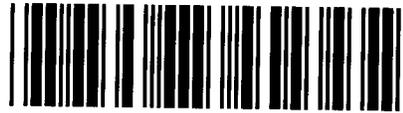


Control Number: 45340



Item Number: 1

Addendum StartPage: 0

DOCKET NO. **45340**

**AGREED NOTICE OF VIOLATION  
AND SETTLEMENT AGREEMENT  
RELATING TO EL PASO ELECTRIC  
COMPANY'S VIOLATION OF PURA  
§ 38.005 AND 16 TAC § 25.52,  
CONCERNING RELIABILITY AND  
CONTINUITY OF SERVICE**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

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**SETTLEMENT AGREEMENT AND REPORT TO COMMISSION**

Staff of the Public Utility Commission of Texas (Commission) and El Paso Electric Company (EPE) (together, Parties) enter into this Settlement Agreement and Report to Commission (Agreement). This Agreement resolves and concludes the investigation of EPE for violation of PURA<sup>1</sup> § 38.005 and 16 TAC § 25.52, concerning reliability and continuity of service for reporting year 2014.

**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. Commission Staff recommended, and EPE agrees to pay, an administrative penalty of \$6,000 for EPE's violations described in the attached Proposed Order.
3. EPE agrees to make efforts to improve the performance and reliability of all of its feeders. In particular, those efforts will focus on feeders that have violated service quality and reliability standards for three or more consecutive years and maintaining the system-wide standards required by 16 TAC § 25.52 (g)(1)(A) and (B).
4. This Agreement resolves all claims related to EPE's obligations pursuant to PURA § 38.005 and 16 TAC § 25.52 concerning reliability and continuity of service for reporting year 2014.
5. Unless specifically provided for in this Agreement, EPE waives any notice and procedures that might otherwise be authorized or required in this proceeding.

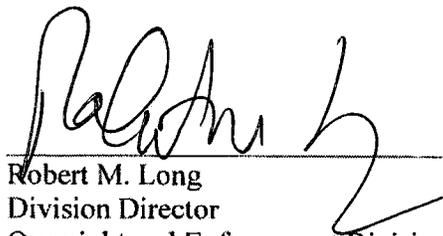
<sup>1</sup> Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (Vernon 2007 & Supp. 2014) (PURA).

6. Nothing in this Agreement shall limit the Commission Staff's ability to perform its enforcement functions as set forth in PURA and the Commission's rules.
7. 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.
8. 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.
9. This Agreement is the final and entire agreement between the Parties regarding the alleged violations related to reliability and continuity of service for the year 2014 and supersedes all other communications among the Parties or their representatives regarding its terms.
10. 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.
11. EPE 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.

  
James Schichtl  
Director of Regulatory Affairs  
EPE  
100 N. Stanton  
El Paso, Texas, 79960

Date: 11/13/15

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

Date: 11/13/15

**ATTACHMENT**

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

<b>AGREED NOTICE OF VIOLATION</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>AND SETTLEMENT AGREEMENT</b>	<b>§</b>	
<b>RELATING TO EL PASO ELECTRIC</b>	<b>§</b>	<b>OF TEXAS</b>
<b>COMPANY'S VIOLATION OF PURA</b>	<b>§</b>	
<b>§ 38.005 AND 16 TAC § 25.52,</b>	<b>§</b>	
<b>CONCERNING RELIABILITY AND</b>	<b>§</b>	
<b>CONTINUITY OF SERVICE</b>	<b>§</b>	
	<b>§</b>	

**PROPOSED ORDER**

Pursuant to 16 TAC § 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 Texas-New Mexico Power Company (EPE) (together, Parties) regarding Commission Staff's investigation of EPE for violation of PURA<sup>1</sup> § 38.005 and 16 TAC § 25.52, concerning reliability and continuity of service. This docket was processed in accordance with applicable statutes and Commission rules. The Agreement resolves all issues in this docket. Commission Staff recommended an administrative penalty of \$6,000. EPE 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. EPE is a transmission and distribution utility as defined in PURA § 31.002(19).
2. For reporting year 2014 EPE reported its annual System Average Interruption Frequency Index (SAIFI) value was more than 10% above the system-wide standard.
3. For reporting year 2014, EPE reported the following per feeder violations with a value more than 300% greater than the system average:

<sup>1</sup> Public Utility Regulatory Act, TEX. UTIL CODE ANN. §§ 11.001-66.016 (Vernon 2007 & Supp. 2014) (PURA)

- One SAIDI feeder in violation of the rule for the first year; and
  - One SAIFI feeder in violation of the rule for the first year.
4. On or about August 12, 2015, EPE 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.
  5. EPE fully cooperated with Commission Staff's investigation.
  6. EPE acknowledges the violations detailed in this Order.
  7. EPE participated in one or more settlement discussions with Commission Staff to resolve this matter.
  8. On November 13, 2015, the Parties entered into the Agreement resolving the violations. Commission Staff recommended, and EPE agreed to pay, an administrative penalty of \$6000.
  9. The Agreement provides for a reasonable resolution of this dispute.
  10. 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 38.005.
2. EPE is a transmission and distribution utility for purposes of PURA §§ 31.002(19) and 38.005, and 16 TAC § 25.52.
3. As a transmission and distribution utility, EPE is required to comply with the service quality and reliability standards established by PURA § 38.005, and 16 TAC § 25.52.
4. EPE 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.
5. PURA § 38.005(a) provides that "the commission shall implement service quality and reliability standards relating to the delivery of electricity to retail customers by electric utilities and transmission and distribution utilities." Subsection (a) goes on to require the

Commission to, by rule, “develop reliability standards, including: (1) SAIFI; (2) SAIDI; (3) achievement of average response time for customer service requests or inquiries; or (4) other standards that the commission finds reasonable and appropriate.”

6. Pursuant to this legislative mandate, the Commission implemented the reliability standards found in 16 TAC § 25.52. 16 TAC § 25.52(g)(1) requires each utility to maintain and operate its distribution system so that its system-wide SAIDI and SAIFI averages do not exceed the standard by more than 5%.
7. 16 TAC § 25.52(g)(2) requires each utility to maintain and operate its distribution system so that no distribution feeder with more than 10 customers sustains a SAIDI or SAIFI value for a reporting year that is more than 300% greater than the system average of all feeders during any two consecutive reporting years.
8. EPE violated PURA § 38.005 and the requirements of 16 TAC § 25.52 for reporting year 2014.
9. 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.
10. The Agreement is a report of settlement to the Commission as required by 16 TAC § 22.246(g).
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, attached to this Order as Attachment 1, is approved, and the Parties shall be bound by its terms.
2. EPE shall pay an administrative penalty to the Commission in the amount of \$6,000. EPE 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 electronic funds transfer or 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. EPE shall file an affidavit of payment in this docket no later than five calendar days after the payment is made.
4. EPE agrees to make efforts to improve the performance and reliability of all of its feeders. In particular, those efforts will focus on feeders that have violated service quality and reliability standards for three or more consecutive years and maintaining the system-wide standards required by 16 TAC § 25.52 (g)(1)(A) and (B).
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. Neither should the entry of an order consistent with the Agreement be regarded as a binding, holding or precedent as to the appropriateness of any principle 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 on the \_\_\_\_ day of \_\_\_\_\_.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**DONNA L. NELSON, CHAIRMAN**

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

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**BRANDY MARTY MARQUEZ, COMMISSIONER**