

Control Number: 46377



Item Number: 1

Addendum StartPage: 0

DOCKET NO. **46377**

RECEIVED  
2016 SEP 19 PM 3:26  
PUBLIC UTILITY COMMISSION  
FILING CLERK

**AGREED NOTICE OF VIOLATION** §  
**AND SETTLEMENT AGREEMENT** §  
**RELATING TO VIOLATION BY** §  
**LUMINANT ENERGY COMPANY LLC** §  
**OF PURA § 39.151(j) AND 16 TAC** §  
**§ 25.503(f)(2), CONCERNING** §  
**COMPLIANCE WITH ERCOT** §  
**PROTOCOLS § 8.1.1.2.1.4 AND** §  
**OPERATING GUIDE § 3.3.2.2,** §  
**RELATING TO REACTIVE** §  
**CAPABILITY TESTING** §

**BEFORE THE**  
**PUBLIC UTILITY COMMISSION**  
**OF TEXAS**

**SETTLEMENT AGREEMENT AND REPORT TO THE COMMISSION**

Staff of the Public Utility Commission of Texas (Commission) and Luminant Energy Company LLC (Luminant), a Qualified Scheduling Entity (QSE) in the Electric Reliability Council of Texas (ERCOT), (together, Parties) enter into this Settlement Agreement and Report to the Commission (Agreement). This Agreement resolves and concludes Commission Staff's investigation of Luminant for alleged violations of Section 39.151(j) of the Public Utility Regulatory Act<sup>1</sup> (PURA) and 16 Tex. Admin. Code (TAC) § 25.503(f)(2), concerning compliance with ERCOT Protocols § 8.1.1.2.1.4 and Operating Guide § 3.3.2.2, relating to maximum leading reactive capability testing.

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 this matter pursuant to PURA §§ 14.001, 14.002, 14.003, 14.051, 15.023, 15.024, and 39.151(j).
3. Commission Staff recommends and Luminant agrees to pay an administrative penalty of Thirty-five Thousand dollars (\$35,000.00) for the alleged violations described in the attached Proposed Order.

<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-58.303 (West 2016), §§ 59.001-66.017 (West 2007 & Supp. 2016) (PURA).

1934

4. Luminant is the QSE for the Resource Entity (RE) Luminant Generation Company LLC (Luminant Generation).
5. Luminant Generation is the RE for the Black Start Generation Resource units identified as MGSES\_CT4 (Morgan Creek) and SCSES\_UNIT1A (Stryker Creek).
6. ERCOT Protocols § 8.1.1.2.1.4(2) requires REs to “conduct reactive capacity qualification tests to verify the maximum leading and lagging reactive capability of all Generation Resources required to provide [Voltage Support Service (VSS)].” Under this section, tests must be “performed on initial qualification and at a minimum of once every two years[,]” but an RE “is not obligated to place Generation Resources On-Line solely for the purposes of testing.”
7. ERCOT Protocols § 8.1.1.2.1.4(4) requires that the “[m]aximum leading power factor reactive operating limit must be demonstrated during light Load conditions, with the Generation Resource operating at a typical output for that condition, or the normal expected output level for solid fuel Generation Resources during light Load conditions, insofar as system voltage conditions and other factors will allow.”
8. ERCOT Operating Guide § 3.3.2.2(6) states that “ERCOT shall have the option to waive the requirement to test and verify the maximum leading reactive capability of any Generation Resource that seldom runs during such light Load periods[,]” and said waiver shall be effective for two years.
9. Under ERCOT Operating Guide § 3.3.2.2(5) & (8), the QSE is the entity responsible for scheduling maximum leading reactive capability tests for its REs and timely and accurately reporting the results of such testing to ERCOT.
10. Luminant did not submit maximum leading reactive capability test results for Morgan Creek or Stryker Creek within two years following Luminant’s submission of each unit’s respective most recent test results.
11. Luminant submitted a maximum leading reactive capability test result for Morgan Creek on October 26, 2013 and again on January 27, 2016 (93 days late) and for Stryker Creek on January 23, 2014 and again on February 26, 2016 (34 days late).

12. Luminant and Staff disagree over whether Luminant violated the Protocols or Operating Guide requirements relating to maximum leading reactive capability tests with respect to Morgan Creek or Stryker Creek.
13. Luminant contends that it did not violate the Protocols or Operating Guides by failing to conduct tests on Morgan Creek and Stryker Creek within a two-year period for the following reasons:
  - a. Luminant generally conducts maximum leading reactive capability tests within the last six months of the two-year testing window, which it considers to be a reasonable application of the testing requirements because this practice ensures that tests are not conducted too closely together in time.
  - b. Luminant contends that a successful maximum leading reactive capability test for these particular units requires that a companion unit be On-Line at the same time (i.e., an additional unit at each of Morgan Creek's and Stryker Creek's respective facilities).
  - c. During the last six months of the applicable two-year testing periods for Morgan Creek and Stryker Creek, market conditions did not warrant bringing Morgan Creek and Stryker Creek On-Line along with a companion unit at their respective facilities during light load conditions.
  - d. Therefore, in order to test the units within Luminant's six-month testing window during the respective two-year timeframes, Luminant would have had to bring units On-Line solely for the purpose of testing, which ERCOT Protocols § 8.1.1.2.1.4(2) expressly excuses REs from doing.
  - e. Luminant did not seek a waiver under ERCOT Operating Guide § 3.3.2.2(6), because Luminant contends that the Protocols already excused it from bringing units On-Line solely for the purpose of testing during its 6 month testing windows.
  - f. Therefore, Luminant contends that it did not violate the Protocols or Operating Guides with respect to the performance of maximum leading reactive capability tests for Morgan Creek or Stryker Creek during the applicable timeframes.

14. Staff contends that Luminant violated ERCOT Protocols § 8.1.1.2.1.4 by not testing Morgan Creek and Stryker Creek within a two-year period, and by not seeking a waiver from ERCOT for the following reasons:
- a. While the RE is not required to use the waiver provision, Staff contends that the RE has committed a violation of the testing requirement if: (1) the generation unit was not tested within the two year testing period, and (2) a waiver has not been granted by ERCOT.
  - b. Staff also disagrees with Luminant that testing during the last six months of the two-year testing period (April 23-October 23 for Morgan Creek; July 23-January 23 for Stryker Creek) is the “reasonable” time to perform the required tests. Staff emphasizes the plain meaning interpretation of “at a minimum of once every two years.” Neither the ERCOT Protocols nor the Operating Guides, in any degree, state that the final six months of the two year window is the “reasonable” time period to perform the required reactive capability tests; quite contrarily, the ERCOT Operating Guide § 3.3.2.2(3) recommends, but does not require, that “tests to verify leading reactive capability be conducted during times when ERCOT System Loads are typically low, during the months of October through April.”
  - c. During the respective two-year testing periods, Luminant had at least 29 opportunities at Morgan Creek and 19 opportunities at Stryker Creek to run maximum leading reactive capability tests when both the unit in question and a backup unit were already On-Line for other purposes, when load conditions were light.
  - d. While seeking the waiver is optional for the RE, Staff contends that if market conditions do not warrant bringing Generation Resources On-Line during light load conditions at any point during the two-year test period, then the RE must obtain a waiver from testing requirements in order to avoid violating ERCOT Protocols § 8.1.1.2.1.4. The waiver provision specifically accounts for the infrequency of light load conditions over the course of the two year period and

Staff contends that the provision is clearly designed as a safeguard option for the RE to avoid violation of the testing requirements in such circumstances.

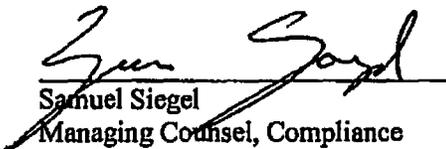
e. Therefore, Staff concludes that Luminant was not excused from testing Morgan Creek or Stryker Creek within a two-year timeframe.

15. This Agreement fully and finally resolves all claims for any alleged violations specifically described herein.
16. This Agreement resolves all claims related to Luminant's acts or omissions concerning maximum leading reactive capability testing for Morgan Creek during the period from October 26, 2013 through January 27, 2016 and for Stryker Creek during the period from January 23, 2014 through February 26, 2016.
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. This Agreement represents a compromise of claims and allegations, and the execution of this Agreement does not admit the truth or accuracy of any such disputed claims except as set forth in the Agreement. The Parties acknowledge and agree that a Party's support for 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. No Party is under any obligation to take the same position as set out in this Agreement in other proceedings not referenced in this Agreement, whether those proceedings present the same or a different set of circumstances.
19. The Parties have entered into this Agreement to amicably settle the issues and avoid the substantial time, effort, and expense that would be required to fully litigate these issues in a contested case proceeding. The Parties' agreement to entry of a final order by the Commission consistent with the Agreement should not be regarded as a determination of the appropriateness or correctness of any assumptions, methodology, or legal or regulatory principle that may have been employed in reaching this Agreement.
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 constitute the same Agreement.

21. The Parties contemplate that this Agreement will be approved by the Commission. 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 its consent, thereby becoming released from its obligations under the Agreement, and to proceed as otherwise permitted by law to exercise all rights available under law.

EXECUTED by the Parties through their authorized representatives designated below.

  
Samuel Siegel  
Managing Counsel, Compliance  
State Bar No. 24066083  
(214) 812-0070  
(214) 875-8660 (facsimile)  
Luminant Energy Company, LLC  
1601 Bryan Street, 22<sup>nd</sup> Floor  
Dallas, TX 75201  
[Samuel.siegel@luminant.com](mailto:Samuel.siegel@luminant.com)

Date: 9/19/2016

  
W. Patrick Dinnin  
Attorney, Oversight and Enforcement Division  
State Bar No. 24097603  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
[Patrick.Dinnin@puc.texas.gov](mailto:Patrick.Dinnin@puc.texas.gov)

Date: 09/19/2016

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

AGREED NOTICE OF VIOLATION §  
AND SETTLEMENT AGREEMENT §  
RELATING TO VIOLATION BY §  
LUMINANT ENERGY COMPANY LLC §  
OF PURA § 39.151(j) AND 16 TAC §  
§ 25.503(f)(2), CONCERNING §  
COMPLIANCE WITH ERCOT §  
PROTOCOLS § 8.1.1.2.1.4 AND §  
OPERATING GUIDE § 3.3.2.2, §  
RELATING TO REACTIVE §  
CAPABILITY TESTING §

BEFORE THE  
PUBLIC UTILITY COMMISSION  
OF TEXAS

**PROPOSED ORDER**

Pursuant to 16 TAC § 22.246(g)(2), this Order approves the Settlement Agreement (Agreement) between the Staff of the Public Utility Commission of Texas (Commission) and Luminant Energy Company LLC (Luminant) (together, Parties) regarding Commission Staff's investigation of Luminant for alleged violations of Section 39.151(j) of the Public Utility Regulatory Act<sup>2</sup> (PURA) and 16 Tex. Admin. Code (TAC) § 25.503(f)(2), concerning compliance with ERCOT Protocols § 8.1.1.2.1.4 and Operating Guide § 3.3.2.2, relating to maximum leading reactive capability testing.

This docket was processed in accordance with applicable statutes and Commission rules. The Agreement resolves all issues in this docket. The Agreement is unopposed and provides for a reasonable resolution of all issues in this docket. Commission Staff recommended, and Luminant agreed to pay, an administrative penalty of \$35,000. The Agreement is approved.

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

**I. Findings of Fact**

1. Luminant is a registered power marketer pursuant to PURA § 35.032 and participates in the Electric Reliability Council of Texas (ERCOT) market as a Qualified Scheduling Entity (QSE).

---

<sup>2</sup> Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (West 2007 & Supp. 2016).

2. Luminant is the QSE for the Resource Entity (RE) Luminant Generation Company LLC (Luminant Generation).
3. Luminant Generation is the RE for the Black Start Generation Resource units identified as MGSES\_CT4 (Morgan Creek) and SCSES\_UNIT1A (Stryker Creek).
4. Luminant did not submit maximum leading reactive capability test results for Morgan Creek or Stryker Creek within two years following Luminant's submission of each unit's respective most recent test results.
5. Luminant submitted a maximum leading reactive capability test result for Morgan Creek on October 26, 2013 and again on January 27, 2016 (93 days late) and for Stryker Creek on January 23, 2014 and again on February 26, 2016 (34 days late).
6. Luminant generally conducts maximum leading reactive capability tests within the last six months of the two-year testing window, which it considers to be a reasonable application of the testing requirements by allowing sufficient time between tests.
7. Luminant contends that for Morgan Creek and Stryker Creek, a successful maximum leading reactive capability test requires that a companion unit be brought On-Line along with each respective unit.
8. During the respective two-year testing periods, and outside of Luminant's 6 month policy, Luminant had at least 29 opportunities at Morgan Creek and 19 opportunities at Stryker Creek to run maximum leading reactive capability tests when both units were already On-Line for purposes other than testing, when load conditions were light, and when a companion unit was also On-Line.
9. Luminant did not test during any of these opportunities due to an internal, self-imposed policy to only test in the last six months of the testing period.
10. Luminant did not seek a voluntary waiver of its testing requirement for Morgan Creek or Stryker Creek.
11. Luminant and Staff disagree over whether Luminant violated the Protocols or Operating Guide requirements relating to maximum leading reactive capability tests for Morgan Creek or Stryker Creek during the applicable two-year timeframes, for the reasons explained more fully in the Agreement.

12. Luminant participated in one or more settlement discussions with Commission Staff to resolve this matter.
13. On [date], the Parties entered into an Agreement resolving the violations. Commission Staff recommended, and Luminant agreed to pay, an administrative penalty of Thirty-five Thousand dollars (\$35,000.00).
14. 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. Luminant 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. PURA § 39.151(j) requires retail electric providers, municipally owned utilities, electric cooperatives, power marketers, transmission and distribution utilities, and power generation companies to comply with the ERCOT operating and reliability policies, rules, guidelines, and procedures or be subject to revocation, suspension, or amendment of their certification or to the imposition of administrative penalties.
4. 16 TAC § 25.503(f)(2) requires market participants to comply with ERCOT Protocols and any official interpretation of the Protocols issued by ERCOT or the Commission.
5. ERCOT Protocols § 8.1.1.2.1.4(2) requires REs to "conduct reactive capacity qualification tests to verify the maximum leading and lagging reactive capability of all Generation Resources required to provide [Voltage Support Service (VSS)]." Under this section, tests must be "performed on initial qualification and at a minimum of once every two years[.]" but an RE "is not obligated to place Generation Resources On-Line solely for the purposes of testing."
6. ERCOT Protocols § 8.1.1.2.1.4(4) requires that the "[m]aximum leading power factor reactive operating limit must be demonstrated during light Load conditions, with the Generation Resource operating at a typical output for that condition, or the normal

expected output level for solid fuel Generation Resources during light Load conditions, insofar as system voltage conditions and other factors will allow.”

7. ERCOT Operating Guide § 3.3.2.2(6) states that “ERCOT shall have the option to waive the requirement to test and verify the maximum leading reactive capability of any Generation Resource that seldom runs during such light Load periods[,]” and said waiver shall be effective for two years.
8. Under ERCOT Operating Guide §§ 3.3.2.2(5) & (8), the QSE is the entity responsible for scheduling maximum leading reactive capability tests for its REs and timely and accurately reporting the results of such testing to ERCOT.
9. 16 TAC § § 22.246(g)(1)(A)–(C) requires 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. This docket was processed in accordance with the applicable statutes and Commission rules.
12. The requirements for informal disposition under 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 I, is approved, and the Parties shall be bound by its terms.
2. Luminant shall pay an administrative penalty to the Commission in the amount of Thirty-five Thousand dollars (\$35,000.00). Luminant 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 may be made by check payable to the Public Utility Commission of Texas and shall reference this docket. If 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. Luminant shall file an affidavit of payment in this docket no later than five (5) 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. 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 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 on the \_\_\_\_\_ day of \_\_\_\_\_**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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

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

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