



Control Number: 47264



Item Number: 1

Addendum StartPage: 0

DOCKET NO. **47264**

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2017 JUN -6 PM 4: 06

**AGREED NOTICE OF VIOLATION §
AND SETTLEMENT AGREEMENT §
RELATING TO CREDIT SUISSE §
ENERGY, LLC.'S VIOLATION OF §
PURA § 39.151(d); 16 TAC §
§ 25.503(f)(2); AND ERCOT §
PROTOCOLS § 16.12.3, RELATING §
TO MARKET PARTICIPANT §
AUDITS OF USER SECURITY §
ADMINISTRATORS AND DIGITAL §
CERTIFICATES §**

PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
FILING CLERK

OF TEXAS

APPLICATION FOR APPROVAL OF SETTLEMENT AGREEMENT

Staff of the Public Utility Commission of Texas (Commission) and Credit Suisse Energy, LLC (CSE) (together, Parties) enter into this Settlement Agreement and Report to Commission (Agreement). This Agreement resolves and concludes the investigation of CSE for its violation of PURA¹ § 39.151(d), 16 Tex. Admin. Code § 25.503(f)(2) (TAC), and Electric Reliability Council of Texas (ERCOT) Protocols § 16.12.3, concerning market participant audits of user security administrators and digital certificates.

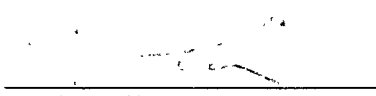
Staff respectfully requests that the Parties' Application for Approval of Settlement Agreement be granted.

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: June 6, 2017

Respectfully Submitted,

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



Taylor Kilroy
Attorney-Oversight and Enforcement Division
State Bar No. 24087844
(512) 936-7127
(512) 936-7208 (facsimile)
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 6th day of June, 2017, in accordance with 16 TAC § 22.74.



Taylor Kilroy

DOCKET NO. _____

AGREED NOTICE OF VIOLATION	§	PUBLIC UTILITY COMMISSION
AND SETTLEMENT AGREEMENT	§	
RELATING TO CREDIT SUISSE	§	OF TEXAS
ENERGY, LLC.'S VIOLATION OF	§	
PURA § 39.151(d); 16 TAC	§	
§ 25.503(f)(2); AND ERCOT	§	
PROTOCOLS § 16.12.3, RELATING	§	
TO MARKET PARTICIPANT AUDITS	§	
OF USER SECURITY	§	
ADMINISTRATORS AND DIGITAL	§	
CERTIFICATES	§	

SETTLEMENT AGREEMENT AND REPORT TO COMMISSION

Staff of the Public Utility Commission of Texas (Commission) and Credit Suisse Energy, LLC (CSE) (together, Parties) enter into this Settlement Agreement and Report to Commission (Agreement). This Agreement resolves and concludes the investigation of CSE for noncompliance with PURA¹ § 39.151(d), 16 Tex. Admin. Code § 25.503(f)(2) (TAC), and Electric Reliability Council of Texas (ERCOT) Protocols § 16.12.3, concerning market participant audits of user security administrators and digital certificates.

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. PURA § 39.151(d) authorizes the Commission to make and enforce rules related to the wholesale electricity market.
3. 16 TAC § 25.503(f)(2) states that “[a] market participant shall comply with ERCOT procedures and any official interpretation of the Protocols issued by ERCOT or the Commission.”

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. ERCOT Protocols § 16.12.3(1) states that “[d]uring September of each year, each Market Participant shall generate a list of its registered [User Security Administrator] and Certificate Holders. The Market Participant, through its USA or another authorized third party, shall perform an audit by reviewing the list and noting any inconsistencies or instances of non-compliance (including, for example, any Certificate Holder that may have changed job functions and no longer requires the Digital Certificate).”
5. ERCOT Protocols § 16.12.3(2) states that each market participant is required to submit to ERCOT an attestation of compliance based on that audit (a Digital Certificate Audit Attestation or DCAA) by October 1 of each year. Attestations must be completed for each market participant type (e.g., counterparty, qualified scheduling entity, load serving entity, etc.).
6. CSE holds the following registration types: Counterparty and Qualified Scheduling Entity. As such, CSE was required to file two DCAAs by October 1, 2015.
7. On August 31, 2015, ERCOT sent a Market Notice to all Market Participants informing them of the attestation requirements under the Protocols. On September 23, 2015, ERCOT sent a second reminder to all USAs regarding the attestation. ERCOT sent a third notice, in the form of individual emails, on or around January 22, 2016 to each Market Participant that did not meet the attestation submission deadline and again requested the attestations.
8. CSE submitted its calendar year 2015 DCAAs on January 29, 2016, and its calendar year 2016 DCAAs on March 16, 2017, and as such, these filings were not timely made.
9. Previously, on December 5, 2014, Commission Staff issued a warning letter to CSE regarding the lack of submission of DCAAs for calendar year 2013.
10. Commission Staff recommended, and CSE agrees to pay, an administrative penalty of seven thousand five hundred dollars (\$7,500) for CSE’s noncompliance as described in the attached Proposed Order.
11. In order to prevent future noncompliance of this nature, CSE has updated its procedures to include the yearly DCAA filing deadline as a regulatory requirement in its business-wide compliance system. CSE has also updated and expanded its list of ERCOT contact persons

so that there is no likelihood that any future ERCOT correspondence will not be directed to an appropriate employee.

12. This Agreement resolves all claims related to CSE's obligations pursuant to PURA § 39.151(d), 16 TAC § 25.503(f)(2), and ERCOT Protocols § 16.12.3 regarding the untimely filing of CSE's calendar years 2015 and 2016 DCAAs.
13. Unless specifically provided for in this Agreement, CSE waives any notice and procedures that might otherwise be authorized or required in this proceeding.
14. 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.
15. Further, support of this resolution shall not be considered an admission of the facts alleged.
16. 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.
17. 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.

18. This Agreement is the final and entire agreement between the Parties regarding the untimely filing of CSE's calendar years 2015 and 2016 DCAAs and supersedes all other communications among the Parties or their representatives regarding its terms.
19. 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.
20. CSE 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.



Lara Leaf
Litigation & Investigations Americas
Credit Suisse Securities (USA) LLC
One Madison Avenue, 9th Floor
New York, New York 10010

Date: 6/5/17



Taylor Kilroy
Attorney, Oversight and Enforcement Division
Public Utility Commission of Texas

Date: 6/6/17

ATTACHMENT

DOCKET NO. _____

AGREED NOTICE OF VIOLATION	§	PUBLIC UTILITY COMMISSION
AND SETTLEMENT AGREEMENT	§	
RELATING TO CREDIT SUISSE	§	OF TEXAS
ENERGY, LLC.'S VIOLATION OF	§	
PURA § 39.151(d); 16 TAC	§	
§ 25.503(f)(2); AND ERCOT	§	
PROTOCOLS § 16.12.3, RELATING	§	
TO MARKET PARTICIPANT AUDITS	§	
OF USER SECURITY	§	
ADMINISTRATORS AND DIGITAL	§	
CERTIFICATES	§	

PROPOSED ORDER

Pursuant to 16 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 Credit Suisse Energy, LLC (CSE) (together, Parties) regarding Commission Staff's investigation of CSE for noncompliance with PURA¹ § 39.151(d), 16 Tex. Admin. Code § 25.503(f)(2) (TAC), and Electric Reliability Council of Texas (ERCOT) Protocols § 16.12.3, concerning market participant audits of user security administrators and digital certificates. The agreement resolves all issues in this docket. Commission Staff recommended an administrative penalty of \$7,500. CSE 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. CSE is registered with ERCOT as both a Counterparty and a Qualified Scheduling Entity as defined in ERCOT Protocols § 2.1.

¹ Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-58.303 (West 2016), §§ 59.00166.017 (West 2007 & Supp. 2016) (PURA).

2. CSE did not timely submit its calendar year 2015 Digital Certificate Audit Attestations (DCAAs) by October 1, 2015. CSE submitted its calendar year 2015 DCAAs on January 29, 2016.
3. CSE did not timely submit its calendar year 2016 Digital Certificate Audit Attestations (DCAAs) by October 1, 2016. CSE submitted its calendar year 2016 DCAAs on March 16, 2017.
4. Previously, on December 5, 2014, Commission Staff issued a warning letter to CSE for not submitting DCAAs for calendar year 2013.
5. On or about March 15, 2017, CSE 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.
6. CSE fully cooperated with Commission Staff's investigation.
7. CSE acknowledges the noncompliance detailed in this Order, but does not admit or deny any liability.
8. CSE participated in one or more settlement discussions with Commission Staff to resolve this matter.
9. On June 6, 2017, the Parties entered into the Agreement resolving the violations. Commission Staff recommended, and CSE agreed to pay, an administrative penalty of seven thousand five hundred dollars (\$7,500).
10. 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.
2. CSE 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(d) authorizes the Commission to make and enforce rules related to the wholesale electricity market.
4. 16 TAC § 25.503(f)(2) states that “[a] market participant shall comply with ERCOT procedures and any official interpretation of the Protocols issued by ERCOT or the Commission.”
5. CSE is a market participant as defined in 16 TAC § 25.503(c)(6).
6. ERCOT Protocols § 16.12.3(1) states that “[d]uring September of each year, each Market Participant shall generate a list of its registered [User Security Administrator] and Certificate Holders. The Market Participant, through its USA or another authorized third party, shall perform an audit by reviewing the list and noting any inconsistencies or instances of non-compliance (including, for example, any Certificate Holder that may have changed job functions and no longer requires the Digital Certificate).”
7. ERCOT Protocols § 16.12.3(2) states that each market participant is required to submit to ERCOT an attestation of compliance based on that audit (a Digital Certificate Audit Attestation or DCAA) by October 1 of each year. Attestations must be completed for each market participant type (e.g., counterparty, qualified scheduling entity, load serving entity, etc.).
8. CSE holds the following registration types: Counterparty and Qualified Scheduling Entity. As such, CSE was required to file two DCAAs by October 1, 2015. These filings were not timely made.
9. CSE did not comply with PURA § 39.151 and the requirements of 16 TAC § 25.503(f)(2) as well as ERCOT Protocols § 16.12.3 because it did not timely submit its calendar years 2015 and 2016 DCAAs by the October 1 deadline.
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 applicable statutes and Commission rules.
12. 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. CSE shall pay an administrative penalty to the Commission in the amount of \$7,500. CSE shall remit payment of the full amount of the administrative penalty on or before thirty 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. CSE shall file an affidavit of payment in this docket no later than five calendar days after the payment is made.
4. CSE shall timely file all future DCAAs.
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 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

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY D. MARQUEZ, COMMISSIONER