

Control Number: 45204



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**AGREED NOTICE OF VIOLATION** §  
**AND SETTLEMENT AGREEMENT** §  
**RELATING TO CPS ENERGY'S** §  
**VIOLATION OF PURA § 39.151(j); 16** §  
**TAC § 25.503(f)(2); ERCOT** §  
**PROTOCOLS § 8.5.1.1; ERCOT** §  
**OPERATING GUIDE §§ 2.2.8 AND** §  
**2.3.1.2, RELATING TO PRIMARY** §  
**FREQUENCY RESPONSE** §  
**PERFORMANCE REQUIREMENTS** §

**PUBLIC UTILITY COMMISSION**  
FILED CLERK  
**OF TEXAS**

**ORDER**

Pursuant to 16 Tex. Admin. Code (TAC) § 22.246(g)(1)(C), this Order approves the Settlement Agreement and Report to Commission between the Staff of the Public Utility Commission of Texas (Commission) and CPS Energy (collectively, Parties) regarding Commission Staff's investigation of CPS Energy and the generation resources CALAVERS\_OWS2 and RIONOG\_CC1 for alleged violations of PURA<sup>1</sup> § 39.151(j); 16 TAC § 25.503(f)(2), concerning Electric Reliability Council of Texas (ERCOT) Protocols § 8.5.1.1; and ERCOT Operating Guide §§ 2.2.8 and 2.3.1.2, related to Primary Frequency Response (PFR) performance requirements. The Agreement resolves all issues in this docket. Commission Staff recommended an administrative penalty of Thirty Two Thousand Five Hundred (\$32,500), which CPS Energy agreed to pay. The Agreement is approved.

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

**I. Findings of Fact**

1. CPS Energy is an authorized Resource Entity (RE), as defined by ERCOT Protocols § 2.1.
2. Currently, CPS Energy is the Resource Entity (RE) and Qualified Scheduling Entity (QSE) for the Generation Resources CALAVERS\_OWS2 and RIONOG\_CC1. CPS Energy

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

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- purchased RIONOG\_CC1 in April 2012. Prior to this, the RE and QSE for RIONOG\_CC1 was TPF Generation Holdings, LLC.
3. 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.
  4. 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.
  5. In the summer of 2012, the Texas Reliability Entity (Texas RE) initiated a review of PFR performance data provided by ERCOT. Texas RE studied nine months of data beginning in October 2011 and ending with June 2012 (the Texas RE Study Period).
  6. The Generation Resource CALAVERS\_OWS2 failed to provide adequate PFR during 5 of 8 measurable events during the Texas RE Study Period. In 3 of the 5 failed measurable frequency events, CALAVERS\_OWS2 was providing RRS, and was therefore required to reserve capacity to provide PFR. At the time of the events, CPS Energy reserved adequate capacity; however, the capacity was not immediately frequency responsive which caused CALAVERS\_OWS2 to fail to provide adequate PFR.
  7. The Generation Resource RIONOG\_CC1 failed to provide adequate PFR during 6 of 8 measurable events during the Texas RE Study Period. Only one of these failed events occurred when CPS Energy was the RE. CPS Energy became the RE and QSE for RIONOG\_CC1 in April 2012. Thus, CPS Energy operated the facility during only one of the failed measurable events.
  8. On or about April 8, 2015, CPS Energy 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. CPS Energy fully cooperated with Commission Staff's investigation.
  10. CPS Energy acknowledges the alleged violations detailed in this Order.
  11. CPS Energy participated in one or more settlement discussions with Commission Staff to resolve this matter.

12. At the time of the Texas RE investigation, CPS Energy informed Texas RE of the changes it had implemented. These changes did not significantly improve the PFR performance of the CALAVERS\_OWS2 generation unit.
13. CPS Energy warranted that since the time of the Texas RE study period, CPS Energy engaged original equipment manufacturer (OEM) turbine control and distributed control system (DCS) vendors to perform checks and analysis to identify potential problems.
14. CPS Energy warranted that the OEMs also compared logic and control set-points with other units not experiencing PFR problems.
15. CPS Energy warranted that turbine droop was confirmed and incremental tuning was performed to improve response.
16. CPS Energy warranted that it is working to configure PI reporting to support PFR event analytics and engaged a third party contractor to enhance PFR response through DCS logic changes and to alert operators when an event occurs.
17. On September 29, 2015, the Parties entered into the Agreement resolving the alleged violations. Commission Staff recommended, and CPS Energy agreed to pay, an administrative penalty of Thirty Two Thousand Five Hundred Dollars (\$32,500).
18. 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. CPS Energy 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 when a 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. Pursuant to ERCOT Protocols § 8.5.1.1, "[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."
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 § 8.1.1, QSE Ancillary Service Performance Standards, shall be required to reserve capacity that may also be used to provide PFR.<sup>3</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." Operating Guide § 2.2.8(1) requires Generation Resources to "respond to frequency disturbances with a Governor droop of 5% or less."
7. 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.
8. The Agreement is a report of settlement to the Commission as required by 16 TAC § 22.246(g).
9. This docket was processed in accordance with applicable statutes and Commission rules.
10. The requirements for informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.

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

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

### 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. CPS Energy shall pay an administrative penalty to the Commission in the amount of Thirty Two Thousand Five Hundred Dollars (\$32,500). CPS Energy 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 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. CPS Energy shall file an affidavit of payment in this docket no later than five calendar days after the payment is made.
4. This Order resolves all claims related to CPS Energy'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 and ERCOT Operating Guide §§ 2.2.8 and 2.3.1.2, relating specifically to primary frequency response for all CPS Energy generation units from 2011 until September 15, 2015.
5. The Commission shall not be constrained in any manner from requiring additional action or penalties for violations that are not raised here.
6. 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.


7. 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 6<sup>th</sup> day of November 2015.

**PUBLIC UTILITY COMMISSION OF TEXAS**

  
DONNA L. NELSON, CHAIRMAN

  
KENNETH W. ANDERSON, JR., COMMISSIONER

  
BRANDY MARTY MARQUEZ, COMMISSIONER

DOCKET NO. 45204

AGREED NOTICE OF VIOLATION	§	
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RELATING TO CPS ENERGY'S	§	
VIOLATION OF PURA § 39.151(j); 16	§	
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2.3.1.2, RELATING TO PRIMARY	§	
FREQUENCY RESPONSE	§	
PERFORMANCE REQUIREMENTS.	§	

**SETTLEMENT AGREEMENT AND REPORT TO COMMISSION**

Staff of the Public Utility Commission of Texas (Commission or PUC) and CPS Energy (collectively, Parties) enter into this Settlement Agreement and Report to Commission (Agreement). This Agreement resolves and concludes Commission Staff's investigation of CPS Energy and its generation resources OW Sommers Unit 2 (CALAVERS\_OWS2) and Rio Nogales (RIONOG\_CC1) for alleged violations of § 39.151(j) of the Public Utility Regulatory Act<sup>1</sup> (PURA); 16 Tex. Admin. Code (TAC) § 25.503(f)(2), concerning Electric Reliability Council of Texas (ERCOT) Protocols § 8.5.1.1 and ERCOT Operating Guide §§ 2.2.8 and 2.3.1.2, related to primary frequency response (PFR) performance requirements.

**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. The Commission has jurisdiction over the Parties to this proceeding and the subject matter of this Agreement.
3. Currently, CPS Energy is the Resource Entity (RE) and Qualified Scheduling Entity (QSE) for the Generation Resources<sup>2</sup> CALAVERS\_OWS2 and RIONOG\_CC1. CPS Energy purchased RIONOG\_CC1 in April 2012. Prior to this, the RE and QSE was TPF Generation Holdings, LLC.

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

<sup>2</sup> A Generation Resource is defined in ERCOT Nodal Protocols Section 2: Definitions and Acronyms.



4. In the summer of 2012, the Texas Reliability Entity (Texas RE) initiated a review of PFR performance data provided by ERCOT. Texas RE studied nine months of data beginning in October 2011 and ending in June 2012 (the Texas RE Study Period).
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. 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], which may make use of that available capacity.”<sup>3</sup>
8. 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>4</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.”
9. The ERCOT Operating Guides require Generation Resources providing PFR to “respond to frequency disturbances with a Governor droop of 5% or less.”<sup>5</sup>
10. The Generation Resource CALAVERS\_OWS2 failed to provide adequate PFR during 5 of 8 measurable events during the Texas RE Study Period. In 3 of the 5 failed measurable frequency events, CALAVERS\_OWS2 was providing RRS, and was therefore required to reserve capacity to provide PFR. At the time of the RRS events, CPS Energy reserved adequate capacity; however, the capacity was not immediately frequency responsive which caused CALAVERS\_OWS2 to fail to provide adequate PFR. Therefore, Staff alleges CALAVERS\_OWS2 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.

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<sup>3</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.”

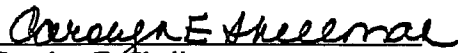
<sup>4</sup> ERCOT Protocols § 8.5.1.1.

<sup>5</sup> ERCOT Operating Guides § 2.2.8(1).

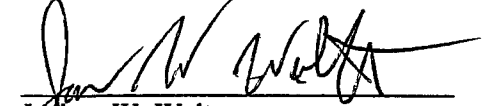
11. The Generation Resource RIONOG\_CC1 failed to provide adequate PFR during 6 of 8 measurable events during the Texas RE Study Period. Therefore, Staff alleges RIONOG\_CC1 violated PURA § 39.151(j) and 16 TAC § 25.503(f)(2) by failing to meet the requirements of ERCOT Protocols § 8.5.1.1 and ERCOT Operating Guide §§ 2.2.8. As referenced above, CPS Energy became the RE and QSE for RIONOG\_CC1 in April 2012. Thus, CPS Energy operated the facility during only one of the failed measurable events.
12. At the time of the Texas RE investigation, CPS Energy notified Texas RE of the changes it had implemented. These changes did not significantly improve the PFR performance of the CALAVERS\_OWS2 generation unit.
13. CPS Energy warrants the following:
  - a. Since the time of the Texas RE study period, CPS Energy has engaged original equipment manufacturer (OEM) turbine control and distributed control system (DCS) vendors to perform checks and analysis to identify potential problems.
  - b. The OEMs have also compared logic and control set-points with other units not experiencing PFR problems.
  - c. Turbine droop has been confirmed and incremental tuning has been performed to improve response.
  - d. CPS Energy has been working to configure PI reporting to support PFR event analytics, and has engaged a third party contractor to enhance PFR response through DCS logic changes and to alert operators when an event occurs.
14. Commission Staff recommends, and CPS Energy agrees to pay, an administrative penalty of Thirty Two Thousand Five Hundred Dollars (\$32,500) in full and final settlement of the alleged violations described in the attached Proposed Order.
15. This Agreement resolves all claims related to CPS Energy'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 and ERCOT Operating Guide §§ 2.2.8 and 2.3.1.2, relating specifically to primary frequency response for all CPS Energy generation units from 2011 until September 15, 2015.
16. Unless specifically provided for in this Agreement, CPS Energy waives any notice and procedures that might otherwise be authorized or required in this proceeding.

17. 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.
18. 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.
19. 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.
20. 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.
21. 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.
22. CPS Energy 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.

  
\_\_\_\_\_  
Carolyn E. Shellman  
CPS Energy  
Executive Vice President & General Counsel  
145 Navarro  
Mail Drop #101012  
San Antonio, TX 78205

Date: 9/28/15

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

Date: 9/29/15