

Service Market requirements.”⁵⁶ The basis for ENGIE’s attempted rewrite of this request for admission is unclear. Commission Staff’s objection to the request for admission that was served should be sustained, and the Motion should be denied.

II. CONCLUSION

For the reasons discussed above, ENGIE’s Motion should be denied and all of Commission Staff’s objections should be sustained.

⁵⁶ *Id.* at 22.

Dated: September 13, 2022

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
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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 September 13, 2022 in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ R. Floyd Walker
R. Floyd Walker