



Control Number: 53492



Item Number: 7

DOCKET NO. 53492

**AGREEMENT AND REPORT TO THE §
COMMISSION REGARDING §
COMMISSION STAFF'S §
INVESTIGATION OF GEXA ENERGY, §
LP CONCERNING PURA §§ 17.004 AND §
39.101 AND 16 TAC § 25.479(c), §
RELATED TO ISSUANCE AND §
FORMAT OF BILLS §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

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ORDER

This Order addresses an agreement between Commission Staff and Gexa Energy, LP relating to Commission Staff's investigation of Gexa Energy for violations of PURA¹ §§ 17.004 and 39.101 and 16 Texas Administrative Code (TAC) § 25.479(c), which pertain to the issuance and formatting of bills. The agreement also serves as a report to the Commission under 16 TAC § 22.246(h). Commission Staff recommends that Gexa Energy pay to the Commission an administrative penalty of \$35,000. Gexa Energy 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. Gexa Energy is a Texas limited partnership registered with the Texas secretary of state under file number 800520642.
2. Gexa Energy provides retail electric service in Texas under retail electric provider certificate number 10027.

Alleged Violations

3. During the period from February 2021 through January 2022, Gexa Energy had approximately 5,076 customers enrolled in time-of-use service plans, which use smart meters to bill customers per kilowatt-hour (kWh) at prices that vary based on the time and date that the energy is consumed.

¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

4. During the January 2021 billing cycle, Gexa Energy migrated its time-of-use customers to a new billing software platform.
5. Beginning in the February 2021 billing cycle and following the migration of time-of-use customer information to the new billing software platform, billing invoices issued to Gexa Energy customers enrolled in time-of-use plans ceased to include *previous meter read* and *current meter read* information, even though that information was available to Gexa Energy.
6. For 11 billing cycles between February 2021 and January 2022, Gexa Energy did not provide the required *previous meter read* and *current meter read* values to its time-of-use customers on their monthly billing invoices.
7. Gexa Energy asserts that the absence of meter read values on its time-of-use customers' billing invoices was the result of a billing software formatting error.
8. As of the January 2022 billing cycle, Gexa Energy has addressed the formatting error caused by its billing software, and as a result, all billing invoices for Gexa Energy's time-of-use customers now include the requisite *previous meter read* and *current meter read* values.

Notice

9. On September 20, 2021, Commission Staff provided Gexa Energy with notice of the investigation.
10. On October 25, 2021, Commission Staff provided Gexa Energy with notice of the results of its investigation and information about Gexa Energy's right to a hearing and an opportunity to explain its activities.

Evidentiary Record

11. On April 22, 2022, Gexa Energy and Commission Staff filed a joint motion to admit evidence.
12. In Order No. 1 filed on May 2, 2022, the administrative law judge (ALJ) admitted the agreement and all attachments filed on April 22, 2022 as evidence into the record of this proceeding.

Agreement

13. Gexa Energy cooperated with Commission Staff's investigation.

14. On April 22, 2022, Commission Staff and Gexa Energy entered into the agreement concerning the investigation described in this Order. Commission Staff recommended, and Gexa Energy agreed to pay, an administrative penalty of \$35,000 for final resolution of the alleged violations.
15. Gexa Energy agreed to maintain compliance with the Commission's substantive rules governing the issuance and formatting of bills.
16. On April 22, 2022, Commission Staff filed a copy of the executed agreement with the Commission's filing clerk.

Informal Disposition

17. At least 15 days have passed since the completion of all notice requirements.
18. No person filed a protest or motion to intervene.
19. Gexa Energy and Commission Staff are the only parties to this proceeding.
20. No party requested a hearing, and no hearing is needed.
21. Commission Staff recommended approval of the agreement.
22. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this matter under PURA §§ 14.051, 14.054, 15.023, 15.024, 17.004, and 39.101.
2. Gexa Energy is a retail electric provider as defined in PURA §§ 17.002(6) and 31.002(17).
3. Under PURA §§ 17.004(a)(8) and 39.101(a)(3), a retail electric customer is entitled to bills presented in a clear, readable format and in a language readily understandable by customers.
4. Under 16 TAC § 25.479(c)(1)(N)(i), each retail electric customer's bill must include the meter reading at the beginning of the period for which the customer is being billed, labeled *previous meter read*, and the meter reading at the end of the period for which the customer is being billed, labeled *current meter read*, and the dates of such readings, if the bill is based on kWh usage and if the information is available to the retail electric provider on a standard electronic transaction.

5. During 11 billing cycles between February 2021 and January 2022, for the bills sent to its customers enrolled in its time-of-use service plan, Gexa Energy violated PURA §§ 17.004(a)(8) and 39.101(a)(3) and 16 TAC § 25.479(c)(1)(N)(i) by not including the *previous meter read* and *current meter read* information on the bills.
6. Under PURA § 15.023, the Commission has authority to impose administrative penalties for violations of PURA and Commission rules.
7. Under 16 TAC § 25.8(b)(2), the violations described herein are class B violations.
8. Under 16 TAC § 25.8(b)(2)(A), the Commission may impose a penalty of up to \$5,000 per violation per day for a class B violation.
9. In accordance with 16 TAC §§ 22.241(a)(2) and 22.246(f)(2), Gexa Energy was provided proper notice of Commission Staff's investigation into this matter, the results of Commission Staff's investigation, information about Gexa Energy's right to a hearing, and an opportunity to explain its activities.
10. The filing of the agreement meets the requirements of 16 TAC § 22.246(h)(1).
11. The Commission processed this docket in accordance with the requirements of applicable statutes and Commission rules.
12. 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 administrative penalty to the extent provided in this Order.
2. Gexa Energy must comply with the terms of the agreement and this Order.
3. Gexa Energy must pay an administrative penalty to the Commission in the amount of \$35,000. Gexa Energy is required to remit payment of the full amount of the administrative penalty on or before 30 calendar days after 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
P.O. Box 13326
Austin, Texas 78711

4. Gexa Energy must file, in this docket, an affidavit of payment of the administrative penalty by no later than five calendar days after remitting the payment.
5. The Commission is not constrained in any manner from requiring additional action or penalties for matters that are not resolved by this Order.
6. This Order resolves only the claims identified in 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. 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 14 day of October 2022.

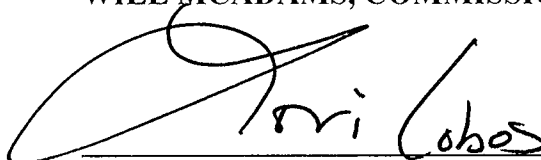
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