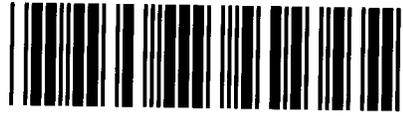




Control Number: 44811



Item Number: 1

Addendum StartPage: 0

44811

DOCKET NO. \_\_\_\_\_

AGREED NOTICE OF VIOLATION §  
AND SETTLEMENT AGREEMENT §  
RELATING TO TENASKA GATEWAY §  
PARTNERS, LTD'S VIOLATION OF §  
PURA § 39.151(j); P.U.C. SUBST. R. §  
25.503(f)(2); ERCOT PROTOCOLS §  
§ 8.5.1.1 AND ERCOT OPERATING §  
GUIDE §§ 2.2.8 AND 2.3.1.2, §  
RELATING TO PRIMARY §  
FREQUENCY RESPONSE §

PUBLIC UTILITY COMMISSION  
OF TEXAS

2015 JUN -5 PM 3:34  
PUBLIC UTILITY COMMISSION  
FILING CLERK

**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:

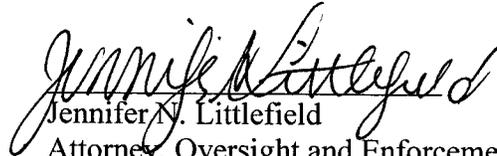
Commission Staff and Tenaska Gateway Partners, LTD, (Tenaska) (together, Parties) have entered into a Settlement Agreement and Report to Commission (Agreement). The Agreement, attached to this motion, has been signed by representatives of both parties and includes a Proposed Order. This Agreement resolves and concludes Commission Staff's investigation of Tenaska and its Generation Resource TGCCS\_CC1 for violations of PURA<sup>1</sup> § 39.151(j); P.U.C. SUBST. R. 25.503(f)(2), concerning failure to adhere to Electric Reliability Council of Texas (ERCOT) Protocols § 8.5.1.1 and ERCOT Operating Guide §§ 2.2.8 and 2.3.1.2, relating to primary frequency response (PFR).

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

<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-66.016 (West 2007 & Supp. 2014) (PURA).

Respectfully Submitted,

Robert M. Long  
Division Director  
Oversight and Enforcement Division



Jennifer N. Littlefield  
Attorney, Oversight and Enforcement Division  
State Bar No. 24074604  
(512) 936-7268  
(512) 936-7208 (facsimile)  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
jennifer.littlefield@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 5<sup>th</sup> of June, 2015 in accordance with 16 Tex. Admin. Code § 22.74 (TAC).



Jennifer Littlefield

DOCKET NO. \_\_\_\_\_

AGREED NOTICE OF VIOLATION	§	
AND SETTLEMENT AGREEMENT	§	
RELATING TO TENASKA GATEWAY	§	
PARTNERS, LTD'S VIOLATION OF	§	
PURA § 39.151(j); P.U.C. SUBST. R.	§	PUBLIC UTILITY COMMISSION
25.503(f)(2); ERCOT PROTOCOLS	§	
§ 8.5.1.1 AND ERCOT OPERATING	§	OF TEXAS
GUIDE §§ 2.2.8 AND 2.3.1.2, RELATING	§	
TO PRIMARY FREQUENCY	§	
RESPONSE	§	

**SETTLEMENT AGREEMENT AND REPORT TO COMMISSION**

Staff of the Public Utility Commission of Texas (Commission or PUC) and Tenaska Gateway Partners, LTD, (Tenaska) (collectively, Parties) enter into this Settlement Agreement and Report to Commission (Agreement). This Agreement resolves and concludes Commission Staff's investigation of Tenaska and its Generation Resource TGCCS\_CC1 for violations of Section 39.151(j) of the Public Utility Regulatory Act<sup>1</sup> (PURA); P.U.C. SUBST. R. 25.503(f)(2), concerning failure to adhere to Electric Reliability Council of Texas (ERCOT) Protocols § 8.5.1.1 and ERCOT Operating Guide §§ 2.2.8 and 2.3.1.2, relating to primary frequency response (PFR).

**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. Tenaska is the Resource Entity (RE) that represents the Generation Resource TGCCS\_CC1.
4. In the summer of 2012, the Texas Reliability Entity (TRE) initiated a broad compliance review of PFR performance data provided by ERCOT. TRE studied nine months of data for market participants providing PFR beginning with October 2011 and ending with June 2012 (the TRE Study Period).

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<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-66.016 (West 2007 & Supp. 2014) (PURA).

5. PFR is a reliability tool used by ERCOT to ensure that the electrical grid is operating at the required system-wide target frequency of 60 Hz.
6. PFR is the initial reliability tool used by ERCOT during a frequency event. PFR occurs automatically and immediately through the use of a governor mechanism, often in the first 12 to 14 seconds following a measurable frequency event.
7. Measurable frequency events are determined by the ERCOT Performance Disturbance Compliance Working Group pursuant to ERCOT Operating Guide § 2.2.8.
8. Pursuant to ERCOT Protocols § 8.5.1.1, “[a]ll Generation Resources that have capacity available to either increase output or decrease output in Real-Time must provide [PFR].”<sup>2</sup>
9. If a Generation Resource is providing ancillary services, including Responsive Reserve Service (RRS), that Generation Resource must reserve capacity that may be used to provide PFR.<sup>3</sup> For Generation Resources providing RRS, ERCOT Protocols § 8.1.1.4.2(2) states that “[s]atisfactory performance must be measured by comparing actual [PFR] to the expected [PFR] as required in the Operating Guides.”
10. The Generation Resource TGCCS\_CC1 failed to provide adequate PFR during 8 of 25 measureable events during the TRE Study Period, including 6 failures while providing RRS.
11. Tenaska has modified its operations to prevent future PFR noncompliance.
12. Commission Staff recommends, and Tenaska agrees to pay, an administrative penalty of Thirty Seven Thousand Dollars (\$37,000) in full and final settlement of the alleged violations described in the attached Proposed Order.
13. This Agreement resolves all claims related to Tenaska’s obligations pursuant to PURA § 39.151(j); P.U.C. SUBST. R. §25.503(f)(2), concerning failure to adhere to ERCOT Protocols § 8.5.1.1 and ERCOT Operating Guide §§ 2.2.8 and 2.3.1.2, relating to primary frequency response.
14. Unless specifically provided for in this Agreement, Tenaska waives any notice and procedures that might otherwise be authorized or required in this proceeding.

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<sup>2</sup> Additionally, ERCOT Operating Guide § 2.2.8 states that “all generators (except nuclear and wind) must respond to frequency disturbances...unless limited by a High Sustained Limit (HSL) or other limits filed with ERCOT including duct burning on combined-cycle units.”

<sup>3</sup> ERCOT Protocols § 8.5.1.1.

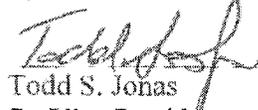
15. Nothing in this Agreement shall limit Commission Staff's ability to perform its enforcement functions as set forth in PURA and the Commission's rules.
16. A Party's support of the resolution of this docket in accordance with this Agreement may differ from its position or testimony regarding contested 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. Tenaska 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.

**TENASKA GATEWAY PARTNERS, LTD.**

By: Tenaska VII Partners, L.P., Its Managing General Partner

By: Tenaska VII, Inc., Its General Partner



Todd S. Jonas

Sr. Vice President

14302 FNB Parkway

Omaha, NE 68154

Date: 6/5/15



Jennifer Littlefield

Attorney

Oversight and Enforcement Division

Public Utility Commission of Texas

Date: 6/5/15

DOCKET NO. \_\_\_\_\_

AGREED NOTICE OF VIOLATION	§	PUBLIC UTILITY COMMISSION
AND SETTLEMENT AGREEMENT	§	
RELATING TO TENASKA GATEWAY	§	OF TEXAS
PARTNERS, LTD'S VIOLATION OF	§	
PURA § 39.151(j); P.U.C. SUBST. R.	§	
25.503(f)(2); ERCOT PROTOCOLS	§	
§ 8.5.1.1 AND ERCOT OPERATING	§	
GUIDE §§ 2.2.8 AND 2.3.1.2, RELATING	§	
TO PRIMARY FREQUENCY	§	

**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 Tenaska Gateway Partners, LTD, (Tenaska) (collectively, Parties) regarding Commission Staff's investigation of Tenaska and the Generation Resource TGCCS\_CC1 for violation of PURA<sup>1</sup> § 39.151(j); P.U.C. SUBST. R. 25.503(f)(2), concerning failure to adhere to Electric Reliability Council of Texas (ERCOT) Protocols § 8.5.1.1 and ERCOT Operating Guide §§ 2.2.8 and 2.3.1.2, relating to primary frequency response. The Agreement resolves all issues in this docket. Commission Staff recommended an administrative penalty of Thirty Seven Thousand Dollars (\$37,000), which Tenaska agreed to pay. The Agreement is approved.

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

**I. Findings of Fact**

1. Tenaska is an authorized Resource Entity (RE), as defined by ERCOT Protocols § 2.1.
2. TGCCS\_CC1 is an authorized All-Inclusive Generation Resource and a Generation Resource, as defined by ERCOT Protocols § 2.1.
3. Tenaska is the RE for Generation Resource TGCCS\_CC1.
4. In the summer of 2012, the Texas Reliability Entity (TRE) initiated a review of Primary Frequency Response (PFR) performance data provided by ERCOT. TRE studied nine months of data beginning with October 2011 and ending with June 2012 (the TRE Study Period).

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<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-66.016 (West 2007 & Supp. 2014) (PURA).

5. PFR is a reliability tool used by ERCOT to ensure that the electrical grid is operating at the required system-wide target frequency of 60 Hz.
6. PFR is the initial reliability tool used by ERCOT during a frequency event. PFR occurs automatically and immediately through the use of a governor mechanism, often in the first 12 to 14 seconds following a measurable frequency event.
7. The Generation Resource TGCCS\_CC1 failed to provide adequate PFR during 8 of 25 measureable events during the TRE Study Period, including 6 failures while providing Responsive Reserve Service (RRS).
8. On or about January 15, 2015, Tenaska 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.
9. Tenaska fully cooperated with Commission Staff's investigation.
10. Tenaska acknowledges the alleged violations detailed in this Order.
11. Tenaska participated in one or more settlement discussions with Commission Staff to resolve this matter.
12. On June 5, 2015, the Parties entered into the Agreement resolving the alleged violations. Commission Staff recommended, and Tenaska agreed to pay, an administrative penalty of Thirty Seven Thousand Dollars (\$37,000).
13. 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(j).
2. Tenaska 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. At all times an All-Inclusive Generation Resource is On-Line, its Governor must remain in service and be allowed to respond to all changes in system frequency except during startup, shutdown, or testing.<sup>2</sup>

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<sup>2</sup> ERCOT Protocols § 8.5.1.1.

4. All Generation Resources that have capacity available to either increase output or decrease output in Real-Time must provide PFR, which may make use of that available capacity.<sup>3</sup>
5. Only Generation Resources providing Regulation Up (Reg-Up), Regulation Down (Reg-Down), Responsive Reserve (RRS), or Non-Spinning Reserve (Non-Spin) from On-Line Resources, as specified in [ERCOT Protocols §] 8.1.1, QSE Ancillary Service Performance Standards, shall be required to reserve capacity that may also be used to provide PFR.<sup>4</sup>
6. For Generation Resources providing RRS, ERCOT Protocols § 8.1.1.4.2(2) states that “[s]atisfactory performance must be measured by comparing actual [PFR] to the expected [PFR] as required in the [ERCOT] Operating Guides.”
7. TGCCS\_CC1 failed to provide adequate PFR during 8 of the 25 measureable events in TRE’s Study Period. In 6 of the 8 failed measurable frequency events, TGCCS\_CC1 was providing RRS, and was therefore required to reserve capacity to provide PFR. Therefore, TGCCS\_CC1 violated PURA § 39.151(j) and P.U.C. SUBST. R. 25.503(f)(2) by failing to meet the requirements of ERCOT Protocols § 8.5.1.1 and ERCOT Operating Guide §§ 2.2.8 and 2.3.1.2.
8. 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.
9. The Agreement is a report of settlement to the Commission as required by P.U.C. PROC. R. 22.246(g).
10. This docket was processed in accordance with applicable statutes and Commission rules.
11. 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:

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

1. The Agreement, attached to this Order as Attachment 1, is approved, and the Parties shall be bound by its terms.
2. Tenaska shall pay an administrative penalty to the Commission in the amount of Thirty Seven Thousand Dollars (\$37,000). Tenaska 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 or by Electric Funds Transfer and shall reference this docket. When paying by check, 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. Tenaska 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 \_\_\_\_\_, 2015.

**PUBLIC UTILITY COMMISSION OF TEXAS**

\_\_\_\_\_  
**DONNA L. NELSON, CHAIRMAN**

\_\_\_\_\_  
**KENNETH W. ANDERSON, JR., COMMISSIONER**

\_\_\_\_\_  
**BRANDY MARTY MARQUEZ, COMMISSIONER**