

Control Number: 43576



Item Number: 1

Addendum StartPage: 0

DOCKET NO. 43576

RECEIVED
2014 OCT 15 AM 10:40
PUBLIC UTILITY
FILING CLERK

**AGREED NOTICE OF VIOLATION
AND SETTLEMENT AGREEMENT
RELATING TO EDF TRADING NORTH
AMERICA, LLC'S VIOLATION OF
PURA § 39.151(j), P.U.C. SUBST. R.
§ 25.503(f)(2), AND ERCOT
PROTOCOLS §§ 3.9.1(2), RELATED TO
CURRENT OPERATING PLAN
CRITERIA AND 8.1.1.4.3(3)(b),
RELATED TO NON-SPINNING
RESERVE SERVICE ENERGY
DEPLOYMENT CRITERIA**

§
§
§
§
§
§
§
§
§
§
§
§

**PUBLIC UTILITY COMMISSION
OF TEXAS**

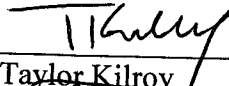
APPLICATION FOR APPROVAL OF SETTLEMENT AGREEMENT

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 EDF Trading North America, LLC (EDF) (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 EDF for violation of PURA § 39.151(j) and P.U.C. SUBST. R. 25.503(f)(2), concerning failure to adhere to Electric Reliability Council of Texas (ERCOT) Protocols §§ 3.9.1(2), related to current operating plan criteria (COP) and 8.1.1.4.3(3)(b), related to non-spinning reserve service (NSRS) energy deployment criteria on May 11, 2013

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


Respectfully Submitted,
Robert M. Long
Division Director
Oversight and Enforcement Division



Taylor Kilroy
Attorney, Oversight and Enforcement Division
State Bar No. 24087844
(512) 936-7127
(512) 936-7208 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
taylor.kilroy@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 16th of October, 2014 in accordance with P.U.C. Procedural Rule 22.74.



Taylor Kilroy

DOCKET NO.

AGREED NOTICE OF VIOLATION
AND SETTLEMENT AGREEMENT
RELATING TO EDF TRADING NORTH
AMERICA, LLC's VIOLATION OF
PURA § 39.151(j), P.U.C. SUBST. R.
§ 25.503(f)(2), AND ERCOT
PROTOCOLS §§ 3.9.1(2), RELATED TO
CURRENT OPERATING PLAN
CRITERIA AND 8.1.1.4.3(3)(b),
RELATED TO NON-SPINNING
RESERVE SERVICE ENERGY
DEPLOYMENT CRITERIA

§
§
§
§
§
§
§
§
§
§
§
§

PUBLIC UTILITY COMMISSION
OF TEXAS

SETTLEMENT AGREEMENT AND REPORT TO COMMISSION

Staff of the Public Utility Commission of Texas (Commission or PUC) and EDF Trading North America, LLC (EDFTNA) (collectively, Parties) enter into this Settlement Agreement and Report to Commission (Agreement). This Agreement resolves and concludes Commission Staff's investigation of EDFTNA for violation of Section 39.151(j) of the Public Utility Regulatory Act¹ (PURA) and P.U.C. SUBST. R. 25.503(f)(2), concerning failure to adhere to Electric Reliability Council of Texas (ERCOT) Protocols §§ 3.9.1(2), related to current operating plan criteria (COP) and 8.1.1.4.3(3)(b), related to non-spinning reserve service (NSRS) energy deployment criteria on May 11, 2013.

The Parties agree as follows:

1. The Parties stipulate to the facts contained in the attached Proposed Order and request approval of the Order by the Commission.
2. The Commission has jurisdiction over the Parties to this proceeding and the subject matter of this Agreement.
3. Each QSE must submit a revised COP reflecting changes in resources availability as soon as reasonably practicable, but in no event later than 60 minutes after the event that caused the change as stated per ERCOT Protocols § 3.9.1(2).

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

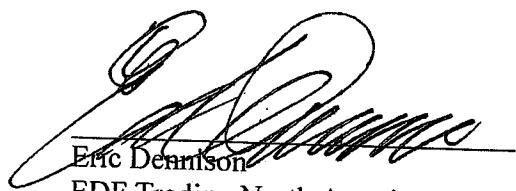
4. Twenty-five minutes following ERCOT deployment instructions, a resource must have a resource status indicating that it is on-line with an Energy Offer Curve (EOC) and the telemetered generation must be greater than or equal to the resource's telemetered Low Sustained Limit (LSL) within 25 minutes following an ERCOT NSRS deployment instruction.
5. Each QSE shall ensure that each Resource is able to meet the Resource's obligations to provide the Ancillary Service Resource Responsibility.²
6. EDFTNA is an authorized Qualified Scheduling Entity (QSE), as defined by ERCOT Protocols § 2.1.
7. EDFTNA was the authorized QSE for the generation resource LARDVFTN_G4.
8. Commission Staff reviewed Texas Reliability Entity, Inc.'s ERCOT Protocols compliance audit of the Qualified Scheduling Entities affiliated with EDFTNA and determined there were seven instances of EDFTNA failing to update a COP after a forced outage and eleven instances of COP submissions (following a forced outage) where the incorrect Resource Status Code was utilized.
9. On May 11, 2013, ERCOT issued NSRS deployment instructions for the generation resource LARDVFTN_G4 (Laredo 4).
10. Staff alleges that Laredo 4 did not reach its LSL within 25 minutes as required by ERCOT Protocols § 8.1.1.4.3(3)(b). Laredo 4 was 41 minutes late in meeting a NSRS deployment on May 11, 2013.
11. Commission Staff recommends, and EDFTNA agrees to pay, an administrative penalty of Fifty-Seven Thousand Dollars (\$57,000) in full and final settlement of the alleged violations described in the attached Proposed Order.
12. This Agreement resolves all claims related to EDFTNA's obligations pursuant to PURA § 39.151(j); P.U.C. SUBST. R. §25.503(f)(2), concerning failure to adhere to ERCOT Protocols §§ 3.9.1(2), related to current operating plan criteria (COP) and 8.1.1.4.3(3)(b), related to NSRS energy deployment criteria obligations on May 11, 2013.

² ERCOT Protocols § 8.1.1.2.1.3(5)

13. Unless specifically provided for in this Agreement, EDFTNA 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. 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.
16. 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.
17. 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.
18. 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.

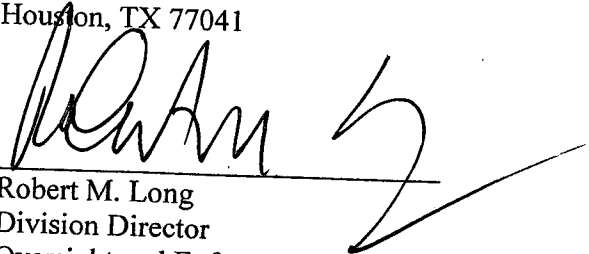
19. EDFTNA warrants that it has read this Agreement carefully, knows the contents thereof, and signs the same as its free act.

EXECUTED by the Parties by their authorized representatives designated below.



Eric Dennison
EDF Trading North America, LLC
Sr. Vice President, General Counsel and Secretary
4700 W. Sam Houston Parkway North
Suite 250
Houston, TX 77041

Date: Oct. 15, 2014



Robert M. Long
Division Director
Oversight and Enforcement Division
Public Utility Commission of Texas

Date: Oct 15 2014

DOCKET NO.

AGREED NOTICE OF VIOLATION
AND SETTLEMENT AGREEMENT
RELATING TO EDF TRADING NORTH
AMERICA, LLC's VIOLATION OF
PURA § 39.151(j), P.U.C. SUBST. R.
§ 25.503(f)(2), AND ERCOT
PROTOCOLS §§ 3.9.1(2), RELATED TO
CURRENT OPERATING PLAN
CRITERIA AND 8.1.1.4.3(b),
RELATED TO NON-SPINNING
RESERVE SERVICE ENERGY
DEPLOYMENT CRITERIA

§
§
§
§
§
§
§
§
§
§
§
§

PUBLIC UTILITY COMMISSION
OF TEXAS

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 EDFTNA Trading North America, LLC (EDFTNA) (collectively, Parties) regarding Commission Staff's investigation of EDFTNA for violation of PURA¹ § 39.151(j) and P.U.C. SUBST. R. 25.503(f)(2), concerning failure to adhere to Electric Reliability Council of Texas (ERCOT) Protocols §§ 3.9.1(2), related to current operating plan criteria (COP) and 8.1.1.4.3(b), related to non-spinning reserve service (NSRS) energy deployment criteria.² The Agreement resolves all issues in this docket. Commission Staff recommended an administrative penalty of Fifty-Seven Thousand Dollars (\$57,000), which EDFTNA agreed to pay. The Agreement is approved.

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

I. Findings of Fact

1. EDFTNA is an authorized Qualified Scheduling Entity (QSE), as defined by ERCOT Protocols § 2.1.
2. The performance criteria in ERCOT Protocols § 3.9.1(2) states that each QSE must submit a revised COP reflecting changes in resources availability as soon as reasonably practicable, but in no event later than 60 minutes after the event that caused the change.

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

² The NSRS provisions in Sections 8 of the ERCOT Nodal Protocols have been amended. All reference to ERCOT protocols are to the ERCOT Nodal Protocols effective May 11, 2013.

3. NSRS is an ancillary service that provides additional generating capacity in the event that scheduled electricity generation in the ERCOT region is inadequate to meet demand. Scheduled generation may be inadequate for reasons such as unexpected generating unit trips or weather-related increases in demand relative to forecast levels.
4. Commission Staff reviewed Texas Reliability Entity, Inc.'s ERCOT Protocols compliance audit of the Qualified Scheduling Entities affiliated with EDFTNA and determined there were seven instances of EDFTNA failing to update a COP after a forced outage and eleven instances of COP submissions (following a Forced Outage) where the incorrect Resource Status Code was utilized.
5. On May 11, 2013, ERCOT experienced a congestion issue and deployed NSRS deployment instructions to EDFTNA for the resource Laredo Unit G4 (LARDVFTN_G4). LARDVFTN_G4 was deployed at 13:49:40 and was obligated to provide 96 MW of NSRS. At this time, EDFTNA was the authorized QSE for the generation resource LARDVFTN_G4.
6. Commission Staff alleges that LARDVFTN_G4 did not reach its Low Sustained Limit (LSL) within 25 minutes, as required by ERCOT Protocols § 8.1.1.4.3(3)(b). LARDVFTN_G4 was 41 minutes late in meeting the deployment.
7. On or about May 12, 2014, EDFTNA 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. EDFTNA fully cooperated with Commission Staff's investigation.
9. EDFTNA acknowledges the alleged violations detailed in this Order.
10. EDFTNA participated in one or more settlement discussions with Commission Staff to resolve this matter.
11. On October 10, 2014, the Parties entered into the Agreement resolving the alleged violations. Commission Staff recommended, and EDFTNA agreed to pay, an administrative penalty of Fifty-Seven Thousand Dollars (\$57,000).
12. The Agreement provides for a reasonable resolution of this dispute.

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(d).
2. EDFTNA 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 § 3.9.1(2) related to COP, "[e]ach QSE that represents a Resource shall update its COP reflecting changes in availability of any Resource as soon as reasonably practicable, but in no event later than 60 minutes after the event that caused the change."
4. EDFTNA failed to update its COP after seven forced outages and failed to apply the correct Resource Status Code to its COP submissions after a further eleven forced outages. Therefore, EDFTNA violated PURA § 39.151(j) and the requirements of P.U.C. SUBST. R. 25.503(f)(2).
5. Pursuant to ERCOT Protocols § 8.1.1.4.3(3)(b), a resource must have a resource status indicating that it is on-line with an EOC and the telemetered generation must be greater than or equal to the resource's telemetered LSL within 25 minutes following an ERCOT NSRS deployment instruction.
6. EDFTNA failed to meet the performance criteria of ERCOT Protocols § 8.1.1.4.3(3)(b) on May 11, 2013. Therefore, EDFTNA violated PURA § 39.151(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. This docket was processed in accordance with applicable statutes and Commission rules.
10. 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. EDFTNA shall pay an administrative penalty to the Commission in the amount of Fifty-Seven Thousand Dollars (\$57,000). EDFTNA 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. EDFTNA 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 here.
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 or methodology 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 the _____ day of October 2014.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY D. MARTY, COMMISSIONER