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DOCKET NO. 43162

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PUBLIC UTILITY COMMISSION
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AGREED NOTICE OF VIOLATION §
AND SETTLEMENT AGREEMENT §
RELATING TO GDF SUEZ ENERGY §
MARKETING NA, INC.'S §
VIOLATIONS OF PURA § 39.151(d) §
AND (j), P.U.C. SUBST. R. 25.503(f)(2), §
AND ERCOT PROTOCOLS §§ 3.9(7) §
AND 6.4.3.1, RELATED TO CURRENT §
OPERATING PLANS AND ENERGY §
OFFER CURVE FOR RUC- §
COMMITTED RESOURCES §

PUBLIC UTILITY COMMISSION
OF TEXAS

APPLICATION FOR APPROVAL OF SETTLEMENT AGREEMENT

Staff of the Public Utility Commission of Texas (Commission) files this Application for Approval of Settlement Agreement and would show in support as follows:

Commission Staff and GDF Suez Energy Marketing NA, Inc. (GDF Suez) (together, Parties) have entered into a Settlement Agreement and Report to Commission (Agreement). The Agreement, attached to this motion, has been signed by representatives of both parties and includes a Proposed Order. This Agreement resolves and concludes Commission Staff's investigation of GDF Suez for violations of Public Utility Regulatory Act¹ (PURA) § 39.151 (d) and (j); P.U.C. SUBST. R. 25.503(f)(2), related to oversight of wholesale market participants; and Electric Reliability Council of Texas (ERCOT) Protocols §§ 3.9(7) and 6.4.3.1, related to current operating plans and energy offer curves for RUC-committed resources, respectively.

WHEREFORE, Commission Staff respectfully requests that its Application for Approval of Settlement Agreement be granted.

¹ Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (Vernon 2007 & Supp. 2013) (PURA).

Respectfully Submitted,

Robert M. Long
Division Director
Oversight and Enforcement Division

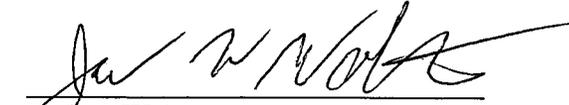


Joshua Walters

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Public Utility Commission of Texas
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P.O. Box 13326
Austin, Texas 78711-3326
joshua.walters@puc.texas.gov

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this the 17th of September, 2014 in accordance with P.U.C. Procedural Rule 22.74.



Joshua Walters

ATTACHMENT 1

DOCKET NO. _____

AGREED NOTICE OF VIOLATION	§	
AND SETTLEMENT AGREEMENT	§	
RELATING TO GDF SUEZ ENERGY	§	
MARKETING NA, INC.'S	§	PUBLIC UTILITY COMMISSION
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AND (j), P.U.C. SUBST. R. 25.503(f)(2),	§	OF TEXAS
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AND 6.4.3.1, RELATED TO CURRENT	§	
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OFFER CURVE FOR RUC-	§	
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SETTLEMENT AGREEMENT AND REPORT TO COMMISSION

Staff of the Public Utility Commission of Texas (Commission or PUC) and GDF Suez Energy Marketing NA, Inc. (GDF Suez) (collectively, the Parties) enter into this Settlement Agreement and Report to Commission (Agreement). This Agreement resolves and concludes Commission Staff's investigation of GDF Suez for violations of Section 39.151 (d) and (j) of the Public Utility Regulatory Act¹ (PURA); P.U.C. SUBST. R. 25.503(f)(2), related to oversight of wholesale market participants; and Electric Reliability Council of Texas (ERCOT) Protocols §§ 3.9(7) and 6.4.3.1, related to current operating plans and energy offer curves for RUC-committed resources, respectively.

The Parties agree as follows:

1. The Parties stipulate to the facts contained herein and in the attached Proposed Order and request approval of the Order by the Commission.
2. GDF Suez admits to the jurisdiction of the Commission over the Parties to this proceeding and the subject matter of this Agreement.

¹ Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (Vernon 2007 & Supp. 2013) (PURA).

3. Commission Staff recommends, and GDF Suez agrees to pay, an administrative penalty of Twenty-Eight Thousand Dollars (\$28,000) for GDF Suez's violations described in the attached Proposed Order and herein.
4. Each Qualified Scheduling Entity (QSE) must submit a revised Current Operating Plan (COP) reflecting changes in Resource availability as soon as reasonably practicable, but in no event later than 60 minutes after the event that caused the change.²
5. GDF Suez's COP submittals on February 2, 2014 failed to reflect a change in the Resource status for three of its units within the required 60 minutes following receipt of a Reliability Unit Commitment (RUC) instruction from ERCOT.
6. According to an independent market monitor (IMM) investigation, it took GDF Suez approximately 3 hours to revise its COP to reflect the RUC instruction from ERCOT for all three units.
7. Prior to the end of the Adjustment Period for an Operating Hour during which a Generation Resource has been committed by ERCOT as part of a RUC process, a QSE shall ensure that an Energy Offer Curve (EOC) that prices all energy from LSL to HSL at the System Wide Offer Cap for the Operating Hours in the RUC commitment period has been submitted and accepted by ERCOT.³
8. On March 20, 2013, the Oversight & Enforcement Division of the Commission (O&E) issued a warning letter to GDF Suez for behavior occurring in 2012 in lieu of an administrative penalty at that time. O&E determined that GDF Suez was in noncompliance with ERCOT Protocols § 6.4.3.1, and therefore PURA § 39.151(d) and (j) and P.U.C. SUBST. R. 25.503(f)(2), as well.
9. Subsequent to O&E's issuance of the warning letter, GDF Suez self-reported additional instances of noncompliance with ERCOT Protocols § 6.4.3.1 that occurred on February 2, 2014.
10. On this date, GDF Suez failed to update its Real Time EOCs to show all energy above the units' LSLs priced at the System Wide Offer Cap during the hours of the RUC period

² ERCOT Protocols § 3.9(7).

³ ERCOT Protocols § 6.4.3.1(1).

(hours ending 17 through 24 on February 2, 2014). This failure caused the three units at issue to operate at or near their HSLs during the RUC period when the units should have operated at or near their LSLs.

11. GDF Suez has taken corrective action to ensure that the reason for its failure in this instance will not happen in the future. GDF Suez indicates that it has:

Implemented a new RUC Procedure developed to provide greater assurance QSE obligations related to RUC instructions are met. This new RUC Procedure:

- Emphasizes QSE obligations, as established by Protocols, related to RUC instructions and the required actions the QSE must take related to a Resource's status as reflected in the COP in order to maintain compliance with Protocol § 3.9(7).
- Addresses the required EOC revisions necessary to maintain compliance with Protocols § 6.4.3.1(1).
- As part of the implementation of the RUC Procedure, GDF Suez Real Time Operations personnel were individually trained on the RUC Procedure and signed acknowledgments attesting to their awareness and understanding of the RUC Procedure.

In addition to the RUC Procedure described above, GDF Suez implemented the following:

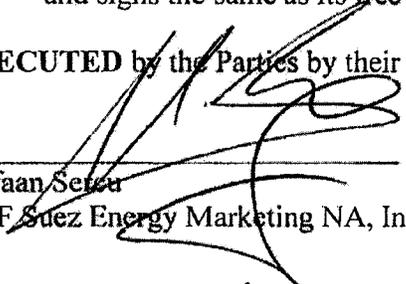
- The system tools used to manage COP and EOC updates for the Resources represented by the GDF Suez QSE were modified to automatically provide guidance related to RUC instructions and the detailed steps necessary to maintain compliance with Protocols §§ 3.9(7) and 6.4.3.1.
- ERCOT Real Time Operations developed and implemented a tool which identifies the occurrence of RUC instruction directed to any market participant in ERCOT. This tool will allow the GDF Suez ERCOT Real Time Operations team to be alerted when ERCOT has issued RUC instructions to a market participant, which is considered an indicator there is a higher probability GDF Suez may also receive a RUC instruction.

- The GDF Suez Compliance organization developed and implemented a tool which provides the Compliance organization the ability to review Resource Status Codes and identify RUC events. Compliance is able to review the QSE handling of the RUC event to assess Protocol compliance.
12. This Agreement resolves all claims related to GDF Suez's obligations pursuant to PURA § 39.151(d) and (j), P.U.C. SUBST. R. 25.503(f)(2), related to oversight of wholesale market participants, and ERCOT Protocols §§ 3.9(7) and 6.4.3.1, relating to COPs and EOC's for RUC committed resources, respectively, through the date of this agreement.
 13. Unless specifically provided for in this Agreement, GDF Suez waives any notice and procedures that might otherwise be authorized or required in this proceeding.
 14. Nothing in this Agreement shall limit Commission Staff's ability to perform its enforcement functions as set forth in PURA and the Commission's rules.
 15. This Agreement fully and finally resolves all issues related to alleged Commission rules violations arising out of the facts described herein. The Parties enter into this Agreement to resolve by compromise the issues related to this matter. This Agreement is entered into by the Parties in order to avoid the potential for expensive and protracted litigation, the outcome of which would be uncertain.
 16. A Party's support of the resolution of this docket in accordance with this Agreement may differ from its position or testimony regarding contested issues of law, policy, or fact in other proceedings before the Commission or other forums. Because this is a settlement agreement, a Party is under no obligation to take the same position as set out in this Agreement in other proceedings not referenced in this Agreement whether those dockets present the same or a different set of circumstances. The Parties' agreement to entry of a final order of the Commission consistent with this Agreement should not be regarded as an agreement as to the appropriateness or correctness of any assumptions, methodology, or legal or regulatory principle that may have been employed in reaching this Agreement.
 17. The Parties contemplate that this Agreement will be approved pursuant to P.U.C. PROC. R. 22.246(g)(1)(C). In the event the Commission materially changes the terms of this Agreement, the Parties agree that any Party adversely affected by that material alteration

has the right to withdraw from this Agreement, thereby becoming released from its obligations arising hereunder, and to proceed as otherwise permitted by law to exercise all rights available under law. The right to withdraw must be exercised by providing the other Party written notice within 20 calendar days of the date the Commission files the final order acting on this Agreement. Failure to provide such notice within the specified time period shall constitute a waiver of the right to withdraw and acceptance of the material changes to this Agreement made by the Commission.

18. This Agreement is the final and entire agreement between the Parties regarding its terms and supersedes all other communications among the Parties or their representatives regarding its terms.
19. Each person executing this Agreement represents that he or she has been authorized to sign on behalf of the Party represented. Copies of signatures are valid to show execution. If this Agreement is executed in multiple counterparts, each is deemed an original but all of which constitute the same Agreement.
20. GDF Suez warrants that it has read this Agreement carefully, knows the contents thereof, and signs the same as its free act.

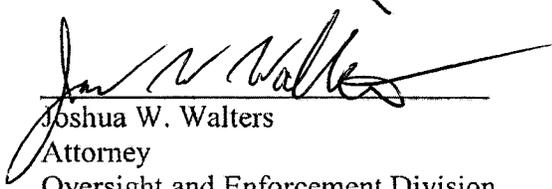
EXECUTED by the Parties by their authorized representatives designated below.



Stefaan Setea
GDF Suez Energy Marketing NA, Inc.

OP
TP
MHA

Date: September 17, 2014



Joshua W. Walters
Attorney
Oversight and Enforcement Division
Public Utility Commission of Texas

Date: September 17, 2014

ATTACHMENT

DOCKET NO. _____

AGREED NOTICE OF VIOLATION	§	
AND SETTLEMENT AGREEMENT	§	
RELATING TO GDF SUEZ ENERGY	§	PUBLIC UTILITY COMMISSION
MARKETING NA, INC.'S	§	
VIOLATIONS OF PURA § 39.151(d)	§	
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AND ERCOT PROTOCOLS §§ 3.9(7)	§	
AND 6.4.3.1, RELATED TO CURRENT	§	
OPERATING PLANS AND ENERGY	§	
OFFER CURVE FOR RUC-	§	
COMMITTED RESOURCES	§	

PROPOSED ORDER

Pursuant to P.U.C. PROC. R. 22.246(g)(1)(C), this Order approves the Settlement Agreement and Report to Commission (Agreement) between the Staff of the Public Utility Commission of Texas (Commission) and GDF Suez Energy Marketing NA, Inc. (GDF Suez) (collectively, the Parties) regarding Commission Staff's investigation of GDF Suez for violations of Section 39.151(d) and (j) of the Public Utility Regulatory Act¹ (PURA); P.U.C. SUBST. R. 25.503(f)(2), related to oversight of wholesale market participants; and Electric Reliability Council of Texas (ERCOT) Protocols §§ 3.9(7) and 6.4.3.1, related to current operating plans and energy offer curves for RUC-committed resources, respectively. The Agreement resolves all issues in this docket. Commission Staff recommended an administrative penalty of Twenty Eight Thousand dollars (\$28,000). GDF Suez agreed to pay the recommended administrative penalty. The Agreement is approved.

The Commission adopts the following findings of fact and conclusions of law:

I. FINDINGS OF FACT

1. GDF Suez is an authorized Qualified Scheduling Entity (QSE), as defined by ERCOT Protocol § 2.1.

¹ Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (Vernon 2007 & Supp. 2013) (PURA).

2. On February 2, 2014, GDF Suez's COP submittals failed to reflect a change in the Resource status for three of its units within the required 60 minutes following receipt of a RUC instruction from ERCOT.
3. According to an IMM investigation, it took GDF Suez approximately 3 hours to revise its COP to reflect the RUC instruction from ERCOT for all three units.
4. On March 20, 2013, the Oversight & Enforcement Division of the Commission (O&E) issued a warning letter to GDF Suez for behavior occurring in 2012 in lieu of an administrative penalty at that time. O&E determined that GDF Suez was in noncompliance with ERCOT Protocol § 6.4.3.1, and therefore PURA § 39.151(d) and (j) and P.U.C. SUBST. R. 25.503(f)(2), as well.
5. Subsequent to O&E's issuance of the warning letter, GDF Suez self-reported additional instances of noncompliance with ERCOT Protocols § 6.4.3.1 that occurred on February 2, 2014.
6. On this date, GDF Suez failed to update its Real Time EOCs to show all energy above the units' LSLs priced at the System Wide Offer Cap during the hours of the RUC period (hours ending 17 through 24 on February 2, 2014). This failure caused the three units at issue to operate at or near their HSLs during the RUC period when the units should have operated at or near their LSLs.
7. On or about July 25, 2014, GDF Suez was provided proper notice of Commission Staff's investigation in this matter, the results of the investigation, information about its right to a hearing, and an opportunity to explain its activities.
8. GDF Suez fully cooperated with Commission Staff's investigation.
9. GDF Suez acknowledges the violations detailed in this Order.
10. GDF Suez participated in one or more settlement discussions with Commission Staff to resolve this matter.
11. On September 17, 2014, the Parties entered into the Agreement resolving the violations. Commission Staff recommended, and GDF Suez agreed to pay, an administrative penalty of Twenty-Eight Thousand Dollars (\$28,000).

12. The Agreement provides for a reasonable resolution of this dispute.
13. The Agreement is in the public interest.

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to PURA §§ 14.001, 14.002, 14.003, 14.051, 15.023, 15.024, and 39.151(j).
2. GDF Suez was provided proper notice of Commission Staff's investigation in this matter, the results of the investigation, information about its right to a hearing, and an opportunity to explain its activities.
3. Pursuant to ERCOT Protocols § 3.9(7), each QSE must submit a revised COP reflecting changes in Resource availability as soon as reasonably practicable, but in no event later than 60 minutes after the event that caused the change.
4. GDF Suez failed to submit a revised COP reflecting changes in Resource availability within 60 minutes after the event that caused the change as required by ERCOT Protocols § 3.9(7). Therefore, GDF Suez violated PURA § 39.151(d) and (j) and the requirements of P.U.C. SUBST. R. 25.503(f)(2).
5. Pursuant to ERCOT Protocol § 6.4.3.1, prior to the end of the Adjustment Period for an Operating Hour during which a Generation Resource has been committed by ERCOT as part of a Reliability Unit Commitment (RUC) process, the Qualified Scheduling Entity (QSE) shall ensure that an Energy Offer Curve (EOC) that prices all energy from LSL to HSL at the System-Wide Offer Cap (SWOC) for the Operating Hours in the RUC commitment period has been submitted and accepted by ERCOT.
6. GDF Suez failed to ensure that an EOC that prices all energy from LSL to HSL at the SWOC for the Operating Hours in the RUC commitment period had been submitted and accepted by ERCOT as required by ERCOT Protocol § 6.4.3.1. Therefore, GDF Suez violated PURA § 39.151(d) and (j) and the requirements of P.U.C. SUBST. R. 25.503(f)(2).
7. P.U.C. PROC. R. 22.246(g)(1)(A),(B), and (C) require issuance of a report of a settlement to the Commission and a written order that approves the settlement.

8. The Agreement is a report of settlement to the Commission as required by P.U.C. PROC. R. 22.246(g).
9. The requirements for informal disposition pursuant to P.U.C. PROC. R. 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 order:

1. The Agreement, attached to this Order as Attachment 1, is approved, and the Parties shall be bound by its terms.
2. GDF Suez shall pay an administrative penalty to the Commission in the amount of Twenty-Eight Thousand Dollars (\$28,000). GDF Suez shall remit payment of the full amount of the administrative penalty on or before thirty (30) calendar days after the date this Order is signed. Payment of the administrative penalty shall be made by check payable to the Public Utility Commission of Texas and shall reference this docket. The check shall be sent to the following address:

Public Utility Commission of Texas
P.O. Box 13326
Austin, Texas 78711
ATTN: Fiscal Services
3. GDF Suez shall file an affidavit of payment in this docket no later than five calendar days after the payment is made.
4. The Commission shall not be constrained in any manner from requiring additional action or penalties for violations that are not raised herein.
5. Entry of this order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the Agreement. Entry of this Order shall not be regarded as a binding holding or precedent as to the appropriateness of any principle underlying the Agreement.
6. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other request for general or specific relief, if not expressly granted herein, are denied.

SIGNED AT AUSTIN, TEXAS on the ____ day of _____, 2014.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY D. MARTY, COMMISSIONER