



## Filing Receipt

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**BEFORE THE  
STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**COMPLAINT OF ENGIE ENERGY MARKETING NA, INC.  
AND VIRIDITY ENERGY SOLUTIONS, INC. AGAINST  
THE ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC.**

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**SOAH ORDER NO. 1**

**FILING DESCRIPTION, SETTING PREHEARING CONFERENCE,  
AND GENERAL PROCEDURAL REQUIREMENTS**

**I. FILING DESCRIPTION**

On March 18, 2022, ENGIE Energy Marketing NA, Inc. and Viridity Energy Solutions, Inc. (jointly, Complainants) filed a complaint with the Public Utility Commission of Texas (Commission) against the Electric Reliability Council of Texas, Inc. (ERCOT). After the Commission, on interim appeal, overturned the Commission ALJ's finding of administrative completeness, an Amended Complaint was filed on August 18, 2022. The amended complaint alleges that

ERCOT failed to compensate or credit Complainants for ancillary services complainants provided for several days during Winter Storm Uri in February 2021. Specifically, Viridity claims that it provided Responsive Reserve Service (RSS) without compensation and should be credited between \$67.4 million and \$140.55 million; ENGIE claims it was improperly charged \$47.7 million for failing to provide RRS as required and should be credited that amount. ERCOT disputes that Complainants are entitled to any compensation

The Commission issued an order on November 1, 2022, referring the case to the State Office of Administrative Hearings (SOAH) for assignment of an Administrative Law Judge (ALJ) to conduct a hearing and issue a proposal for decision, if necessary. On November 3, 2022, the Commission issued a Preliminary Order identifying the issues that must be addressed in this proceeding, and several issues that should not be addressed.

SOAH has jurisdiction over matters relating to the conduct of the hearing in this proceeding pursuant to Texas Government Code § 2003.049.

## **II. NOTICE OF PREHEARING CONFERENCE**

A prehearing conference in this proceeding will be convened **at 10:00 a.m. (Central Time) on November 22, 2022, via Zoom videoconference.** Attend the prehearing conference in one of these ways:

Join by computer or smart device:

Go to <https://soah-texas.zoomgov.com> and enter the following:

Meeting ID: 160 805 8856

Video Passcode: PUC458

Join by telephone (audio only):

Call +1 669 254 5252, and then enter the following:

Meeting ID: 160 805 8856

Telephone Passcode: 258682

At the prehearing conference, the following matters will be discussed:

1. Pending motions, if any;
2. The burden of proof;
3. Whether this case may be efficiently resolved in whole or in part through procedures such as stipulations or limitation of the scope of the hearing;
4. Whether the parties are interested in mediating this dispute;<sup>1</sup>
5. A procedural schedule; and
6. Any other matters that may assist in the disposition of this case in a fair and efficient manner.

The parties should confer before the prehearing conference regarding the procedural schedule that will apply in this case. Any proposed procedural schedule must include, at a minimum, deadlines for discovery and prefiled testimony, three

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<sup>1</sup> Information about mediation at SOAH is available at <https://www.soah.texas.gov/mediation-alternative-dispute-resolution>.

alternative dates for the hearing on the merits,<sup>2</sup> and deadlines for post-hearing briefs.

If the parties are able to agree to a procedural schedule, they may file an agreed schedule by **no later than Friday, November 18, 2022**, which may include an agreed motion to cancel the prehearing conference. If such a motion is filed, the prehearing conference will be automatically canceled without further order by the ALJ.

### **III. GENERAL PROCEDURAL REQUIREMENTS**

Due to COVID-19, the Commission has suspended certain rules and is requiring e-mail service and online filings.<sup>3</sup> The Commission's procedural rules govern this case except as modified by the Commission or SOAH.<sup>4</sup> **All filings must contain both the SOAH and Commission docket numbers.**

A motion seeking a continuance or extension of time **SHALL** propose a new date or dates and indicate whether the other parties agree to the new date or dates. Because the ALJ may not be available on a given day, proposing a range of dates is advisable. The ALJ will not contact parties to ascertain their position or to

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<sup>2</sup> To inquire about the ALJ's availability on hearing dates under discussion, the parties may contact the ALJ's assistant, Nora Arizola ([nora.arizola@soah.texas.gov](mailto:nora.arizola@soah.texas.gov)).

<sup>3</sup> See *Issues Related to the State of Disaster for the Coronavirus Disease 2019*, Docket No. 50664, Order Suspending Rules (Mar. 16, 2020), available at: [http://interchange.puc.texas.gov/Documents/50664\\_3\\_1055816.PDF](http://interchange.puc.texas.gov/Documents/50664_3_1055816.PDF).

<sup>4</sup> The Commission's procedural rules are available at: <https://www.puc.texas.gov/agency/rulesnlaws/procrules/Procedural.aspx>. The parties should review the Commission's website, <https://www.puc.texas.gov/>, and SOAH's website, <http://www.soah.texas.gov/>, for the latest information on how COVID-19 is impacting Commission and SOAH procedures.

negotiate dates. In the absence of a ruling by the ALJ, a motion is not granted and the existing schedule remains in place. Unless otherwise specified in the Commission's procedural rules or an order issued in this case, responses to a motion or other pleading **SHALL** be filed within **five working days** from receipt of the motion or pleading. If a party does not respond to a motion, the ALJ will assume that the party agrees with the motion or does not oppose the requested relief.

Routine procedural and logistical questions may be directed to the ALJ's legal secretary, Nora Arizola, at [nora.arizola@soah.texas.gov](mailto:nora.arizola@soah.texas.gov). SOAH support personnel may not provide advice or interpret orders or regulations for the parties. The parties **SHALL** avoid unlawful ex parte communications with any SOAH employee. If a party emails SOAH regarding this case (including an email to SOAH support staff limited to logistical matters), the party **SHALL** copy all other parties on that email.

**SIGNED NOVEMBER 9, 2022**

ALJ Signature:

A handwritten signature in cursive script that reads "Sarah Starnes". The signature is written in dark ink and is positioned above a horizontal line.

Sarah Starnes

Presiding Administrative Law Judge