



Control Number: 47215



Item Number: 1

Addendum StartPage: 0

DOCKET NO. **47215**

**PUBLIC UTILITY COMMISSION**

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**AGREED NOTICE OF VIOLATION AND  
SETTLEMENT AGREEMENT  
RELATING TO CALPINE  
CORPORATION'S VIOLATIONS OF  
PURA § 39.151(j), 16 TEX. ADMIN.  
CODE §§ 25.503(f)(2) & 25.503(f)(8),  
RELATED TO OVERSIGHT OF  
WHOLESALE MARKET  
PARTICIPANTS; AND ERCOT  
PROTOCOLS §§ 6.4.4.1 AND 6.4.6(1),  
RELATED TO ENERGY OFFER CURVE  
FOR RUC-COMMITTED RESOURCES  
AND ACCURATE TELEMTRY**

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**OF TEXAS**

**APPLICATION FOR APPROVAL OF SETTLEMENT AGREEMENT**

Staff of the Public Utility Commission of Texas (Commission) and Calpine Corporation (Calpine) (collectively, the Parties) enter into this Settlement Agreement and Report to Commission (Agreement). This Agreement resolves and concludes Commission Staff's investigation of Calpine for violations of Section 39.151(j) of the Public Utility Regulatory Act<sup>1</sup> (PURA); 16 Tex. Admin. Code §§ 25.503(f)(2) and 25.503(f)(8), Related to Oversight of Wholesale Market Participants; and ERCOT Protocols §§ 6.4.4.1 and 6.4.6(1), Related to Energy Offer Curve for RUC-Committed Resources and Accurate Telemetry.

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

<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).

71974

DATE: May 26, 2017

Respectfully Submitted,

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

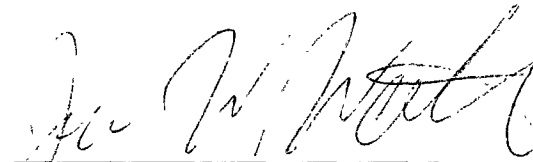


Joshua W. Walters  
Attorney-Oversight and Enforcement Division  
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Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

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

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this the 26<sup>th</sup> day of May, 2017, in accordance with 16 TAC § 22.74.



Joshua W. Walters



3. Commission Staff recommends, and Calpine agrees to pay, an administrative penalty of Thirty Thousand Dollars (\$30,000) for Calpine's violations described in the attached Proposed Order and herein.
4. Calpine has previously had noncompliance issues related to Reliability Unit Commitments (RUC). On March 20, 2013, the Oversight & Enforcement Division of the Commission issued a warning letter to Calpine regarding noncompliance with RUC commitment procedures. Additionally, on July 11, 2014, the Commission approved a settlement agreement between Calpine and Commission Staff relating to RUC commitment noncompliance and ordered Calpine to pay an administrative penalty of \$10,000.<sup>2</sup>
5. In May 2015, ERCOT Protocols § 6.4.4.1 required Qualified Scheduling Entities (QSE) to ensure that an energy offer curve (EOC) that priced all energy from its Low Sustainable Limit (LSL) to its High Sustainable Limit (HSL) at or above \$1,500 per MWh for the Operating Hours in the RUC period, had been submitted and accepted by ERCOT.<sup>3</sup>
  - a. The RUC instruction was received in enough time for Calpine to update its Current Operating Plan (COP) to reflect OPTOUT status and Calpine failed to do so. Calpine failed to price energy from LSL to HSL at or above \$1,500 per MWh for the Clear Lake Combined Cycle 1 (CTL\_CC1\_7) resource on May 31, 2015 during hours 17-19.
  - b. At approximately 13:24 on May 31, 2015, Clear Lake Energy Center (2x1B CTL\_CC1\_7) received a RUC instruction for hours ending 17-19. Calpine asserts that it intended to OPTOUT of the 2x1B ( CTL\_CC1\_7) RUC instruction and run in the 2x2 ( CTL\_CC1\_8) configuration instead.
  - c. Calpine asserts that it attempted to submit a COP status of ONOPTOUT for the 2x2 (CTL\_CC1\_8) configuration and an OFF status for the 2x1B ( CTL\_CC1\_7) configuration. Calpine further asserts that the Calpine generation dispatcher failed to recognize that this COP submittal was not accepted by ERCOT.

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<sup>2</sup> *Agreed Notice of Violation and Settlement Agreement Relating to Calpine Corporation's Violations of PURA § 39.151(d) and (j); PUC Subst. R. 25.503(f)(2); and ERCOT Protocols § 6.4.3.1, Related to Energy Offer Curve for RUC-Committed Resources*, Docket No. 42588, Order (July 11, 2014).

<sup>3</sup> ERCOT Protocol § 6.4.4.1 (as of January 11, 2015).

- d. To accomplish the desired result, Calpine should have submitted a COP with an ONOPTOUT status on the 2x1B ( CTL\_CC1\_7) configuration and an ON status for the 2x2 ( CTL\_CC1\_8) configuration.
  - e. The improperly priced energy offer curves (EOC) caused this Resource to be dispatched above its LSL for 35 of the 36 SCED intervals during the RUC period. Commission Staff contends that the dispatch of this resource above its respective LSL due to the improper pricing of the EOC impacted the dispatch of other resources and real-time market settlement prices.
6. ERCOT Protocols § 6.4.6(1) requires QSEs to provide ERCOT with accurate telemetry of the current capability of each Resource including the Resource Status Code.
- a. At approximately 21:33 on January 13, 2017, Guadalupe Energy Center CC2 (GUADG\_CC2) received a RUC instruction for hour ending 24. The RUC instruction was received in enough time for Calpine to update its Current Operating Plan (COP) to reflect an OPTOUT status, but Calpine failed to do so. During the entirety of hour ending 24, however, Calpine did telemeter an ONOPTOUT status.
    - i. In order to properly opt out of the RUC instruction, Calpine should have updated its COP to reflect a status of OPTOUT and it should have telemetered ONOPTOUT.
    - ii. GUADG\_CC2 was dispatched as high as 98 MWs above its LSL for all 12 SCED intervals in hour ending 24. After failing to properly opt out of the RUC instruction, Calpine should have had a COP status of ONRUC and telemetered ONRUC during hour ending 24.
    - iii. Calpine's failure to telemeter ONRUC during hour ending 24 led to significant market impacts. These impacts resulted from the failure to have its EOC priced at \$1,500 and the failure to trigger calculation of a Reliability Deployment Adder (both of which would have automatically occurred if it had properly telemetered ONRUC).

- b. On May 27, 2016, CTL\_CC1\_7 received a RUC instruction for hours ending 15-18. Calpine opted to commit CTL\_CC1\_8 instead. The RUC instruction was received in enough time for Calpine to update its COP to reflect an OPTOUT status, but Calpine failed to do so. During the entire RUC commitment period (hours ending 15-18), however, Calpine telemetered an ONOPTOUT telemetry status.
  - i. In order to properly opt out of the RUC instruction, Calpine should have updated its COP to reflect a status of OPTOUT and it should have telemetered ONOPTOUT.
  - ii. CTL\_CC1\_8 was dispatched as high as 30 MWs above its LSL for all 48 SCED intervals in the RUC commitment period. After failing to properly opt out of the RUC instruction, Calpine should have had a COP status of ONRUC and telemetered ONRUC during hours ending 15-18.
  - iii. Calpine's failure to telemeter ONRUC during hour ending 24 led to significant market impacts. These impacts resulted from the failure to have its EOC priced at \$1,500 and the failure to trigger calculation of a Reliability Deployment Adder (both of which would have automatically occurred if it had properly telemetered ONRUC).
7. Calpine has taken corrective action to ensure that the reason for its failure in this instance will not happen in the future. Calpine asserts that it has implemented a mitigation plan consisting of the following:
  - a. Formalize standing orders for Dispatch Desk personnel regarding the Nodal Protocol requirements for Reliability Unit Commitments ( RUC );
  - b. Development of scenario based training to be conducted by Dispatch Desk personnel;
  - c. Implementation of system level validations in Dispatch Desk tool set and EMS displays alerting personnel to potential issues and required actions.
8. Additionally, NPRR 744 is currently scheduled to go into effect in June 2017. This revision will allow entities additional time to opt out of the RUC instruction. Opting out will no



longer be based on COP status at the end of the Adjustment Period for the first hour of the contiguous block of RUC-Committed Hours. Instead, entities will be able to opt out of the RUC instruction solely by telemetering ONOPTOUT for the first SCED run that a unit is On-Line and available for SCED dispatch during the first hour of a contiguous block of RUC-Committed Hours.

9. This Agreement resolves all claims related to Calpine's obligations pursuant to PURA § 39.151(j), 16 TAC §§ 25.503(f)(2) and 25.503(f)(8); and ERCOT Protocols §§ 6.4.4.1 and 6.4.6(1), as those provisions relate to RUC commitments, through the earlier of either (1) the effective date of NPRR 744, or (2) a Commission order approving this Agreement.
10. Unless specifically provided for in this Agreement, Calpine waives any notice and procedures that might otherwise be authorized or required in this proceeding.
11. 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.
12. 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.
13. 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.
14. The Parties contemplate that this Agreement will be approved pursuant to P.U.C. PROC. R. 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.

- 15. 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.
- 16. 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.
- 17. Calpine 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.

W Thaddeus Miller

Date: 5/26/17

*duff* Calpine Corporation  
By: W. Thaddeus Miller  
Its: Chief Legal Officer

Joshua W. Walters

Date: 5/26/17

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



commitment procedures. Additionally, on July 11, 2014, the Commission approved a settlement agreement between Calpine and Commission Staff relating to RUC commitment noncompliance and ordered Calpine to pay an administrative penalty of \$10,000.<sup>5</sup>

3. At approximately 13:24 on May 31, 2015, Clear Lake Energy Center (2x1B CTL\_CC1\_7) received a RUC instruction for hours ending 17-19.
  - a. The RUC instruction was received in enough time for Calpine to update its Current Operating Plan (COP) to reflect OPTOUT status and Calpine failed to do so.
  - b. Calpine asserted that it intended to OPTOUT of the 2x1B ( CTL\_CC1\_7) RUC instruction and run in the 2x2 ( CTL\_CC1\_8) configuration instead.
  - c. Calpine asserted that it attempted to submit a COP status of ONOPTOUT for the 2x2 (CTL\_CC1\_8) configuration and an OFF status for the 2x1B ( CTL\_CC1\_7) configuration. Calpine further asserted that the Calpine generation dispatcher failed to recognize that this COP submittal was not accepted by ERCOT.
  - d. To accomplish the desired result, Calpine should have submitted a COP with an ONOPTOUT status on the 2x1B ( CTL\_CC1\_7) configuration and an ON status for the 2x2 ( CTL\_CC1\_8) configuration.
  - e. Calpine failed to price energy from its Low Sustainable Limit (LSL) to its High Sustainable Limit (HSL) at or above \$1,500 per MWh for the Clear Lake Combined Cycle 1 (CTL\_CC1\_7) resource on May 31, 2015 during hours 17-19.
  - f. The improperly priced energy offer curves (EOC) caused this Resource to be dispatched above its LSL for 35 of the 36 SCED intervals during the RUC period. Commission Staff contends that the dispatch of this resource above its respective LSL due to the improper pricing of the EOC impacted the dispatch of other resources and real-time market settlement prices.

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4. At approximately 21:33 on January 13, 2017, Guadalupe Energy Center CC2 (GUADG\_CC2) received a RUC instruction for hour ending 24.
  - a. The RUC instruction was received in enough time for Calpine to update its Current Operating Plan to reflect an OPTOUT status, but Calpine failed to do so.
  - b. During the entirety of hour ending 24, however, Calpine did telemeter an ONOPTOUT status.
  - c. In order to properly opt out of the RUC instruction, Calpine should have updated its COP to reflect a status of OPTOUT and it should have telemetered ONOPTOUT.
  - d. GUADG\_CC2 was dispatched as high as 98 MWs above its LSL for all 12 SCED intervals in hour ending 24. After failing to properly opt out of the RUC instruction, Calpine should have had a COP status of ONRUC and telemetered ONRUC during hour ending 24.
  - e. Calpine's failure to telemeter ONRUC during hour ending 24 led to significant market impacts. These impacts resulted from the failure to have its EOC priced at \$1,500 and the failure to trigger calculation of a Reliability Deployment Adder (both of which would have automatically occurred if it had properly telemetered ONRUC).
  
5. On May 27, 2016, CTL\_CC1\_7 received a RUC instruction for hours ending 15-18. Calpine opted to commit CTL\_CC1\_8 instead.
  - a. The RUC instruction was received in enough time for Calpine to update its COP to reflect an OPTOUT status, but Calpine failed to do so.
  - b. During the entire RUC commitment period (hours ending 15-18), however, Calpine telemetered an ONOPTOUT telemetry status.
  - c. In order to properly opt out of the RUC instruction, Calpine should have updated its COP to reflect a status of OPTOUT and it should have telemetered ONOPTOUT.

- d. CTL\_CC1\_8 was dispatched as high as 30 MWs above its LSL for all 48 SCED intervals in the RUC commitment period. After failing to properly opt out of the RUC instruction, Calpine should have had a COP status of ONRUC and telemetered ONRUC during hours ending 15-18.
  - e. Calpine's failure to telemeter ONRUC during hour ending 24 led to significant market impacts. These impacts resulted from the failure to have its EOC priced at \$1,500 and the failure to trigger calculation of a Reliability Deployment Adder (both of which would have automatically occurred if it had properly telemetered ONRUC).
6. Calpine took corrective action to ensure that the reason for its failure in this instance will not happen in the future. Calpine asserted that it has implemented a mitigation plan consisting of the following:
  - a. Formalize standing orders for Dispatch Desk personnel regarding the Nodal Protocol requirements for Reliability Unit Commitments ( RUC );
  - b. Development of scenario based training to be conducted by Dispatch Desk personnel; and
  - c. Implementation of system level validations in Dispatch Desk tool set and EMS displays alerting personnel to potential issues and required actions.
7. Additionally, NPPR 744 became effective on June 1, 2017. This revision will allow entities additional time to opt out of the RUC instruction. Opting out will no longer be based on COP status at the end of the Adjustment Period for the first hour of the contiguous block of RUC-Committed Hours. Instead, entities will be able to opt out of the RUC instruction solely by telemetering ONOPTOUT for the first SCED run that a unit is On-Line and available for SCED dispatch during the first hour of a contiguous block of RUC-Committed Hours.
8. On or about January 4, 2017, Calpine 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. Calpine fully cooperated with Commission Staff's investigation.

10. Calpine acknowledged the violations detailed in this Order.
11. Calpine participated in one or more settlement discussions with Commission Staff to resolve this matter.
12. On May 26, 2017, the Parties entered into the Agreement resolving the violations. Commission Staff recommended, and Calpine agreed to pay, an administrative penalty of Thirty Thousand Dollars (\$30,000).
13. The Agreement provides for a reasonable resolution of this dispute.
14. 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 39.151(j).
2. Calpine 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. In May 2015, ERCOT Protocols § 6.4.4.1 required QSEs to ensure that an EOC that priced all energy from its LSL to its HSL at or above \$1,500 per MWh for the Operating Hours in the RUC period, had been submitted and accepted by ERCOT.<sup>6</sup>
4. ERCOT Protocols § 6.4.6(1) requires QSEs to provide ERCOT with accurate telemetry of the current capability of each Resource including the Resource Status Code.
5. For the reasons discussed in Findings of Fact Nos. 3, 4 and 5, Calpine failed to comply with ERCOT Protocols §§ 6.4.4.1 and 6.4.6(1), and therefore, violated 16 TAC §§ 25.503(f)(2) and 25.503(f)(8) and PURA § 39.151(j).
6. The Agreement resolved all claims related to Calpine's obligations pursuant to PURA § 39.151(j), 16 TAC §§ 25.503(f)(2) and 25.503(f)(8); and ERCOT Protocols §§ 6.4.4.1

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<sup>6</sup> ERCOT Protocol § 6.4.4.1 (as of January 11, 2015).

and 6.4.6(1), as those provisions relate to RUC commitments, through June 1, 2017, the effective date of NPRR 744.

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. The requirements for informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.
10. This docket was processed in accordance with applicable statutes and Commission rules.

### **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. Calpine shall pay an administrative penalty to the Commission in the amount of Thirty Thousand Dollars (\$30,000). Calpine 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. Calpine 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**

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

\_\_\_\_\_  
**BRANDY D. MARTY, COMMISSIONER**