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Thomas J. Gleeson
Executive Director

Public Utility Commission of Texas

TO: Shelah Cisneros
Commission Counsel

All Parties of Record

FROM: Hunter Burkhalter 
Chief Administrative Law Judge

RE: **Docket No. 55642** *Settlement Agreement and Report to the Commission Regarding Frontier Utilities, LLC's Alleged Violations of PURA § 39.101(h), Related to Customer Safeguards, and 16 TAC § 25.483(b)(2)(B) and (j), Related to Disconnections of Service*

DATE: November 8, 2023

Enclosed is the Proposed Order in the above-referenced case. By copy of this memo, the parties to this proceeding are being served with the Proposed Order.

Please place this docket on an open meeting agenda for the Commissioners' consideration. Please notify me and the parties of the open meeting date. The parties must file corrections or exceptions to the Proposed Order by November 27, 2023.

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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DOCKET NO. 55642

SETTLEMENT AGREEMENT AND	§	PUBLIC UTILITY COMMISSION
REPORT TO THE COMMISSION	§	
REGARDING FRONTIER UTILITIES,	§	OF TEXAS
LLC'S ALLEGED VIOLATIONS OF	§	
PURA § 39.101(h), RELATED TO	§	
CUSTOMER SAFEGUARDS, AND 16	§	
TAC §§ 25.483(b)(2)(B) AND 25.483(j),	§	
RELATED TO DISCONNECTIONS OF	§	
SERVICE	§	

PROPOSED ORDER

This Order addresses the agreement between Commission Staff and Frontier Utilities, LLC regarding Commission Staff's investigation of Frontier for violations of PURA¹ § 39.101(h) and 16 Texas Administrative Code (TAC) §§ 25.483(b)(2)(B) and (j), which pertain to customer safeguards and disconnection of service. The agreement also serves as a report to the Commission under 16 TAC § 22.246(h)(1). Commission Staff recommends that Frontier pay to the Commission an administrative penalty of \$88,500. Frontier 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

Commission Staff and Frontier stipulated to the following findings of facts.

Respondent

1. Frontier is a Texas limited liability company registered with the Texas secretary of state under file number 801527837.
2. Frontier is registered with the Commission as an Option 1 retail electric provider (REP) under REP certificate number 10169.

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

Violation of 16 TAC § 25.483(b)(2)(B)

3. Prior to authorizing disconnections for non-payment of residential and small non-residential customers, Frontier was required to file, in Project No. 29760,² an affidavit from an officer of the company that affirmed that Frontier understood and had trained its personnel on the Commission's rule requirements related to disconnection and reconnection and had adequately tested all necessary electronic transactions related to disconnections and reconnections of service.
4. Frontier began authorizing disconnections for nonpayment of residential and small non-residential customers as early as 2009.³
5. Frontier could not provide evidence that the required affidavit had been filed prior to the date when Frontier began authorizing disconnections for nonpayment of residential and small non-residential customers.
6. Frontier filed the required affidavit in Project No. 29760 on August 3, 2023.⁴

Violations of PURA § 39.101(h) and 16 TAC § 25.483(i)

7. From November 1, 2020, through September 1, 2022, extreme weather emergencies were declared for 12 days in counties in which Frontier serves residential or small non-residential customers.
8. During the 12 days for which extreme weather emergencies were declared, Frontier authorized the disconnection for nonpayment of electric service for 90 customers located in counties affected by extreme weather emergencies. All disconnections were to be completed during the pendency of the emergencies.
9. The transmission and distribution utilities that received Frontier's authorizations to disconnect service for nonpayment did not complete any of the authorized disconnections.

² *Compliance Filings Relating to Disconnection of Electric Service Pursuant to PUC Subst. R. 25.483(b)(2)(C)*, Project No. 29760 (pending).

³ *Id.*, Confidential – Disconnection for Non Payment Reports – May 2009-June 2009 Bate Stamp 1-3 (July 15, 2009).

⁴ *Id.*, Affidavit (Aug. 3, 2023).

Notice

10. On January 3, 2023, Commission Staff provided Frontier Utilities with notice of the results of its investigation and provided information about Frontier's right to a hearing and an opportunity to explain its activities.
11. On July 25, 2023, Commission Staff provided Frontier Utilities with notice of the updated results of its investigation and provided information about Frontier's right to a hearing and an opportunity to explain its activities.

Agreement

12. Frontier cooperated with Commission Staff's investigation.
13. Frontier neither admits to nor denies the allegations of violations detailed in this Order.
14. On October 11, 2023, Commission Staff and Frontier entered into an agreement regarding the violations described in this Order. Commission Staff recommended, and Frontier agreed to, the following:
 - a. Frontier will pay an administrative penalty of \$88,500.
 - b. Frontier has implemented the following protective measures to prevent future authorizations of disconnections for nonpayment during extreme weather emergencies, and will continue to implement such measures going forward:
 - (1) **Additional Personnel Receiving National Weather Service (NWS) Alerts**

Frontier has increased the number of operations personnel who receive NWS emergency weather alerts. Frontier's current multi-step verification process now not only ensures all moratoriums are properly entered into internal systems but also utilizes two operations personnel to mitigate potential human error. When it is determined that an extreme weather emergency is occurring, one operations employee enters the moratorium and another operations employee checks what has been entered for accuracy before any authorization to disconnect service for nonpayment orders are sent. Because Frontier has increased the number of personnel who receive NWS alerts, Frontier will also conduct cross training on the verification process to further prevent errors due to staff absence or turnover.

(2) **In-Depth Disconnect/Reconnect Request Evaluation**

Frontier's increase in the number of operations personnel receiving NWS alerts has put Frontier in a better position to more proactively evaluate decisions surrounding authorization to disconnect service for nonpayment orders and take actions to ensure all processes comply with Commission rules. Frontier continuously discusses processes and makes decisions related to extreme weather moratoriums in order to ensure compliance with Commission rules.

- c. Frontier will implement the following protective measure to further prevent future authorizations of disconnections for nonpayment during extreme weather emergencies:

Seasonal Preparedness Meetings

Frontier has implemented a plan to begin conducting seasonal preparedness meetings to review system processes, conduct additional as-needed trainings, and ensure all teams are prepared for potential future weather events while adhering Commission rules.

- d. Going forward, in the event Frontier authorizes any disconnections for nonpayment during an extreme weather emergency to be completed during the pendency of the emergency, Frontier will take all actions necessary to ensure that the disconnections are not completed, including submission of precautionary reconnect orders.
- e. Going forward, Frontier agrees to maintain compliance with Commission rules governing extreme weather emergencies.
15. On October 11, 2023, Commission Staff filed a copy of the executed agreement with the Commission's filing clerk.

Seriousness of Violations and Alleged Violations

16. When a REP fails to file a required affidavit attesting to compliance with certain Commission rules, the REP bypasses one of the Commission's mechanisms for ensuring compliance with such rules.

17. A REP authorizing disconnection of service to retail customers during an extreme weather emergency causes a hazard or potential hazard to the health and safety of the public by putting customers at risk of exposure to extreme temperatures.

Compliance History and Deterrence of Future Violations

18. Commission records do not indicate a history of investigations of Frontier related to disconnection of service.
19. The agreed administrative penalty of \$88,500 is sufficient and necessary to deter future recurrences of similar events related to disconnections for nonpayment during extreme weather emergencies.

The Commission makes the following findings of fact.

Evidentiary Record

20. In Order No. 1 filed on November 7, 2023, the administrative law judge admitted into evidence the settlement agreement and report to the Commission filed by the parties on October 11, 2023.

Informal Disposition

21. More than 15 days have passed since completion of all notice requirements.
22. No person filed a protest or motion to intervene.
23. Frontier and Commission Staff are the only parties to this proceeding.
24. No party requested a hearing, and no hearing is necessary.
25. Commission Staff recommended approval of the agreement.
26. 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, 39.101(h), and 39.357.
2. Frontier is a REP as that term is defined under PURA § 17.002(6) and 16 TAC § 25.5(114).

3. Under 16 TAC § 25.483(b)(2)(B), prior to authorizing disconnections for non-payment of residential and small non-residential customers, Frontier was required to file an affidavit from an officer of the company, in Project No. 29760 (a project which was established by the Commission for this purpose), affirming that it understood and had trained its personnel on the Commission's rule requirements related to disconnection and reconnection, and had adequately tested all necessary electronic transactions related to disconnections and reconnections of service.
4. The facts stipulated to by the parties establish that Frontier violated 16 TAC § 25.483(b)(2)(B) by failing to file the required affidavit before authorizing disconnections for nonpayment of residential and small non-residential customers.
5. Under PURA § 39.101(h), a REP may not disconnect service to a residential customer during an extreme weather emergency.
6. Under 16 TAC § 25.483(j), a REP having disconnection authority under 16 TAC § 25.483(b), such as Frontier, must not authorize a disconnection for nonpayment of electric service for any customer in a county in which an extreme weather emergency occurs.
7. Under 16 TAC § 25.483(j)(1), an extreme weather emergency is defined as a day when "the previous day's highest temperature did not exceed 32 degrees Fahrenheit, and the temperature is predicted to remain at or below that level for the next 24 hours anywhere in the county, according to the nearest NWS reports; or the NWS issues a heat advisory for a county, or when such advisory has been issued on any one of the preceding two calendar days in a county."
8. The facts stipulated to by the parties establish that, from November 1, 2020, through September 1, 2022, Frontier violated PURA § 39.101(h) and 16 TAC § 25.483(j) when it authorized the disconnection for nonpayment of electric service for 90 customers located in counties under extreme weather emergencies to be completed during the pendency of the emergencies.
9. Under PURA § 15.023, the Commission has authority to impose administrative penalties against Frontier for violations of PURA and Commission rules.

10. Under 16 TAC § 25.8(b)(2)(B), the violation of 16 TAC § 25.483(b)(2)(B) is a Class B violation.
11. 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.
12. Under 16 TAC § 25.8(b)(3)(B), the violations of PURA § 39.101(h) and 16 TAC § 25.483(j) are Class A violations.
13. Under 16 TAC § 25.8(b)(3)(A), the Commission may impose a penalty of up to \$25,000 per violation per day for a Class A violation.
14. Frontier was provided proper notice of Commission Staff's investigation into this matter, the results of the investigation, information about Frontier's right to a hearing, and an opportunity to explain its activities, as required by 16 TAC §§ 22.241(a)(2) and 22.246(f)(2).
15. The filing of the agreement meets the requirements of 16 TAC § 22.246(h)(1).
16. The Commission processed this docket in accordance with the requirements of applicable statutes and Commission rules.
17. 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 agreed administrative penalty to the extent provided in this Order.
2. Frontier must comply with the terms of the agreement and this Order.
3. Frontier must pay an administrative penalty in the amount of \$88,500 to the Commission. Frontier 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. Frontier must file an affidavit of payment in this docket no later than five calendar days after remitting payment.
5. Frontier must continue its efforts to prevent authorization of disconnection for nonpayment of electric service during extreme weather emergencies.
6. The Commission is not constrained in any matters from requiring additional action or penalties from matters that are not resolved by this Order.
7. This Order resolves only the violations identified in 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, if not expressly granted.

Signed at Austin, Texas on the _____ day of _____ 2023.

PUBLIC UTILITY COMMISSION OF TEXAS

KATHLEEN JACKSON, INTERIM CHAIR

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER