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DOCKET NO. 57437

SETTLEMENT AGREEMENT	§	PUBLIC UTILITY COMMISSION
RELATING TO TENASKA POWER	§	
SERVICES CO.'S ALLEGED	§	OF TEXAS
VIOLATIONS OF 16 TAC §§ 25.503(e)	§	
AND (f), AND ERCOT NODAL	§	
PROTOCOLS §§ 3.9.1(2), 6.4.6(1),	§	
6.5.5.2(3), 6.5.7.5(2), 6.5.7.9, AND 8.1.1.1	§	

ORDER

This Order addresses the agreement between Commission Staff and Tenaska Power Services Co. regarding Commission Staff's investigation of Tenaska Power for alleged violations of 16 Texas Administrative Code (TAC) §§ 25.503(e)(3), (f)(2), (f)(6), and (f)(8), and Electric Reliability Council of Texas, Inc. (ERCOT) Nodal Protocols §§ 3.9.1(2), 6.4.6(1), 6.5.5.2(3), 6.5.7.5(2), 6.5.7.9, and 8.1.1.1.¹ The agreement also serves as a report to the Commission under 16 TAC § 22.246(h)(1). Commission Staff recommends, and Tenaska Power agrees to pay to the Commission, an administrative penalty of \$353,500. Commission Staff also recommends, that the Commission order Tenaska Power to disgorge \$28,235,227.28 in excess revenues from Tenaska Power and direct ERCOT to distribute the disgorged revenues using the method approved in Docket No. 54985.² Tenaska Power agrees to the disgorgement. The Commission approves the \$353,500 administrative penalty, orders the disgorgement of \$28,235,227.28 in excess revenues from Tenaska Power, and directs ERCOT to distribute the disgorged revenues using the method approved in Docket No. 54985, to the extent provided in this Order.

I. Findings of Fact

The Commission makes the following findings of fact.

Respondent and Affected Entities

1. Tenaska Power is a Nebraska corporation registered with the Texas secretary of state under filing number 10633606.

¹ All references to the ERCOT Nodal Protocols are to the versions of those documents that were in effect at the time of the violations identified herein.

² *Proceeding to Determine Appropriate Method to Distribute Disgorged Funds from Docket No. 54957, Docket No. 54985, Order (Oct. 12, 2023).*

2. Tenaska Power is a qualified scheduling entity (QSE) registered with ERCOT.
3. As a QSE, Tenaska Power is an ERCOT market participant and a market entity.
4. Under the ERCOT Nodal Protocols, Tenaska Power is responsible for submitting offers for and relaying dispatch instructions to certain third-party resources in the ERCOT market. Tenaska Power does not own, operate, or control any of the third-party-owned resources represented by Tenaska Power.
5. ERCOT is certified by the Commission to act as the independent organization in the ERCOT power region, ensuring electric production and delivery are accurately accounted for among the wholesale buyers and sellers in the power region.

Alleged Violations and Corrective Actions

- a. **Ancillary Services and Telemetry Issues from January 2016 through April 2021**
6. From January 2016 through April 2021, Tenaska Power assigned ancillary services to unqualified load resources. Tenaska Power was paid to keep capacity available to provide ancillary services during this period but was incapable of providing the ancillary services assigned to unqualified load resources.
7. Two separate load resources under common ownership were provisionally authorized to provide ancillary services responsibilities for a 90-day period from June 20, 2018 through September 18, 2018.
8. Due to clerical oversight, Tenaska Power continued to assign ancillary services responsibility to these unqualified load resources after their provisional authorizations had lapsed on September 18, 2018.
9. During the time period between September 19, 2019 and October 19, 2021, there were 5,261 intervals in which the load resources were inadvertently assigned ancillary services responsibilities when they were unqualified.
10. By October 19, 2021, Tenaska Power removed the two unqualified load resources from its roster of resources capable of providing ancillary services.
11. To mitigate its risk of assigning ancillary service responsibilities to an unqualified resource in the future, Tenaska Power implemented more robust validations that alert the Tenaska Power operator in real time if an unqualified resource is telemetering an ancillary service

responsibility. These robust validations utilize the qualification status which will be set to expire with any provisional qualification status and compare to the real time telemetry being provided to ERCOT.

b. Current Operating Plan Update Issues on January 16, 2018

12. A resource telemetering the resource status code (RSC) of “OFF” indicates to ERCOT that the resource is offline but available for commitment. A resource telemetering RSC “OUT” indicates to ERCOT that the resource is offline and available for commitment.
13. Reliability unit commitment (RUC) is a process by which ERCOT ensures there is sufficient resource capacity and ancillary service capacity committed in the proper locations to serve forecasted load.
14. Tenaska Power was the QSE for a third-party’s combined cycle generation resource on January 16, 2018. That third party’s current operating plan, as communicated by the third-party to Tenaska Power, and in turn submitted to ERCOT, indicated an RSC of “OFF” under the assumption that same-day gas could be purchased if the resource received a RUC instruction, rather than an RSC of “OUT.”
15. Due to a cold weather event occurring in the ERCOT power region, at approximately 12:21 p.m. on January 16, 2018, Tenaska Power asked the resource if it could run the unit from approximately 4:00 p.m. through 10:00 p.m. About five minutes later, the resource operator determined that the fuel supplier could not provide a same-day gas nomination at that time but would continue to look for sourcing.
16. At 3:18 p.m. on January 16, 2018, the resource received a RUC instruction for hours ending 6:00 p.m. through 10:00 p.m. because the current operating plan showed an RSC of “OFF.”
17. At 3:35 p.m. on January 16, 2018, after further discussions with the resource operator, Tenaska Power notified ERCOT that the resource had no available natural gas to run and that the resource would enter a forced outage. Tenaska Power then updated the current operating plan for the resource, changing the RSC from “OFF” to “OUT.”

18. At 5:41 p.m. on January 16, 2018, ERCOT was informed of a transmission line outage, compounding the need for the resource. In response, the resource operator identified another source for natural gas and procured enough fuel to come online at 7:45 p.m.
19. Had the resource's current operating plan indicated an RSC of "OUT" instead of "OFF" prior to 3:18 p.m., ERCOT would not have sought to issue a RUC instruction to the resource at the time that it did.

c. Offline Resource Status Telemetry Issues on February 16 and 17, 2021

20. Real-time off-line reserve price adder payments are reserved for offline resources only and reflect the value to the market of resources that are available for dispatch.
21. During settlement interval 3:00 a.m. on February 16, 2021, Tenaska Power telemetered an inaccurate RSC of "OFF" for a gas combustion turbine unit it had received from the resource. The unit was on forced outage and was not available for dispatch.
22. During settlement intervals for hours ending 1:00 a.m. through 5:00 a.m., on February 17, 2021, Tenaska Power telemetered an RSC of "OFF" for a different gas combustion turbine unit when the unit was on a planned outage and was not available for dispatch.
23. As a result of the incorrect RSC telemetry, ERCOT identified the resources as offline and available for dispatch and the resources received real-time off-line reserve price adder payments. However, because the resources were on outage and could not have been dispatched, they were ineligible for the real-time off-line reserve price adder payments.
24. Commission Staff and Tenaska Power agree that Tenaska Power received, on behalf of the resources, \$71,207.48 in revenues above the revenue it would have received had the RSCs been "OUT."

d. Inaccurate High Sustainable Limit in February 2021 During Winter Storm Uri

25. The High Sustainable Limit (HSL) is the limit established by a resource, continuously updated in real-time, that indicates that maximum sustained energy production from a particular resource. Ancillary services imbalance payments are reserved for resources with operating reserves available to be provided to the ERCOT system, but that are not ultimately dispatched. The payments are meant to compensate such resources for those

reserves and account for the value to the market of the availability of those operating reserves at a particular time. These ancillary services imbalance payments are, in part, applied to the amount of on-line capacity based on the telemetered HSL for all on-line generation resources.

26. In February 2021, during Winter Storm Uri when ancillary services imbalance payments were particularly high, Tenaska Power telemetered HSLs received from certain resources that incorrectly represented the maximum sustainable energy production capability of those resources it represented.
27. Tenaska Power does not own or operate the resources at issue.
28. Prior to any enforcement action from Commission Staff, ERCOT, or the Independent Market Monitor, Tenaska Power proactively requested to refund HSL-related revenues that it should not have received using ERCOT's alternative dispute resolution (ADR) process. At the time of Tenaska Power's ADR request, ERCOT's ADR process was not an available method to return the excess revenues to the market.
29. Commission Staff and Tenaska Power agree that, as a result of the incorrect telemetry of HSLs, Tenaska Power received \$28,164,019.79 in revenues above the revenue it would have received absent the incorrect telemetry of HSLs.

e. Corrective Actions

30. Tenaska Power has taken the following corrective actions:
 - a. desk operations staff have been trained thoroughly in the expectations and correct procedures in updating RSC status expeditiously, and the importance of updating the current operating plan, as needed; and
 - b. additional training and discussion have included proper communication and ensuring supervisory control and data acquisition telemetry always reflects the correct status of all resources. Further, accountability standards have been reconfirmed with all staff involved.

Method to Distribute Disgorged Excess Revenues

31. In Docket No. 54985, the Commission approved an alternative method to distribute excess revenues the Commission ordered to be disgorged in Docket No. 54957.³
32. 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 sufficiently similar to the instant matter. Tenaska Power does not contest the use of the distribution method approved by the Commission in Docket No. 54985.
33. 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 counterparty 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 counterparty for the QSE.

Seriousness of Violations

34. The failure to properly telemeter information related to a resource's ancillary service schedules or deployments and the failure of those resources with ancillary services responsibility to meet its obligations could impact the reliable operation of the ERCOT bulk power system. ERCOT relies on accurate and timely information provided by a QSE delivered on behalf of the resources it represents. System conditions can rapidly change

³ *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), Related to Scheduling and Operation of Generation Resources*, Docket No. 54957, Order (June 15, 2023).

and failure to provide the data required by the ERCOT Nodal Protocols within the agreed-to timeline interferes with ERCOT's ability to schedule or dispatch requested ancillary services.

Compliance History and Deterrence of Future Violations

35. Commission records indicate a history of two previous proceedings regarding Tenaska Power's compliance with ERCOT Nodal Protocols as follows:
- a. in Docket No. 34456,⁴ the Commission entered an Order determining that Tenaska Power failed to provide adequate telemetry on December 22, 2006; and
 - b. in Docket No. 36993,⁵ the Commission entered an Order determining that a load acting as a resource for which Tenaska Power served as the QSE had not provided timely responsive reserve service in one instance on July 2, 2007.
36. The agreed administrative penalty of \$353,500 and the disgorgement of \$28,235,227.28 are sufficient and necessary to deter future recurrences of similar events.

Notice

37. On February 3, 2023, Commission Staff provided Tenaska Power with notice of the investigation, its results, and information about Tenaska Power's right to a hearing and opportunity to explain its activities.

Agreement

38. Tenaska Power cooperated with Commission Staff's investigation.
39. Tenaska Power acknowledges the events detailed in this Order.
40. On December 16, 2024, Commission Staff and Tenaska Power entered into an agreement resolving the allegations described in this Order. Commission Staff recommended, and Tenaska Power agreed to pay, an administrative penalty of \$353,500, and Commission Staff recommended, and Tenaska Power agreed to, the disgorgement of \$28,235,227.28 in excess revenues described in this Order.

⁴ *Application of Commission Staff and Tenaska Power Services Company for Approval of Settlement Agreement*, Docket No. 34456, Order (July 31, 2007).

⁵ *Agreed Notice of Violation and Settlement Agreement Relating to Tenaska Power Services Co.'s Violation of PURA § 39.151(j) and PUC Subst. R. § 25.503(f)(2), Relating to Failure to Adhere to ERCOT Protocol § 6.5.4(2) Concerning Load Acting as Resource Service Requirements*, Docket No. 36993, Order (Jun. 19, 2009).

41. Tenaska Power indicated that actions have been taken to prevent potential future violations of ERCOT Nodal Protocols.
42. On December 16, 2024, Commission Staff filed a copy of the executed agreement with the Commission's filing clerk.

Evidentiary Record

43. In Order No. 3 filed on March 20, 2025, the administrative law judge admitted the following into the record of this proceeding:
 - a. the agreement and all attachments filed on December 16, 2024;
 - b. Commission Staff's response to Order No. 1 filed on February 13, 2025; and
 - c. Commission Staff and Tenaska Power's response to Order No. 2 filed on March 17, 2025.

Informal Disposition

44. More than 15 days have passed since completion of all notice requirements.
45. No person filed a protest or motion to intervene.
46. Tenaska Power and Commission Staff are the only parties to this proceeding.
47. No party requested a hearing, and no hearing is needed.
48. Commission Staff recommended approval of the agreement.
49. 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 PURA⁶ §§ 14.001, 14.003, 14.051, 14.054, 15.023, 15.024, 15.025, and 39.151(d).
2. Tenaska Power is a QSE as defined in 16 TAC § 25.5(95) and ERCOT Nodal Protocols § 2.1.
3. Tenaska Power is a market entity as defined in 16 TAC § 25.503(c)(5).

⁶ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016.

4. Tenaska Power is a market participant as defined in 16 TAC § 25.503(c)(6) and ERCOT Nodal Protocols § 2.1.
5. ERCOT is an independent organization certified by the Commission under PURA § 39.151(c).
6. Between January 2016 and October 2021, Tenaska Power was unable to designate all resources qualified and capable of providing ancillary service capacity in violation of 16 TAC § 25.503(f)(6) and ERCOT Nodal Protocols §§ 6.5.7.5(2) and 8.1.1.1.
7. On January 16, 2018, Tenaska Power had not received an updated current operating plan from a resource and therefore did not update the current operating plan of that resource it represented to reflect changes in the availability of a resource as soon as reasonably practicable, but in no event later than 60 minutes after the event that caused the change to the resource's current operating plan in violation of 16 TAC § 25.503(f)(8) and ERCOT Nodal Protocols § 3.9.1(2).
8. On January 16, 2018, a resource represented by Tenaska Power failed to comply fully and promptly with a dispatch instruction in violation of 16 TAC § 25.503(f)(2) and ERCOT Nodal Protocols § 6.5.7.9.
9. Between February 15 and 19, 2021, Tenaska Power was unable to telemeter accurate HSLs for resources it represented in violation of 16 TAC § 25.503(f)(8) and ERCOT Nodal Protocols §§ 6.4.6.(1) and 6.5.5.2(3).
10. Between February 15 and 19, 2021, Tenaska Power was unable to prevent the activities of the resources that it represented, which caused Tenaska Power to receive excess revenues on behalf of such resources, resulting in payments in violation of 16 TAC § 25.503(e)(3).
11. On February 16 and 17, 2021, Tenaska Power telemetered inaccurate resource status codes conveyed by resources it represented during 22 separate security-constrained economic dispatch intervals in violation of 16 TAC § 25.503(f)(8) and ERCOT Nodal Protocols § 6.4.6(1).
12. Under PURA § 15.023(e), the Commission is authorized to order the disgorgement of excess revenue incorrectly delivered to Tenaska Power for violations of the statutes, rules, or protocols relating to wholesale electric markets.

13. Under PURA § 15.023(g), excess revenues means the revenue in excess of the revenue that would have occurred absent a violation of the statutes, rules, or protocols relating to wholesale electric markets.
14. Under PURA § 15.025(e), disgorged excess revenue must be returned to the affected wholesale market participants and be used to reduce costs or fees incurred by retail electric customers.
15. Under 16 TAC § 22.246(k), any excess revenues disgorged by Tenaska Power in this case must be paid to ERCOT.
16. It is appropriate to adopt a method to distribute the disgorged excess revenues from Tenaska Power that differs from the default method specified in 16 TAC § 22.246(k).
17. 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).
18. Under 16 TAC § 22.246(k)(1), no later than 90 days after the 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 out a market notice that explains the docket number in which the Commission ordered the disgorged excess revenues and ERCOT must 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).
19. Under 16 TAC § 22.246(k)(2), any affected wholesale market participant receiving disgorged excess revenues may be required to demonstrate how the received amounts were used to reduce the costs or fees incurred by retail electric customers.
20. Under 16 TAC § 22.246(k)(3), any affiliate of Tenaska Power 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.
21. Tenaska Power was provided proper notice of Commission Staff's investigation into this matter, the results of the investigation, information about Tenaska Power'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).

22. The filing of the agreement meets the requirements of 16 TAC § 22.246(h)(1).
23. The Commission processed this docket in accordance with the requirements of applicable statutes and Commission rules.
24. 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. The Commission orders the disgorgement of \$28,235,227.28 in excess revenues from Tenaska Power.
3. Tenaska Power must comply with the terms of the agreement and this Order.
4. Tenaska Power must pay the agreed administrative penalty of \$353,500 to the Commission. Tenaska Power must remit payment of the full amount of the administrative penalty within 30 calendar days of the date of 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

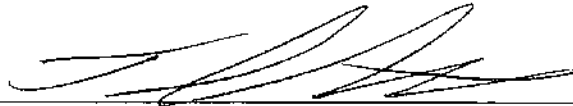
5. Tenaska Power must file an affidavit of payment in this docket no later than five calendar days after remitting payment.
6. Within 30 calendar days of the date of this Order, ERCOT must issue a miscellaneous invoice to Tenaska Power for the \$28,235,227.28 in disgorged excess revenues. Tenaska

- Power must transfer the \$28,235,227.28 in excess revenues to ERCOT within seven calendar days after receiving the miscellaneous invoice from ERCOT.
7. Within five days of transferring the excess revenues to ERCOT, Tenaska Power must file, in this docket, an affidavit of transfer of the disgorged revenues.
 8. ERCOT must distribute the excess revenues disgorged from Tenaska Power using the distribution method described and approved in Docket No. 54985.
 9. ERCOT must, within 90 days of receipt of the \$28,235,227.28 in excess revenues disgorged from Tenaska Power, 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 as ordered below.
 10. At least 30 days before it distributes the disgorged excess revenues, ERCOT must file in the compliance docket a draft of the communication that is required by 16 TAC § 22.246(k)(1) and as modified by this Order to be included with the distributions.
 11. Commission Staff must file in the compliance docket its recommendation on the sufficiency of ERCOT's draft communication within 15 days of receipt.
 12. An affected wholesale market participant receiving more than \$10,000 in excess revenues disgorged from Tenaska Power is required to file an affidavit in the compliance docket demonstrating how those funds were used to reduce the costs or fees incurred by retail electric customers.
 13. Any affiliate of Tenaska Power receiving excess revenues disgorged from Tenaska Power must file an affidavit under oath in the compliance docket certifying that it has distributed all the excess revenues disgorged from Tenaska Power directly to its retail customers. The affidavit must be filed within 30 days of receipt of disgorged funds.
 14. All filings required or authorized by this Order must be made in Docket No. 57722. *Compliance Filing for Docket No. 57437 (Settlement Agreement Relating to TPS's Alleged Violations of 16 Texas Administrative Code (TAC) § 25.503(e)(3), (f)(2), (f)(6), and (f)(8), and Electric Reliability Council of Texas (ERCOT) Nodal Protocols §§ 3.9.1(2), 6.4.6(1), 6.5.5.2(3), 6.5.7.9, and 8.1.1.1).*

15. The Commission is not constrained in any manner from requiring additional action or penalties from matters that are not addressed or resolved by this Order.
16. This Order resolves only the alleged violations identified in this Order.
17. 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.
18. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 20th day of June 2025.

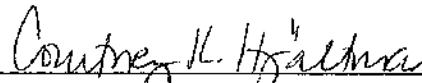
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