



Control Number: 56859



Item Number: 7

**DOCKET NO. 56859**

<b>SETTLEMENT AGREEMENT AND</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>REPORT TO THE COMMISSION</b>	<b>§</b>	
<b>RELATING TO LUMINANT ENERGY</b>	<b>§</b>	<b>OF TEXAS</b>
<b>COMPANY, LLC'S VIOLATIONS OF</b>	<b>§</b>	
<b>PURA § 39.151(j); 16 TAC</b>	<b>§</b>	
<b>§§ 25.503(e)(3), (f)(2) AND (f)(8); AND</b>	<b>§</b>	
<b>ERCOT NODAL PROTOCOLS</b>	<b>§</b>	
<b>§ 6.4.6(1), RELATED TO ACCURATE</b>	<b>§</b>	
<b>TELEMETERING OF RESOURCE</b>	<b>§</b>	
<b>STATUSES</b>	<b>§</b>	

**ORDER**

This Order addresses the agreement between Commission Staff and Luminant Energy Company, LLC relating to Commission Staff's investigation of Luminant for alleged violations of PURA<sup>1</sup> § 39.151(j); 16 Texas Administrative Code (TAC) §§ 25.503(e)(3), (f)(2) and (f)(8); and Electric Reliability Council of Texas, Inc. (ERCOT) Nodal Protocols § 6.4.6(1).<sup>2</sup> The agreement also serves as a report to the Commission under 16 TAC § 22.246(h)(1). Commission Staff recommends the Commission order Luminant to disgorge \$68,401.93 in excess revenues. Luminant agrees to the disgorgement. The Commission orders the disgorgement of \$68,401.93 in excess revenues from Luminant and directs ERCOT to distribute the disgorged revenues using the method approved in Docket No. 54985.<sup>3</sup>

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Respondent**

1. Luminant is a Texas limited liability company registered with the Texas secretary of state under filing number 800878187.

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<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016 (PURA).

<sup>2</sup> All references to the ERCOT Nodal Protocols and ERCOT Operation Guide are to the versions of those documents in effect at the time of the violations identified herein.

<sup>3</sup> *Proceeding to Determine Appropriate Method to Distribute Disgorged Funds from Docket No. 54957*, Docket No. 54985, Order (Oct. 12, 2023).

2. Luminant is a power marketer registered with the Commission.<sup>4</sup>
3. Luminant is a qualified scheduling entity (QSE) registered with ERCOT.
4. As a QSE, Luminant is an ERCOT market participant and market entity.
5. Under the ERCOT Nodal Protocols, Luminant is responsible for submitting offers and dispatching generation from Luminant's generation resources in the ERCOT market.
6. ERCOT is certified by the Commission to act as the independent organization in the ERCOT power region, ensuring electricity production and delivery are accurately accounted for among the wholesale buyers and sellers in the power region.

#### **Asserted Violations**

7. Commission Staff asserts that, from February 15, 2021 through February 17, 2021, Luminant failed to properly telemeter the correct resource status code to ERCOT on 23 occasions.
8. Commission Staff asserts that, as a result of the telemetry of inaccurate resource status codes, Luminant received \$68,401.93 in revenues above the revenues it would have received absent the violations of rules related to accurate telemetry of generation resource codes.

#### **Method to Distribute Disgorged Excess Revenues**

9. In Docket No. 54985, the Commission approved an alternative method to distribute excess revenues the Commission ordered to be disgorged in Docket No. 54957.<sup>5</sup>
10. Commission Staff asserts that the Commission should use the same distribution method approved in Docket No. 54985 because the underlying facts and legal analyses involved in that matter and in Docket No. 54957 are nearly identical to the instant matter. Luminant does not contest the use of the distribution methodology approved by the Commission in Docket No. 54985.

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<sup>4</sup> *Registration for Power Marketers Exempt Wholesale Generators and Qualifying Facilities Pursuant to Subst. R. 25.105 (formerly Subst. R. 23.19), Project 14406, AIS Item No. 857 (Jul. 20, 2020).*

<sup>5</sup> *See Settlement Agreement Relating to City of Austin DBA Austin Energy's Violation of PURA § 39.151(j); 16 TAC §§ 25.503 (e)(3), (f)(2), and (f)(6); and ERCOT Protocols § 6.4.6(1), Related to Scheduling and Operation of Generation Resources, Docket No. 54957, Order (Jun. 15, 2023).*

11. Using the distribution method approved by the Commission in Docket No. 54985, ERCOT will:
  - a. identify the load ratio share from the most recent market settlement that was utilized for the issuance of invoices for the impacted intervals of the operating days;
  - b. calculate the amount due to each QSE by multiplying the disgorged dollar amount for each interval by the load ratio share for that interval;
  - c. send a miscellaneous invoice to all affected QSEs; and
  - d. pay the amounts owed to the affected QSEs as reflected on the invoices. If a QSE that is eligible for a distribution, or the counter-party for that QSE, has failed to pay when due any payment or financial security obligation owed to ERCOT or its designee, if applicable, then ERCOT will withhold the distribution payment and apply it toward the amounts owed by the QSE or the counter-party for the QSE.
12. The amount of disgorged funds to be distributed to any individual wholesale market participant is too small to warrant requiring a wholesale electric market participant to report how it used distributed disgorged funds to reduce costs incurred by retail electric consumers, as would otherwise be required by 16 TAC § 22.246(k).
13. Any affiliate of Luminant receiving disgorged revenues must distribute all of the disgorged revenues directly to its retail customers and must provide certification under oath to the Commission of the distribution under 16 TAC § 22.246(k)(3).

**Notice**

14. On December 12, 2023, Commission Staff provided Luminant with notice of the investigation, the results of the investigation, information about Luminant's right to a hearing, and an opportunity to explain its activities.

**Agreement**

15. Luminant cooperated with Commission Staff's investigation.
16. Luminant acknowledges the bases for the violations asserted by Commission Staff detailed in this Order.

17. On August 7, 2024, Commission Staff and Luminant entered into an agreement resolving the violations. Commission Staff recommended, and Luminant agreed to, the disgorgement of \$68,401.93 in excess revenues in final settlement of the violations.
18. On August 7, 2024, Commission Staff filed a copy of the executed agreement with the Commission's filing clerk.

**Evidentiary Record**

19. In Order No. 1 filed on September 23, 2024, the administrative law judge admitted into evidence the agreement and report to the Commission filed by the parties on August 7, 2024.

**Informal Disposition**

20. More than 15 days have passed since completion of all notice requirements.
21. No person filed a protest or motion to intervene.
22. Luminant and Commission Staff are the only parties to this proceeding.
23. No party requested a hearing, and no hearing is needed.
24. Commission Staff recommended approval of the agreement.
25. 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, 15.025, and 39.151(d) and (j).
2. Luminant is a power marketer as defined in PURA § 31.002(11) and 16 TAC § 25.5(83).
3. Luminant is a QSE as defined in 16 TAC § 25.5(95) and ERCOT Nodal Protocols § 2.1.
4. Luminant is a market entity as defined in 16 TAC § 25.503(c)(5).
5. Luminant is a market participant as defined in 16 TAC § 25.503(c)(6) and ERCOT Nodal Protocols § 2.1.
6. ERCOT is an independent organization certified by the Commission under PURA § 39.151(c).

7. Under PURA § 39.151(j), a power marketer, such as Luminant, is required to observe all scheduling, operating, planning, reliability, and settlement policies, rules, guidelines, and procedures established by the independent system operator in ERCOT.
8. Luminant violated PURA § 39.151(j) on 23 occasions between February 15, 2021 and February 16, 2021 by failing to observe rules established by ERCOT governing the scheduling and operation of generation resources.
9. Luminant violated 16 TAC § 25.503(e)(3) on 23 occasions between February 15, 2021 and February 17, 2021 by failing to refrain from activities that artificially inflate revenues.
10. Luminant violated 16 TAC § 25.503(f)(2) on 23 occasions between February 15, 2021 and February 17, 2021 by failing to comply with the ERCOT Nodal Protocols governing the scheduling and operation of generation resources.
11. Luminant violated 16 TAC § 25.503(f)(8) on 23 occasions between February 15, 2021 and February 17, 2021 by failing to provide accurate and factual information in any communication with ERCOT.
12. Luminant violated ERCOT Nodal Protocols § 6.4.6(1) on 23 occasions between February 15, 2021 and February 17, 2021 by telemetering incorrect resource status codes.
13. Under PURA § 15.023(e), the Commission is authorized to order the disgorgement of excess revenues collected by Luminant for violations of the statutes, rules, or protocols relating to wholesale electric markets.
14. Under PURA § 15.023(g), excess revenue means the revenue in excess of revenue that would have occurred absent a violation of the statutes, rules, or protocols related to the wholesale electric markets.
15. Under PURA § 15.025(e), disgorged excess revenues must be returned to the affected wholesale electric market participants and be used to reduce costs or fees incurred by retail electric customers.
16. Under 16 TAC § 22.246(k), any excess revenues disgorged by Luminant in this case must be paid to ERCOT.

17. It is appropriate to adopt a method to distribute the disgorged excess revenues from Luminant that differs from the default method specified in 16 TAC § 22.246(k).
18. It is appropriate for ERCOT to distribute the disgorged excess revenues according to the alternative method approved by the Commission in Docket No. 54985 and under 16 TAC § 22.246(k).
19. Under 16 TAC § 22.246(k)(1), no later than 90 days after disgorged excess revenues are remitted to ERCOT, the monies must be distributed using the method approved in this Order, or ERCOT must, by that date, notify the Commission of the date by which the funds will be distributed. When ERCOT distributes the disgorged monies, it must send a market notice that explains the docket number in which the Commission ordered the disgorged excess revenues.
20. The amount of disgorged funds to be distributed to any individual wholesale market participant is too small to warrant requiring a wholesale electric market participant to report how it used distributed disgorged funds to reduce costs incurred by retail electric consumers, as would otherwise be required by 16 TAC § 22.246(k).
21. It is not necessary for the Commission to require affected wholesale market participants, except for any affiliate of Luminant, receiving disgorged excess revenues to demonstrate how the amounts were used to reduce the costs or fees incurred by retail electric customers under 16 TAC § 22.246(k)(2), nor is it necessary for ERCOT to instruct affected wholesale market participants that the monies must be used to reduce the costs or fees incurred by retail electric customers under 16 TAC § 22.246(k)(1).
22. Any affiliate of Luminant receiving disgorged excess revenues must distribute all of the disgorged revenues directly to its retail customers and must provide certification under oath to the Commission of the distribution under 16 TAC § 22.246(k)(3).
23. Luminant was provided proper notice of Commission Staff's investigation into this matter, the results of the investigation, information about Luminant'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).
24. The filing of the agreement meets the requirements of 16 TAC § 22.246(h)(1).

25. The Commission processed this docket in accordance with applicable statutes and Commission rules.
26. 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 orders the disgorgement of \$68,401.93 in excess revenues from Luminant.
2. Luminant must comply with the terms of the agreement and this Order.
3. Within 30 calendar days from the date of this Order, ERCOT must issue a miscellaneous invoice to Luminant for the \$68,401.93 in disgorged excess revenues. Luminant must transfer to ERCOT, via a wire transfer, the \$68,401.93 in excess revenues within seven calendar days after receiving the miscellaneous invoice from ERCOT.
4. Within five days of transferring the excess revenues to ERCOT, Luminant must file, in this docket, an affidavit of transfer of the disgorged funds.
5. ERCOT must distribute the excess revenues disgorged from Luminant using the distribution method described and approved in this Order.
6. ERCOT must, within 90 days of receipt of the \$68,401.93 in excess revenues disgorged from Luminant, either distribute the funds to affected wholesale market participants or notify the Commission of the proposed date of distribution by filing a pleading in the compliance docket.
7. At least 30 days before it distributes the disgorged excess revenues, ERCOT must file in the compliance docket a draft of the communication required by 16 TAC § 22.246(k)(1) and as modified by this Order to be included with the distributions.
8. Commission Staff must file in the compliance docket its approval or any revision, as appropriate, to ERCOT's draft communication within 15 days of receipt.




9. An affected wholesale market participant receiving excess revenues disgorged from Luminant is not required to demonstrate how those funds were used to reduce the costs or fees incurred by retail electric customers.
10. Any affiliate of Luminant must file an affidavit under oath in the compliance docket certifying that it has distributed all the excess revenues disgorged from Luminant directly to its retail customers.
11. All filings required or authorized by this Order must be made in Docket No. 57140, *Compliance Filing for Docket No. 56859 (Settlement Agreement and Report to the Commission Relating to Luminant's Violations of PURA § 39.151(j); 16 TAC §§ 25.503(e)(3), (f)(2) and (f)(8); and ERCOT Nodal Protocols § 6.4.6(1), Related to Telemetering of Resource Statuses)*.
12. The Commission is not constrained in any matters from requiring additional action or penalties from matters that are not resolved by this Order.
13. This Order resolves only the alleged violations identified in this Order.
14. 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.
15. 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 10<sup>th</sup> day of January 2025.

**PUBLIC UTILITY COMMISSION OF TEXAS**

  
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**THOMAS J. GLEESON, CHAIRMAN**

  
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**KATHLEEN JACKSON, COMMISSIONER**

  
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**COURTNEY K. HJALTMAN, COMMISSIONER**