

Control Number: 46909



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PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
FILING CLERK

**AGREED NOTICE OF VIOLATION §
AND SETTLEMENT AGREEMENT §
RELATED TO TPC GROUP, LLC'S §
VIOLATIONS OF PURA § 39.151, §
RELATED TO ESSENTIAL §
ORGANIZATIONS, AND 16 TAC §
§ 25.503, RELATED TO OVERSIGHT §
OF WHOLESALE MARKET §
PARTICIPANTS §**

OF TEXAS

APPLICATION FOR APPROVAL OF SETTLEMENT AGREEMENT

Staff of the Public Utility Commission of Texas (Commission) and TPC Group, LLC (TPC) (together, the Parties) enter into this Settlement Agreement and Report to Commission (Agreement). This Agreement resolves and concludes Commission Staff's investigation of TPC for alleged violations of Section 39.151 of the Public Utility Regulatory Act¹ (PURA), related to essential organizations, and 16 Tex. Admin. Code § 25.503 (TAC), related to oversight of wholesale market participants.

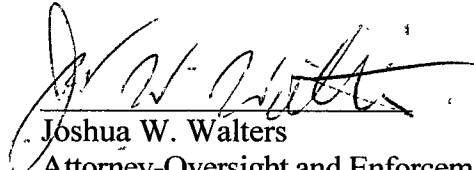
Staff respectfully requests that the Parties' Application for Approval of Settlement Agreement be granted.

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

DATE: March 6, 2017

Respectfully Submitted,

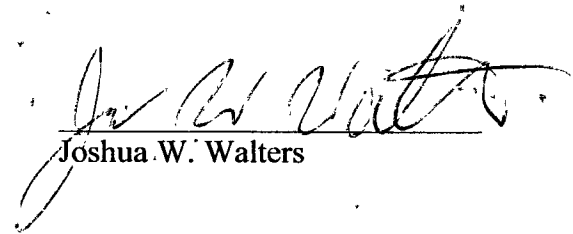
Robert M. Long
Division Director
Oversight and Enforcement Division
State Bar No. 12525500



Joshua W. Walters
Attorney-Oversight and Enforcement Division
State Bar No. 24081198
(512) 936-7385
(512) 936-7208 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this the 6th day of March, 2017, in accordance with 16 TAC § 22.74.



Joshua W. Walters

DOCKET NO. _____

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SETTLEMENT AGREEMENT AND REPORT TO COMMISSION

Staff of the Public Utility Commission of Texas (Commission) and TPC Group, LLC (TPC) (collectively, the Parties) enter into this Settlement Agreement and Report to Commission (Agreement). This Agreement resolves and concludes Commission Staff's investigation of TPC for alleged violations of Section 39.151 of the Public Utility Regulatory Act¹ (PURA), related to essential organizations, and 16 Tex. Admin. Code § 25.503 (TAC), related to oversight of wholesale market participants.

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. Commission Staff recommends, and TPC agrees to pay, an administrative penalty of Twenty-Five Thousand Dollars (\$25,000) for full and final settlement of the alleged violations described herein and in the attached Proposed Order.
3. TPC admits to the jurisdiction of the Commission over the Parties to this proceeding and the subject matter of this Agreement.

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

4. TPC is the registered Resource Entity that owns or controls PR_PR_G2, a 35MW Generation Resource.²
5. A Power System Stabilizer (PSS) is a device that is installed on Generation Resources to maintain synchronous operation of the electric grid under transient conditions.³ Under these transient conditions, the PSS works in conjunction with the excitation system to increase damping of the oscillations of the generators caused by an imbalance between electrical power delivered by the generator and the mechanical power being produced by the turbine. The excitation system provides the DC current that regulates voltage. The PSS is incorporated into the Automatic Voltage Regulator (AVR), which provides the control signal to the excitation system.
6. Failure to comply with all Electric Reliability Council of Texas (ERCOT) scheduling, operating, planning, reliability, and settlement policies, rules, guidelines, and procedures is a violation of PURA § 39.151(j).
7. Failure to comply with ERCOT procedures and any official interpretation of the ERCOT Protocols issued by ERCOT or the Commission is a violation of 16 TAC § 25.503(f)(2).
8. When TPC replaced the excitation system on PR_PR_G2 in 2011, TPC was required to install a PSS, establish PSS settings, and place the PSS in service.⁴ PSS hardware was installed with the new excitation system, but PSS settings were not established and the PSS was not placed in service. TPC failed to include the PSS in the project specifications for installation of the new excitation system; therefore, the engineering tasks to establish PSS settings, test the system, and place the system in service were not performed.
9. TPC failed to update its authorized representative as required by ERCOT. TPC also failed to timely respond to Texas Reliability Entity, Inc.'s (TexasRE) inquiries regarding

² ERCOT Nodal Protocols, Section 2.1, Definitions and Acronyms (Jan. 1, 2016) (Protocols). A Resource Entity is an entity that owns or controls an All-Inclusive Resource and is registered with ERCOT as a Resource Entity. All-Inclusive Resource is a term used to refer to a Generation Resource, Load Resource and a Non-Modeled Generator. A Generation Resource is a generator capable of providing energy or Ancillary Service to the ERCOT System and is registered with ERCOT as a Generation Resource. A Generation Entity owns an All-Inclusive Generation Resource and is registered as a Resource Entity. All-Inclusive Generation Resource refers to a Generation Resource and a Non-Modeled Generator, but not a Load Resource.

³ *Id.*

⁴ ERCOT Nodal Operating Guides, Section 2.2.6(5), Power System Stabilizers (Mar. 1, 2011) (Operating Guide).

compliance with ERCOT requirements for PSSs, including multiple requests from TexasRE to submit a mitigation plan with milestone dates for PSS activation.

10. After TPC received notice from Commission Staff that it was under investigation for its failure to have a PSS in service, a mitigation plan was submitted. The mitigation plan included milestone dates for PSS activation. TPC has achieved each milestone, and the PSS was placed in service and began telemetering its status to ERCOT on July 20, 2016.
11. TPC warrants that it has updated its contact information with ERCOT and TexasRE.
12. TPC warrants that it has implemented training for employees and other measures designed to improve communication with TexasRE and the Commission. TPC agrees that it will timely respond to all future TexasRE and Commission inquiries.
13. TPC has fully cooperated with Commission Staff's portion of the investigation.
14. Unless specifically provided for in this Agreement, TPC waives any notice and procedures that might otherwise be authorized or required in this proceeding.
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. This Agreement fully and finally resolves all issues related to alleged violations of PURA and Commission rules arising out of the facts described herein. The Parties enter into this Agreement to resolve by compromise the issues related to this matter. This Agreement is entered into by the Parties in order to avoid the potential for expensive and protracted litigation, the outcome of which would be uncertain.
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. TPC 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.



TPC Group, LLC AUTHORIZED REP

Date: 3/6/17



Joshua W. Walters
Supervising Attorney
Oversight and Enforcement Division
State Bar No. 24081198
(512) 936-7385
(512) 936-7208 (facsimile)
Public Utility Commission of Texas

Date: 3/6/17

1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

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PROPOSED 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 TPC Group, LLC (TPC) (collectively, the Parties) regarding Commission Staff's investigation of TPC for alleged violations of Section 39.151 of the Public Utility Regulatory Act¹ (PURA), related to essential organizations, and 16 TAC § 25.503, related to oversight of wholesale market participants. The Agreement resolves all issues in this docket. Commission Staff recommended an administrative penalty of Twenty-Five Thousand Dollars (\$25,000), which TPC agreed to pay. The Agreement is approved.

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

I. FINDINGS OF FACT

1. TPC is the registered Resource Entity that owns or controls PR_PR_G2, a 35MW Generation Resource.²

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

² ERCOT Nodal Protocols, Section 2.1, Definitions and Acronyms (Jan. 1, 2016) (Protocols). A Resource Entity is an entity that owns or controls an All-Inclusive Resource and is registered with ERCOT as a Resource Entity. All-Inclusive Resource is a term used to refer to a Generation Resource, Load Resource and a Non-Modeled Generator. A Generation Resource is a generator capable of providing energy or Ancillary Service to the ERCOT System and is registered with ERCOT as a Generation Resource. A Generation Entity owns an All-Inclusive Generation Resource and is registered as a Resource Entity. All-Inclusive Generation Resource refers to a Generation Resource and a Non-Modeled Generator, but not a Load Resource.

2. A Power System Stabilizer (PSS) is a device that is installed on Generation Resources to maintain synchronous operation of the electric grid under transient conditions.³ Under these transient conditions, the PSS works in conjunction with the excitation system to increase damping of the oscillations of the generators caused by an imbalance between electrical power delivered by the generator and the mechanical power being produced by the turbine. The excitation system provides the DC current that regulates voltage. The PSS is incorporated into the Automatic Voltage Regulator (AVR), which provides the control signal to the excitation system.
3. When TPC replaced the excitation system on PR_PR_G2 in 2011, TPC was required to install a PSS, establish PSS settings, and place the PSS in service.⁴ PSS hardware was installed with the new excitation system, but PSS settings were not established and the PSS was not placed in service. TPC failed to include the PSS in the project specifications for installation of the new excitation system; therefore, the engineering tasks to establish PSS settings, test the system, and place the system in service were not performed.
4. TPC failed to update its authorized representative as required by the Electric Reliability Council of Texas (ERCOT). TPC also failed to timely respond to Texas Reliability Entity, Inc.'s (TexasRE) inquiries regarding compliance with ERCOT requirements for PSSs, including multiple requests from TexasRE to submit a mitigation plan with milestone dates for PSS activation.
5. After TPC received notice from Commission Staff that it was under investigation for its failure to have a PSS in service, a mitigation plan was submitted. The mitigation plan included milestone dates for PSS activation. TPC has achieved each milestone, and the PSS was placed in service and began telemetering its status to ERCOT on July 20, 2016.
6. TPC warranted that it updated its contact information with ERCOT and TexasRE.
7. TPC warranted that it implemented employee training and other measures designed to improve communication with TexasRE and the Commission.

³ *Id.*

⁴ ERCOT Nodal Operating Guides, Section 2.2.6(5), Power System Stabilizers (Mar. 1, 2011) (Operating Guide).

8. TPC agreed that it will timely respond to TexasRE and Commission inquiries in the future.
9. On or about February 25, 2016, TPC 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.
10. TPC fully cooperated with Commission Staff's portion of the investigation.
11. TPC acknowledges the violations detailed in this Order.
12. TPC participated in one or more settlement discussions with Commission Staff to resolve this matter.
13. On March 6, 2017, the Parties entered into the Agreement resolving the violations. Commission Staff recommended, and TPC agreed to pay, an administrative penalty of Twenty-Five Thousand Dollars (\$25,000).
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. TPC 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 compliance with all ERCOT scheduling, operating, planning, reliability, and settlement policies, rules, guidelines, and procedures.
4. 16 TAC § 25.503(f)(2) requires market participants to comply with ERCOT procedures and any official interpretation of the Protocols issued by ERCOT or the Commission.
5. Pursuant to 16 TAC § 25.503(c)(3), ERCOT procedures are defined as documents that contain the scheduling, operating, planning, reliability, and settlement procedures, standards, and criteria that are public and in effect in the ERCOT power region, including

the ERCOT Protocols and ERCOT Operating Guides as amended from time to time but excluding ERCOT's internal administrative procedures.

6. Operating Guide § 2.2.6(5) states that "if an excitation system on a synchronous Generation Resource greater than 10 MW is modified or replaced after January 1, 2008, the Generation Resource shall install a PSS, establish PSS settings to dampen modes with oscillations within the range of 0.2 Hz to 2 Hz, and place the PSS in-service."
7. TPC violated PURA § 39.151(j) and 16 TAC § 25.503(f)(2) when it failed to install a PSS, establish PSS settings, and place the PSS in service for its 35 MW PR_PR_G2 Generation Resource.
8. TexasRE serves under the direction and supervision of the Commission as Commission Staff's agent in investigations related to compliance with reliability-related ERCOT procedures as provided in 16 TAC § 25.503(k).
9. In accordance with 16 TAC § 25.503(o)(5), a market entity subject to an informal fact-finding review or a formal investigation by Commission Staff has an obligation to fully cooperate with the investigation, to make its company representatives available within a reasonable period of time to discuss the subject of the investigation with the Commission Staff, and to respond to the Commission Staff's requests for information within a reasonable time frame as requested by the Commission Staff.
10. TPC violated 16 TAC § 25.503(o)(5) when it failed to timely respond to inquiries by Commission Staff's agent, TexasRE, in furtherance of an investigation of compliance with reliability-related ERCOT procedures and failed to update contact information.
11. 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.
12. The Agreement is a report of settlement to the Commission as required by 16 TAC § 22.246(g).
13. 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. TPC shall pay an administrative penalty to the Commission in the amount of Twenty-Five Thousand Dollars (\$25,000). TPC 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 paid 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. TPC 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 herein.
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 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 _____, 2017.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY MARTY MARQUEZ, COMMISSIONER