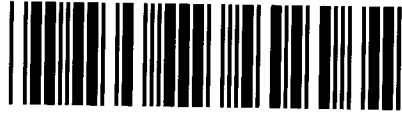




Control Number: 45024



Item Number: 5

Addendum StartPage: 0

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AGREED NOTICE OF VIOLATION §  
AND SETTLEMENT AGREEMENT §  
RELATING TO EIF CHANNELVIEW §  
COGENERATION, LLC'S VIOLATION §  
OF PURA § 39.151(j); 16 TAC §  
§ 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

**ORDER**

Pursuant to 16 Tex. Admin. Code § 22.246(g)(1)(C) (TAC), this Order approves the Settlement Agreement and Report to Commission (Agreement) between the Staff of the Public Utility Commission of Texas (Commission) and EIF Channelview Cogeneration, LLC f/k/a GIM Channelview Cogeneration, LLC (Channelview), (collectively, Parties) regarding Commission Staff's investigation of Channelview and the Generation Resource CVC\_CC1 for violation of PURA<sup>1</sup> § 39.151(j); 16 TAC § 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 \$83,000, which Channelview agreed to pay. The Agreement is approved.

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

**I. Findings of Fact**

1. Channelview is an authorized Resource Entity (RE), as defined by ERCOT Protocols § 2.1.
2. CVC CC1 is a Generation Resource, as defined by ERCOT Protocols § 2.1.
3. Channelview is the RE for Generation Resource CVC\_CC1.

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

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). At all times during the TRE Study Period Channelview operated under prior ownership and management.
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 CVC\_CCI failed to provide adequate PFR during 14 of 27 measureable events during the TRE Study Period. Thirteen failures occurred while CVC\_CC1 was providing Responsive Reserve Service (RRS) and was therefore required to reserve capacity to provide PFR.
8. On or about October 30, 2014, Channelview 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. Channelview fully cooperated with Commission Staff's investigation.
10. Channelview acknowledges the alleged violations detailed in this Order.
11. Channelview participated in one or more settlement discussions with Commission Staff to resolve this matter.
12. On August 5, 2015, the Parties entered into the Agreement resolving the alleged violations. Commission Staff recommended, and Channelview agreed to pay, an administrative penalty of \$83,000.
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. Channelview 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>
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 "For all Measurable Events, ERCOT shall use the recorded data for each two-second scan rate value of real power output for each Generation Resource, Controllable Load Resource. ERCOT shall use the recorded MW data beginning one minute before the start of the frequency excursion event until ten minutes after the start of the frequency excursion event. Satisfactory performance must be measured by comparing actual Primary Frequency Response to the expected Primary Frequency Response as required in the Operating Guides."

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

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

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

7. CVC\_CC1 violated PURA § 39.151(j) and 16 TAC § 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. 16 TAC § 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 16 TAC § 22.246(g).
10. This docket was processed in accordance with applicable statutes and Commission rules.
11. The requirements for informal disposition pursuant to 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 order:

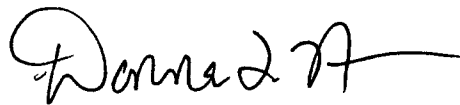
1. The Agreement, provided with this Order as Attachment 1, is approved, and the Parties shall be bound by its terms.
2. Channelview shall pay an administrative penalty to the Commission in the amount of \$83,000. Channelview shall remit payment of the full amount of the administrative penalty on or before 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 electronic 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. Channelview 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 11<sup>th</sup> day of September 2015.

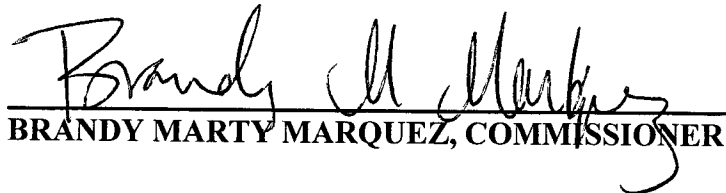
**PUBLIC UTILITY COMMISSION OF TEXAS**



**DONNA L. NELSON, CHAIRMAN**



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



**BRANDY MARTY MARQUEZ, COMMISSIONER**

DOCKET NO. **45024**

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RESPONSE §  
§

PUBLIC UTILITY COMMISSION  
OF TEXAS

**SETTLEMENT AGREEMENT AND REPORT TO COMMISSION**

Staff of the Public Utility Commission of Texas (Commission or PUC) and EIF Channelview Cogeneration, LLC f/k/a GIM Channelview Cogeneration, LLC (Channelview) (collectively, Parties) enter into this Settlement Agreement and Report to Commission (Agreement). This Agreement resolves and concludes Commission Staff's investigation of Channelview and its Generation Resource CVC\_CC1 for violations of Section 39.151(j) of PURA<sup>1</sup>; 16 Tex. Admin. Code § 25.503(f)(2) (TAC), concerning failure to adhere to Electric Reliability Council of Texas (ERCOT) Protocols § 8.5.1.1, relating to governor in service; 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. Channelview is the Resource Entity (RE) that represents the Generation Resource CVC\_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

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

June 2012 (the TRE Study Period). At all times during the TRE Study Period Channelview operated under prior ownership and management.

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, "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. A Generation Entity may not reduce Primary Frequency Response on an individual All-Inclusive Generation Resource even during abnormal conditions without ERCOT's consent [conveyed by way of the Generation Entity's Qualified Scheduling Entity (QSE)] unless equipment damage is imminent. All Generation Resources that have capacity available to either increase output or decrease output in Real-Time must provide Primary Frequency Response, which may make use of that available capacity. 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 Section 8.1.1, QSE Ancillary Service Performance Standards, shall be required to reserve capacity that may also be used to provide Primary Frequency Response."<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>

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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.

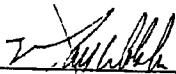


10. For Generation Resources providing RRS, ERCOT Protocols § 8.1.1.4.2(2) states that “For all Measurable Events, ERCOT shall use the recorded data for each two-second scan rate value of real power output for each Generation Resource, Controllable Load Resource. ERCOT shall use the recorded MW data beginning one minute before the start of the frequency excursion event until ten minutes after the start of the frequency excursion event. Satisfactory performance must be measured by comparing actual Primary Frequency Response to the expected Primary Frequency Response as required in the Operating Guides.”
11. The Generation Resource CVC\_CC1 failed to provide adequate PFR during 14 of 27 measureable events during the TRE Study Period. 13 failures occurred while CVC\_CC1 was providing RRS and was therefore required to reserve capacity to provide PFR.
12. In order to prevent future PFR noncompliance, Channelview asserts that it implemented logic and control modifications and deployed site ancillary services operational procedures. From December 2010 to June 2015, Channelview invested nearly \$680,000 in Steam Turbine Controls upgrades, Facility PFR studies, Telemetry enhancements, and Gas Turbine Controls upgrades to improve reliability. Additionally Channelview expects to invest over \$800,000 on future Combustion Turbine controls upgrades by 2017.
13. Commission Staff recommends, and Channelview agrees to pay, an administrative penalty of \$83,000 in full and final settlement of the alleged violations described in the attached Proposed Order.
14. This Agreement resolves all claims related to Channelview’s obligations pursuant to PURA § 39.151(j); 16 TAC § 25.503(f)(2), concerning failure to adhere to ERCOT Protocols § 8.5.1.1, relating to governor in service; and ERCOT Operating Guide §§ 2.2.8 and 2.3.1.2, relating to PFR.
15. Unless specifically provided for in this Agreement, Channelview waives any notice and procedures that might otherwise be authorized or required in this proceeding.
16. Nothing in this Agreement shall limit Commission Staff’s ability to perform its enforcement functions as set forth in PURA and TAC.
17. 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

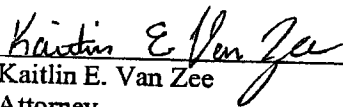
agreement, a Party is under no obligation to take the same position as set out in this Agreement in other proceedings not referenced in this Agreement whether those dockets present the same or a different set of circumstances. The Parties' agreement to entry of a final order of the Commission consistent 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.

18. The Parties contemplate that this Agreement will be approved pursuant to 16 TAC § 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.
19. 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.
20. 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.
21. Channelview 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.

  
\_\_\_\_\_  
Matt Wolske  
EIF Channelview Cogeneration, LLC  
P.O. Box 1639  
Channelview, TX 77530

Date: July 31, 2015

  
\_\_\_\_\_  
Kaitlin E. Van Zee  
Attorney  
Oversight and Enforcement Division  
Public Utility Commission of Texas

Date: August 5, 2016