

# **TENASKA POWER MANAGEMENT, LLC**

A-2016-2565723

300 E John Carpenter Freeway, Suite 1100  
Irving, Texas 75062  
817-462-1521

DATE OF DEPOSIT

JAN 22 2025

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

January 22, 2025

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street, Keystone Building  
Harrisburg, PA 17120

**Re: Updates for Tenaska Power Management, LLC (TPM) Application for Electric Generation Supplier; Certification A-2016-2565723, Effective 11/9/16**

Dear Ms. Chiavetta,

Enclosed please find the following updates regarding the above referenced Application for Certification:

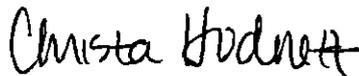
- a) Attachment III - Officers and Directors;
- b) Attachment V(c) - Organizational Chart; and
- c) Attachment IX - Prosecutory Actions. CONFIDENTIAL

Please note the following updates:

- (i) **Regulatory Contact and Accounting Records Custodian:**  
James Lunday  
Vice President and Controller  
300 E. John Carpenter Freeway, Suite 1100  
Irving, TX 75062  
(817) 303-1871  
(817) 303-1104 (Fax)  
[Regulatoryreporting@tnsk.com](mailto:Regulatoryreporting@tnsk.com)
- (ii) **Attorney:**  
Kevin Page  
Vice President and General Counsel  
300 E. John Carpenter Freeway, Suite 1100  
Irving, TX 75062  
(817) 462-8053  
(817) 303-1104 (Fax)  
[tpslegal@tnsk.com](mailto:tpslegal@tnsk.com)
- (iii) **Officer Bios, Professional Resumes and Contact for Consumer Service and Complaints:** Update Curry Aldridge's title to Sr. Vice President of Origination and Commercial Operations.
- (iv) **Operations:** TPM is currently providing brokering services in PA; however, TPM will not be taking title to the electricity nor making payments for customers.
- (v) **Broker Payment Structure:** TPM is due its broker fees from the electric supplier, per the terms of an agreement directly with the supplier.

If you have any questions, or need further documentation, please do not hesitate to contact Teri Brown at (817) 891-4170 or at [tbrown@tnsk.com](mailto:tbrown@tnsk.com).

Sincerely,



Christa Hodnett  
Director, Contract Administration  
Attachments

DATE OF DEPOSIT

JAN 22 2025

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

DOCKET NO. 57437

SETTLEMENT AGREEMENT	§	PUBLIC UTILITY COMMISSION
RELATING TO TENASKA POWER	§	
SERVICES CO.'S ALLEGED	§	OF TEXAS
VIOLATIONS OF 16 TAC §§ 25.503(e)	§	
AND (f), AND ERCOT NODAL	§	
PROTOCOLS §§ 3.9.1(2), 6.4.6(1),	§	
6.5.5.2(3), 6.5.7.5(2), 6.5.7.9, AND 8.1.1.1	§	

**SETTLEMENT AGREEMENT AND REPORT TO THE COMMISSION**

The Staff of the Public Utility Commission (Commission Staff), and Tenaska Power Services Co. (TPS) (collectively, the parties) enter into this settlement agreement (Agreement) and report to the Commission. This Agreement resolves and concludes the Commission Staff's investigation of TPS for alleged violations of 16 Texas Administrative Code (TAC) §§ 25.503(e)(3), (f)(2), (f)(6), and (f)(8); and Electric Reliability Council of Texas (ERCOT) Nodal Protocols §§ 3.9.1(2), 6.4.6(1), 6.5.5.2(3), 6.5.7.5(2), 6.5.7.9, and 8.1.1.1.

**The parties agree as follows:**

1. The parties stipulate to the facts and agree to the assertions below and contained in the attached proposed order<sup>1</sup> and request approval of the order by the Commission.
2. The Commission has jurisdiction over this matter under PURA<sup>2</sup> §§ 14.051, 14.054, 15.023, 15.024, 15.025, and 39.151(d).
3. TPS is registered with ERCOT as a Qualified Scheduling Entity (QSE) and is responsible for relaying dispatch instructions to generation resources. TPS does not own, operate, or control any of the third-party owned resources represented in TPS's QSE portfolios.

<sup>1</sup> Attachment I.

<sup>2</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001—66.016 (PURA).

4. As a QSE, TPS is an ERCOT market participant as that term is defined in 16 TAC § 25.503(c)(6) and ERCOT Nodal Protocols § 2.1.
5. The parties agree to the disgorgement of \$28,235,227.28, an amount equal to excess revenues realized, as described herein.

**Statement of Authorities**

6. Under 16 TAC § 25.503(e)(3), a market participant is expected to refrain from activities and transactions that artificially inflate revenues or volumes.
7. Under 16 TAC § 25.503(f)(2), a market participant must comply with ERCOT procedures and any official interpretation of the ERCOT Nodal Protocols issued by ERCOT or the Commission.
8. Under 16 TAC § 25.503(f)(6), a market participant's bid of energy and ancillary services must be from resources that are available and capable of performing and must be feasible within the limits of the operating characteristics indicated in the resource plan, as defined in the ERCOT Nodal Protocols, and consistent with the applicable ramp rate, as specified in the ERCOT Nodal Protocols.
9. Under 16 TAC § 25.503(f)(8), a market entity has an obligation to provide accurate information in any communication with ERCOT or the Commission.
10. Under ERCOT Nodal Protocols § 3.9.1(2), each QSE representing a resource is required to update its Current Operating Plan (COP) to reflect changes in the availability of a resource as soon as reasonably practicable, but in no event later than 60 minutes after the event that caused the change.
11. Under ERCOT Nodal Protocols § 6.4.6(1), a QSE must provide ERCOT with accurate telemetry of the current capability of each resource, including the resource status, ramp rate, high sustainable limit (HSL) and low sustainable limit (LSL).
12. Under ERCOT Nodal Protocols § 6.5.5.2(3), an Intermittent Renewable Resource's (IRR) QSE must set the IRR's HSL equal to the current net output capability of the facility.
13. Under ERCOT Nodal Protocols § 6.5.7.5(2), a QSE must designate resources providing ancillary services capacity to meet its obligations. If a QSE experiences temporary conditions where its total obligation for providing ancillary service cannot be met by the

QSE's designated resources, then the QSE may add additional capability from other resources that it represents.

14. Under ERCOT Nodal Protocols § 8.1.1.1, each QSE and the resource providing ancillary service must meet qualification criteria to operate satisfactorily with ERCOT.

**Disgorgement of Excess Revenues**

15. Under PURA § 15.023(e), the Commission is authorized to order the disgorgement of excess revenues relating to wholesale electric markets.
16. Under PURA § 15.023(g), excess revenues means the revenue in excess of revenue that would have occurred absent the statutes, rules, or protocols relating to wholesale electric markets.
17. Under PURA § 15.025(e), disgorged excess revenues must be returned to the affected wholesale market participants.
18. Under 16 TAC § 22.246(k), disgorged excess revenues must be remitted to ERCOT, and ERCOT must distribute the excess revenues to affected wholesale electric market participants either in proportion to their load during the intervals when the events occurred or by a different appropriate distribution method.
19. Under 16 TAC § 22.246(k), if the Commission determines that a different distribution method is appropriate, the Commission can direct Commission Staff to open a subsequent proceeding to address those issues.
20. It is appropriate to use the distribution methodology approved by the Commission in Docket No. 54985 because the underlying facts and legal analyses involved in that matter and its preceding companion matter are sufficiently similar to the present matter.<sup>3</sup> TPS understands that Commission Staff proposes in this proceeding that the Commission direct ERCOT to distribute the funds disgorged from TPS using the same method approved by the Commission in Docket No. 54985 and agrees to not contest the proposal.

---

<sup>3</sup> See *Proceeding to Determine Appropriate Method to Distribute Disgorged Funds from Docket No. 54957*, Docket No. 54985, Order (Oct. 12, 2023); *Settlement Agreement Relating to City of Austin DBA Austin Energy's Violation of PURA § 39.151(j); 16 TAC §§ 25.503(e)(3), (f)(2), and (f)(6); and ERCOT Nodal Protocols § 6.4.6(1), Related to Scheduling and Operation of Generation Resources*, Docket No. 54957, Order (Jun. 15, 2023).

Statement of FactsJanuary 2016 through April 2021 Ancillary Services and Telemetry Issues

21. Commission Staff alleges that from January 2016 through April 2021, TPS assigned ancillary services to unqualified resources and that TPS was paid to keep capacity available to provide ancillary services during these time periods but was incapable of providing the ancillary services assigned to unqualified resources.
22. The parties agree that two different load resources owned by a common owner, independent of TPS, led to a combination of 5,261 intervals in which the load resources were inadvertently assigned ancillary services responsibilities when they were unqualified.
23. Due to clerical oversight, for a period of time, TPS continued to assign ancillary services responsibility to these load resources after their provisional authorizations had lapsed.
24. On or about October 19, 2021, TPS removed the two load resources from its roster of resources capable of providing ancillary services.
25. To mitigate the risk that ancillary service responsibilities might be inadvertently assigned to an unqualified resource in the future, TPS has implemented more robust validations that alert the TPS Operator in real time if an unqualified resource is telemetering an ancillary responsibility. These validations will utilize the qualification status which will be set to expire with any provisional qualification status and compare to the real time telemetry being provided to ERCOT.

January 16, 2018 COP Update Issues

26. A resource telemetering the resource status code (RSC) of OFF indicates to ERCOT that the resource is offline but available for commitment.
27. Reliability unit commitment (RUC) is a process by which ERCOT ensures there is sufficient resource capacity and ancillary service capacity committed in the proper locations to serve forecasted load.
28. Under ERCOT Nodal Protocols § 3.9.1(2), each QSE representing a resource is required to update ERCOT with its Current Operating Plan (COP) with the information possessed by the QSE for each relevant resource to reflect changes in the availability of a resource as

soon as reasonably practicable, but in no event later than 60 minutes after the event that caused the change.

29. TPS was the QSE for a third party's combined cycle generation resource on January 16, 2018, and that resource's COP indicated an RSC of OFF under the resource's assumption that same-day gas could be purchased if the resource received a RUC instruction.
30. Due to a cold weather event occurring in the ERCOT power region, at approximately 12:21 on January 16, 2018, TPS asked the resource if it could run the unit from approximately 16:00 through 22:00. About five minutes later, the resource determined that the fuel supplier could not provide a same-day gas nomination at that time but would continue to look for sourcing.
31. At 15:18, the resource received a RUC instruction for hours ending 18:00 through 22:00 because the COP showed an RSC of OFF, indicating the resource was available for commitment.
32. At 15:35, after further discussions with the resource, TPS notified ERCOT it had learned that the resource had no available natural gas to run and that the resource would enter a forced outage. TPS then updated the COP for the resource, changing the RSC from OFF to OUT.
33. At 17:41, Sharyland Utilities informed ERCOT of a transmission line outage, compounding the need for the resource. In response, the resource identified another source for natural gas and procured enough fuel to come online at 19:45.
34. Commission Staff and TPS agree that had the resource's COP indicated an RSC of OUT instead of OFF prior to 15:18, ERCOT would not have issued a RUC instruction to the resource at the time that it did.

February 16, 2021 and February 17, 2021 Offline Resource Status Telemetry Issues

35. Real-Time Off-Line Reserve Price Adder (RTOFFPA) payments are reserved for offline resources only and reflect the value to the market of resources that are available for dispatch.
36. During settlement interval 0300 on February 16, 2021, TPS telemetered an inaccurate RSC that it received from the resource. Upon receiving this information, TPS telemetered to

ERCOT an RSC of OFF for a gas combustion turbine unit that was on forced outage and was not available for dispatch.

37. During 21 settlement intervals for hours ending 0100 through 0500, on February 17, 2021, TPS telemetered offline RSCs for a different gas combustion turbine unit when the unit was on planned outage and not available for dispatch.
38. Because TPS telemetered offline RSCs for the two resources, ERCOT's security-constrained economic dispatch (SCED) engine identified the resources as offline and available for dispatch and the resources received RTOFFPA payments. In actuality, the resources were on outage and could not have been dispatched and thus were ineligible for the RTOFFPA payments.
39. Commission Staff and TPS agree that disgorgement of the \$71,207.48 associated with inaccurate telemetry is appropriate.

February 2021, Winter Storm Uri Inaccurate HSL Telemetry

40. The HSL is the limit established by the resource, continuously updated in real-time, that indicates the maximum sustained energy production from a particular resource. Ancillary services imbalance payments are reserved for resources with operating reserves available to be provided to the ERCOT system, but that are not ultimately dispatched. The payments are meant to compensate such resources for those reserves and account for the value to the market of the availability of those operating reserves at a particular time. These ancillary services imbalance payments are, in part, applied to the amount of on-line capacity based on the telemetered HSL for all on-line generation resources.
41. On July 5, 2022, the Independent Market Monitor (IMM) provided a memo to Commission Staff concluding that, in February 2021 during Winter Storm Uri when ancillary services imbalance payments were particularly high, TPS telemetered HSLs that did not accurately represent the maximum sustainable energy production capability of certain resources. The IMM determined that HSLs were inaccurately telemetered and that certain TPS-serviced resources were not generating sufficient MWs to meet their required base points, indicating that the telemetered HSLs could not actually be met.
42. TPS does not own or operate the resources at issue.

43. Prior to any action from Commission Staff, ERCOT, or the IMM, TPS proactively requested to refund HSL-related revenues that it should not have received using ERCOT's alternative dispute resolution (ADR) process. At the time, the ADR process was not an available method to return the excess revenues to the market.
44. Since TPS's rejected efforts to use the ADR process to return settlement funds, in fall 2023, ERCOT has adopted, and the Commission has approved Protocols § 20.10 with NPRR 1174.
45. Commission Staff and TPS agree that the excess revenues related to the telemetry of inaccurate HSL values during Winter Storm Uri should be disgorged. The total amount of excess revenues related to the relevant HSLs is \$28,164,019.79.

#### **TPS's Improvement Actions**

46. From the earliest stages of Commission Staff's inquiry in this matter, TPS informed Commission Staff that improvement actions had been taken to promote future compliance with Commission rules and ERCOT Nodal Protocols. Specifically:
  - a. desk operations staff have been trained thoroughly in the expectations and correct procedures in updating RSC status expeditiously, and the importance of updating the COP, as needed; and
  - b. additional training and discussion have included proper communication and ensuring Supervisory Control and Data Acquisition (SCADA) telemetry always reflects the correct status of all resources. Accountability standards have been reconfirmed with all staff involved.
47. Additionally, as detailed below, TPS has agreed to provide additional training to relevant personnel and to continue examining events identified in the Agreement for opportunities for improvement.

#### **Settlement Agreement**

48. Commission Staff and TPS agree to the total disgorgement of \$28,235,227.28, which is the sum of \$71,207.48 in excess RTOFFPA payments received due to inaccurate telemetry of resource status codes during Winter Storm Uri and \$28,164,019.79 in excess real-time

ancillary services imbalance payments received due to inaccurate telemetry of high sustainable limits during Winter Storm Uri.

49. Commission Staff and TPS agree that TPS will pay an administrative penalty of \$353,500 related to the events described in this Agreement.
50. Commission Staff and TPS agree that TPS has trained and will continue to train each of its employees, contractors, or agents functioning in a QSE operator or management capacity. Training will include ERCOT-created training courses and be successfully completed by each individual hired or contracted by TPS to serve as a QSE operator or manager.
51. Commission Staff and TPS agree that TPS will continue to analyze its processes and procedures to determine how the events detailed in this Agreement occurred. TPS has implemented a system to automatically complete the scheduling process whenever a value is changed and created additional validations to compare and alert the TPS operations group of any difference between what is currently being telemetered to ERCOT and what is expected to be telemetered. TPS has implemented more robust validations that alert the operator in real time if an unqualified resource is telemetering an ancillary responsibility.
52. Under PURA § 15.023 and 16 TAC § 22.246(c), the Commission is authorized to impose administrative penalties against TPS.
53. The events described herein fit the Class A criteria outlines in 16 TAC § 25.8(b)(3)(B):
54. Under 16 TAC § 25.8(b)(3)(A), the Commission may impose a penalty against TPS of up to \$25,000 per violation per day.
55. Under 16 TAC § 22.246(c)(3), the Commission may consider the following factors when determining the appropriate amount of administrative penalty in this proceeding:
  - a. *The seriousness of the events, including the nature, circumstances, extent, and gravity of any prohibited acts, and the hazard or potential hazard created to the health, safety, or economic welfare of the public.* Commission Staff asserts that the events alleged in this agreement are serious. The failure to properly telemeter information related to ancillary service schedules or deployments and the failure of those resources with ancillary services responsibility to operate in a manner meeting their responsibilities could impact the reliable operation of the ERCOT bulk power system. ERCOT relies on accurate and timely information provided by a qualified

scheduling entity delivered on behalf of the resources it represents. System conditions can rapidly change and failure to provide the data required by the ERCOT Nodal Protocols within the agreed-to timeline interferes with ERCOT's ability to schedule or dispatch requested ancillary services.

- b. ***The economic harm to property or the environment caused by the events.*** Commission Staff is not aware of any economic harm to property or the environment as a result of the events.
- c. ***The history of previous events.*** Commission records indicate a history of two previous proceedings regarding TPS's compliance with ERCOT Nodal Protocols and previous applicable Zonal Protocols. In Docket No. 34456, the Commission entered an order determining that TPS failed to provide adequate telemetry on December 22, 2006.<sup>4</sup> In Docket No. 36993, the Commission entered an order determining that a Load acting as a Resource for which TPS served as the QSE had not provided timely Responsive Reserve Service in one instance on July 2, 2007.<sup>5</sup> There have been no proceedings since the establishment of the ERCOT Nodal Protocols.
- d. ***The amount necessary to deter future violations.*** Commission Staff finds the recommended administrative penalty is the appropriate amount to promote compliance in the future.
- e. ***Corrective efforts.*** Commission Staff and TPS agree that TPS has taken significant steps to remedy operational concerns addressed in this Agreement as described herein.
- f. ***Any other matter that justice may require.*** Commission Staff asserts that TPS' proactive request to return excess revenues related to inaccurate HSL telemetry warranted consideration in its recommended administrative penalty.

---

<sup>4</sup> *Application of Commission Staff and Tenaska Power Services Company for Approval of Settlement Agreement*, Docket No. 34456, Final Order (Jul. 31, 2007).

<sup>5</sup> *Agreed Notice of Violation and Settlement Agreement Relating to Tenaska Power Service's Co's Violations of PURA §39.151(j) and PUC Subst. R. §25.503(f)(2). Relating to Failure to Adhere to ERCOT Protocol §6.5.4(2) Concerning Load Acting As Resource Service Requirements*, Docket No. 36993, Final Order (Jun. 19, 2009).

**Conclusion**

56. This agreement resolves all claims related to Commission Staff's investigation of TPS's alleged violations of 16 TAC §§ 25.503(e)(3), (f)(2), (f)(6), and (f)(8); and ERCOT Nodal Protocols §§ 6.4.6(1), 6.5.5.2(3), 6.5.7.5(2), 6.5.7.9 and 8.1.1.1, as described in this agreement and in the attached proposed order.
57. Unless specifically provided for in this Agreement, TPS waives any notice and procedures that might otherwise be authorized or required in this proceeding.
58. Nothing in this Agreement shall limit Commission Staff's ability to perform its enforcement functions as set forth in PURA and the Commission rules.
59. 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. This Agreement represents a compromise of claims and allegations, and the execution of this Agreement does not admit the truth or accuracy of any disputed claims or allegations. 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 assumption, methodology, or legal or regulatory principle that may have been employed in reaching this Agreement.
60. The parties contemplate that this Agreement will be approved pursuant to 16 TAC § 22.246(h)(1)(C). If the Commission issues an order that materially changes the terms of this Agreement, the parties agree that any party adversely affected by that material change 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 filing a written notice if the proceeding within seven calendar days of the date the Commission files the order acting on this Agreement. Failure to file a notice of withdrawal within the specified time period constitutes acceptance of the material changes to this Agreement, if any, made by the Commission.

61. Each person executing this Agreement represents that they have 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 and all of which will constitute the same Agreement.
62. TPS warrants that it has read the Agreement carefully, knows the contents thereof, and signed the same as its free act.

*[Remainder of page intentionally left blank]*

EXECUTED by the parties by their authorized representatives designated below.



Kevin Smith  
President  
Tenaska Power Services Co.



Mildred Anaele  
Attorney  
Division of Compliance and Enforcement  
Public Utility Commission of Texas

DATE OF DEPOSIT  
JAN 22 2025  
PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**Attachment 1**

**Proposed Order**

**DOCKET NO. 57437**

**SETTLEMENT AGREEMENT  
RELATING TO TENASKA POWER  
SERVICES CO.'s ALLEGED  
VIOLATIONS OF 16 TAC §§ 25.503(e)  
AND (f), AND ERCOT NODAL  
PROTOCOLS §§ 3.9.1(2), 6.4.6(1),  
6.5.5.2(3), 6.5.7.5(2), 6.5.7.9, AND 8.1.1.1**

§  
§  
§  
§  
§  
§  
§  
§

**PUBLIC UTILITY COMMISSION  
OF TEXAS  
DATE OF DEPOSIT**

**JAN 22 2025**

**PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

**PROPOSED ORDER**

This Order addresses the agreement between Commission Staff and Tenaska Power Services Co. (TPS) relating to Commission Staff's investigation of TPS for alleged violations of 16 Texas Administrative Code (TAC) §§ 25.503(e)(3), (f)(2), (f)(6), and (f)(8), and Electric Reliability Council of Texas (ERCOT) Nodal Protocols §§ 6.4.6(1), 6.5.5.2(3), 6.5.7.5(2), 6.5.7.9 and 8.1.1.1.<sup>1</sup>

Commission Staff recommends the Commission order TPS to disgorge \$28,235,227.28 in excess revenues. TPS agrees to the disgorgement. The Commission orders the disgorgement of \$28,235,227.28 in excess revenues from TPS and directs ERCOT to distribute the disgorged revenues using the method approved in Docket No. 54985.<sup>2</sup> Commission Staff recommends that TPS pay an administrative penalty of \$353,500. TPS agrees to pay the administrative penalty recommended by Commission Staff. The Commission approves the administrative penalty to the extent provided in this Order.

---

<sup>1</sup> All references to the ERCOT Nodal Protocols are to the versions of those documents that were in effect at the time of the violations identified herein.

<sup>2</sup> *Proceeding to Determine Appropriate Method to Distribute Disgorged Funds from Docket No. 54957*, Docket No. 54985, Order (Oct. 12, 2023).

**I. Findings of Fact**

The Commission makes the following findings of fact:

**Affected Entities**

1. TPS is a qualified scheduling entity (QSE) registered with ERCOT.
2. As a QSE, TPS is an ERCOT market participant and a market entity.
3. Under the ERCOT Nodal Protocols, TPS is responsible for submitting offers for and relaying dispatch instructions to certain third-party resources in the ERCOT market. TPS does not own, operate, or control any of the third-party owned resources represented by the TPS QSE.
4. ERCOT is certified by the Commission to act as the independent organization in the ERCOT power region, ensuring electric production and delivery are accurately accounted for among the wholesale buyers and sellers in the power region.
5. As the certified independent organization, ERCOT must fully cooperate with the Commission in the Commission's oversight and investigatory functions.

**Events Subject to Settlement****January 2016 through April 2021 Ancillary Services and Telemetry Issues**

6. Two different load resources owned by a common owner, independent of TPS, led to a combination of 5,261 intervals in which the load resources were inadvertently assigned ancillary services responsibilities when they were unqualified.
7. Due to clerical oversight, for a period of time, TPS continued to assign ancillary services responsibility to these Load Resources after their provisional authorizations had lapsed.
8. On or about October 19, 2021, TPS removed the two load resources from its roster of resources capable of providing ancillary services.
9. To mitigate the risk that ancillary service responsibilities might be assigned to an unqualified resource in the future, TPS has implemented more robust validations that alert the TPS operator in real time if an unqualified resource is telemetering an ancillary responsibility. These validations utilize the qualification status which will be set to expire

with any provisional qualification status and compare to the real time telemetry being provided to ERCOT.

January 16, 2018 COP Update Issues

10. A resource telemetering the resource status code of OFF indicates to ERCOT that the resource is offline but available for commitment.
11. Reliability unit commitment (RUC) is a process by which ERCOT ensures there is sufficient resource capacity and ancillary service capacity committed in the proper locations to serve forecasted load.
12. TPS was the QSE for a third party's combined cycle generation resource on January 16, 2018, and that resource's current operating plan (COP), as communicated by the resource to TPS and in turn submitted to ERCOT, indicated a resource status code of OFF under the assumption that same-day gas could be purchased if the resource received a RUC instruction.
13. Due to a cold weather event occurring in the ERCOT power region, at approximately 12:21 on January 16, 2018, TPS asked the resource if it could run the unit from approximately 16:00 through 22:00. About five minutes later, the resource operator determined that the fuel supplier could not provide a same-day gas nomination at that time but would continue to look for sourcing.
14. At 15:18, the resource received a RUC instruction for hours ending 18:00 through 22:00 because the COP showed a resource status code of OFF, indicating the resource was available for commitment.
15. At 15:35, after further discussions with the resource operator, TPS notified ERCOT that the resource had no available natural gas to run and that the resource would enter a forced outage. TPS then updated the current operating plan for the resource, changing the resource status code from OFF to OUT.
16. At 17:41, Sharyland Utilities informed ERCOT of a transmission line outage, compounding the need for the resource. In response, the resource operator identified another source for natural gas and procured enough fuel to come online at 19:45.

17. Commission Staff and TPS agree that had the resource's current operating plan indicated a resource status code of OUT instead of OFF prior to 15:18, ERCOT would not have sought to issue a RUC instruction to the resource at the time that it did.

February 16, 2021 and February 17, 2021 Offline Resource Status Telemetry Issues

18. Real-Time Off-Line Reserve Price Adder (RTOFFPA) payments are reserved for offline resources only and reflect the value to the market of resources that are available for dispatch.
19. During settlement interval 0300 on February 16, 2021, TPS telemetered an inaccurate resource status code (RSC) of OFF for a gas combustion turbine unit it had received from the resource. The unit was on forced outage and was not available for dispatch.
20. During settlement intervals for hours ending 0100 through 0500, on February 17, 2021, TPS telemetered offline RSCs for a different gas combustion turbine unit when the unit was on planned outage and was not available for dispatch.
21. As a result of the incorrect telemetry of RSCs, TPS received, on behalf of the resource, \$71,207.48 in revenues above the revenue it would have received had the RSCs been OUT.

February 2021, Winter Storm Uri Inaccurate HSL

22. The HSL is the limit established by a resource, continuously updated in real-time, that indicates that maximum sustained energy production from a particular resource. Ancillary services imbalance payments are reserved for resources with operating reserves available to be provided to the ERCOT system, but that are not ultimately dispatched. The payments are meant to compensate such resources for those reserves and account for the value to the market of the availability of those operating reserves at a particular time. These ancillary services imbalance payments are, in part, applied to the amount of on-line capacity based on the telemetered HSL for all on-line generation resources.
23. In February 2021, during Winter Storm Uri when ancillary services imbalance payments were particularly high, TPS telemetered HSLs received from certain resources that did not accurately represent the maximum sustainable energy production capability of those resources it represented.
24. TPS does not own or operate the resources at issue.

25. Prior to any action from Commission Staff, ERCOT, or the IMM, TPS proactively requested to refund HSL-related revenues that it should not have received using ERCOT's alternative dispute resolution (ADR) process. At the time of TPS' ADR request, the ADR process was not an available method to return the excess revenues to the market.
26. Since TPS's rejected efforts to use the ADR process to return settlement funds, in fall 2023, ERCOT has adopted, and the Commission has approved Protocols § 20.10 with NPRR 1174.
27. ERCOT Nodal Protocols § 20.10 now requires ERCOT to follow the process established for the resolution of ADRs for the return of settlement funds, unless otherwise specified in the Protocols.
28. Commission Staff and TPS agree that, as a result of the incorrect telemetry of HSLs, TPS received \$28,164,019.79 in revenues above the revenue it would have received absent the erroneous telemetry of HSLs.

**Method to Distribute Disgorged Excess Revenues**

29. In Docket No. 54985, the Commission approved an alternative method to distribute excess revenues the Commission ordered to be disgorged in Docket No. 54957.<sup>3</sup>
30. Commission Staff asserts that the Commission should use the same distribution methodology approved in Docket No. 54985 because the underlying facts and legal analyses involved in that matter and in Docket No. 54957 are sufficiently similar to the instant matter.
31. Using the distribution method approved in Docket No. 54985, ERCOT will:
  - a. Identify the load ratio share from the most recent market settlement that was utilized for the issuance of invoices for the impacted intervals of the operating days;

---

<sup>3</sup> *Settlement Agreement Relating to City of Austin DBA Austin Energy's Violation of PURA § 39.151(j); 16 TAC §§ 25.503(e)(3), (f)(2), and (f)(6), Related to Scheduling and Operation of Generation Resources, Docket No. 54957, Order (Jun. 15, 2023).*

- b. Calculate the amount due to each QSE by multiplying the disgorged dollar amount for each interval by the load ratio share for that interval;
- c. Send a miscellaneous invoice to all affected QSEs; and
- d. Pay the amounts owed to the affected QSEs as reflected on the invoices: If a QSE that is eligible for a distribution, or the counterparty for that QSE, has failed to pay when due any payment or financial security obligation owed to ERCOT or its designee, if applicable, then ERCOT will withhold the distribution payment and apply it toward the amounts owed by the QSE or the counterparty for the QSE.

#### Notice

32. On February 3, 2023, Commission Staff provided TPS with notice of the investigation, its results, and information about TPS's right to a hearing and opportunity to explain its activities.

#### Evidentiary Record

33. In Order No. \_\_\_\_ filed on December \_\_\_\_, 2024, the administrative law judge admitted into the record of this proceeding the parties' application for approval of an agreement and all attachments filed on December \_\_16\_\_, 2024.

#### Agreement

34. TPS cooperated with Commission Staff's investigation.
35. TPS acknowledges the events detailed in this Order.
36. On December \_\_16\_\_, 2024, Commission Staff and TPS entered into an agreement resolving the allegations described in this Order. Commission Staff recommended, and TPS agreed to, the disgorgement of \$28,235,227.28 in excess revenues, and Commission Staff recommended, and TPS agreed to pay, an administrative penalty of \$353,500.
37. TPS indicated that actions have been taken to prevent potential future violations of ERCOT Nodal Protocols.
38. On December \_\_16\_\_, 2024, Commission Staff filed a copy of the executed agreement with the Commission's filing clerk.

**Seriousness of Violations**

39. The failure to properly telemeter information related to a resource's ancillary service schedules or deployments and the failure of those resources with ancillary services responsibility to meet its obligations could impact the reliable operation of the ERCOT bulk power system. ERCOT relies on accurate and timely information provided by a qualified scheduling entity delivered on behalf of the resources it represents. System conditions can rapidly change and failure to provide the data required by the ERCOT Nodal Protocols within the agreed-to timeline interferes with ERCOT's ability to schedule or dispatch requested ancillary services.

**Compliance History and Deterrence of Future Violations**

40. Commission records indicate a history of two previous proceeding regarding TPS's compliance with ERCOT Nodal Protocols.
- a. In Docket No. 34456, the Commission entered an order determining that TPS failed to provide adequate telemetry on December 22, 2006.<sup>4</sup>
  - b. In Docket No. 36993, the Commission entered an order determining that a Load acting as a Resource for which TPS served as the QSE had not provided timely Responsive Reserve Service in one instance on July 2, 2007.<sup>5</sup>
41. The recommended administrative penalty of \$353,500 is sufficient and necessary to deter future recurrences of similar events.

**Informal Disposition**

42. More than 15 days have passed since completion of all notice requirements.
43. No person filed a protest or motion to intervene.

---

<sup>4</sup> *Application of Commission Staff and Tenaska Power Services Company for Approval of Settlement Agreement*, Docket No. 34456, Order (Jul. 31, 2007).

<sup>5</sup> *Agreed Notice of Violation and Settlement Agreement Relating to Tenaska Power Services Co.'s Violation of PURA §39.151(j) and PUC Subst. R. §25.503(f)(2), Relating to Failure to Adhere to ERCOT Protocol §6.5.4(2) Concerning Load Acting as Resource Service Requirements*, Docket No. 36993, Order (Jun. 19, 2009).

44. TPS and Commission Staff are the only parties to this proceeding.
45. No party requested a hearing, and no hearing is needed.
46. Commission Staff recommended approval of the Agreement.
47. This decision is not adverse to any party.

## II. Conclusion of Law

The Commission makes the following conclusions of law:

1. The Commission has jurisdiction over this matter under PURA<sup>6</sup> §§ 14.051, 14.054, 15.023, 15.024, 15.025, and 39.151(d).
2. TPS is a QSE as defined in 16 TAC § 25.5(95) and ERCOT Nodal Protocols § 2.1.
3. TPS is a market participant as defined in 16 TAC § 25.503(c)(6) and ERCOT Nodal Protocols § 2.1.
4. TPS is a market entity as defined in 16 TAC § 25.503(c)(5).
5. ERCOT is an independent organization certified by the Commission under PURA § 39.151(c).
6. Between January 2016 and April 2021, TPS was unable to designate all resources qualified and capable of providing ancillary service capacity as required by 16 TAC § 25.503(f)(6) and ERCOT Nodal Protocols §§ 6.5.7.5(2) and 8.1.1.1.
7. On January 16, 2018, TPS had not received an updated current operating plan from a resource and therefore did not update the current operating plan of that resource it represented—to reflect changes in the availability of a resource as soon as reasonably practicable, but in no event later than 60 minutes after the event that caused the change to the resource's current operating plan as required by 16 TAC § 25.503(f)(8) and ERCOT Nodal Protocols § 3.9.1(2).

---

<sup>6</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001—66.016 (PURA).

8. On January 16, 2018, a resource represented by TPS failed to comply fully and promptly with a dispatch instruction in violation of 16 TAC § 25.503(f)(2) and ERCOT Nodal Protocols § 6.5.7.9.
9. Between February 15 and 19, 2021, TPS was unable to telemeter accurate HSLs for resources it represented as required by 16 TAC § 25.503(f)(8) and ERCOT Nodal Protocols §§ 6.4.6.(1) and 6.5.5.2(3).
10. Between February 15 and 19, 2021, TPS was unable to prevent the activities of the resources that it represented and which caused TPS to receive excess revenues on behalf of such resources, resulting in payments inconsistent with 16 TAC § 25.503(e)(3).
11. On February 16 and 17, 2021, TPS telemetered inaccurate resource status codes conveyed by resources it represented during 22 separate security-constrained economic dispatch intervals. Telemetry of inaccurate resource status codes is prohibited by 16 TAC § 25.503(f)(8) and ERCOT Nodal Protocols § 6.4.6(1).
12. Under PURA § 15.023(e), the Commission is authorized to order the disgorgement of excess revenue incorrectly delivered to TPS.
13. Under PURA § 15.023(g), excess revenues means the revenue in excess of the revenue that would have occurred absent a violation of the statutes, rules, or protocols relating to wholesale electric markets.
14. Under PURA § 15.025(e), disgorged excess revenue must be returned to the affected wholesale market participants and be used to reduce costs or fees incurred by retail electric customers. Under 16 TAC § 22.246(k), any excess revenues disgorged by TPS in this case must be remitted to ERCOT.
15. It is appropriate to adopt a method to distribute the disgorged excess revenues from TPS that differs from the default method specified in 16 TAC § 22.246(k)(2).
16. It is appropriate for ERCOT to distribute the disgorged excess revenues according to the alternative method approved by the Commission in Docket No. 54985 and under 16 TAC § 22.246(k).
17. Under 16 TAC § 22.246(k)(1), no later than 90 days after the disgorged excess revenues are remitted to ERCOT, the monies must be distributed using the method approved in this

- order, or ERCOT must, by that date, notify the Commission of the date by which the funds will be distributed. When ERCOT distributes the disgorged monies, it must send out a market notice that explains the docket number in which the Commission ordered the disgorged excess revenues and ERCOT must instruct affected wholesale market participants that the monies must be used to reduce the costs or fees incurred by retail electric customers under 16 TAC § 22.246(k).
18. It is appropriate to require any affected wholesale market participant receiving more than \$10,000 in disgorged excess revenues to demonstrate how the received amounts were used to reduce the costs or fees incurred by retail electric customers under 16 TAC § 22.246(k)(2).
  19. Any affiliate of TPS receiving disgorged revenues must distribute all of the disgorged revenues directly to its retail customers and must provide certification under oath to the Commission of the distribution under 16 TAC § 22.246(k)(3).
  20. TPS was provided proper notice of Commission Staff's investigation into this matter, the results of the investigation, information about TPS's right to a hearing, and an opportunity to explain its activities, as required by 16 TAC §§ 22.241(a)(2) and 22.246(f)(2).
  21. The filing of the Agreement meets the requirements of 16 TAC § 22.246(h)(1).
  22. The Commission processed this docket in accordance with the requirements of applicable statutes and Commission rules.
  23. 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 orders:

1. The Commission approves the agreed administrative penalty to the extent provided in this Order.
2. TPS must comply with the terms of the agreement and this Order.

3. TPS must pay an administrative penalty of \$353,500 to the Commission. TPS must remit payment of the full amount of the administrative penalty on or before 30 calendar days after the date the Commission signs the Order. Payment of the administrative penalty may be made by check payable to the Public Utility Commission of Texas. The check must reference this docket and must be sent to the following address:

Public Utility Commission of Texas  
ATTN: Fiscal Services  
P.O. Box 13326  
Austin, Texas 78711

4. TPS must file an affidavit of payment in this docket no later than five calendar days after remitting payment.
5. The Commission orders the disgorgement of \$28,235,227.28 in excess revenues from TPS.
6. On or before 30 calendar days after the Commission signs this Order, ERCOT must issue a miscellaneous invoice to TPS for the \$28,235,227.28 in disgorged excess revenues. TPS must transfer the \$28,235,227.28 in excess revenues to ERCOT within seven calendar days after receiving the miscellaneous invoice from ERCOT.
7. Within five days of transferring the excess revenues to ERCOT, TPS must file, in this docket, an affidavit of transfer of the disgorged revenues.
8. ERCOT must distribute the excess revenues disgorged from TPS using the distribution method described and approved in this Order.
9. ERCOT must, within 90 days of receipt of the \$28,235,227.28 in excess revenues disgorged from TPS, either distribute the funds to affected wholesale market participants or notify the Commission of the proposed date of distribution by filing a pleading in the compliance docket.
10. At least 30 days before it distributes the disgorged excess revenues, ERCOT must file in the compliance docket a draft of the communication that is required by 16 TAC § 22.246(k)(1) and as modified by this order to be included with the distributions.
11. Commission Staff must file in the compliance docket its approval or any revision, as appropriate, to ERCOT's draft communication within 15 days of receipt.

12. An affected wholesale market participant receiving more than \$10,000 in excess revenues disgorged from TPS is required to file an affidavit in the compliance docket demonstrating how those funds were used to reduce the costs or fees incurred by retail electric customers.
13. Any affiliate of TPS must file an affidavit under oath in the compliance docket certifying that it has distributed all the excess revenues disgorged from TPS directly to its retail customers.
14. All filings required or authorized by this Order must be made in Docket No. \_\_\_\_\_, Compliance Filing for Docket No. 57437 (*Settlement Agreement Relating to TPS's Alleged Violations of 16 Texas Administrative Code (TAC) §§ 25.503(e)(3), (f)(2), (f)(6), and (f)(8), and Electric Reliability Council of Texas (ERCOT) Nodal Protocols §§ 3.9.1(2), 6.4.6(1), 6.5.5.2(3), 6.5.7.9, and 8.1.1.1.*
15. The Commission is not constrained in any matters from requiring additional action or penalties from matters that are not addressed or resolved by this Order.
16. This Order resolves only the alleged violations identified in this Order.
17. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the Agreement and must not be regarded as precedential as to the appropriateness of any principle or methodology underlying the Agreement.
18. All other motions and any other requests for general or specific relief, if not expressly granted, are denied.

Signed at Austin, Texas the \_\_\_\_\_ day of \_\_\_\_\_ 2024.

**PUBLIC UTILITY COMMISSION OF TEXAS**

\_\_\_\_\_  
**THOMAS J. GLEESON, CHAIRMAN**

\_\_\_\_\_  
**KATHLEEN JACKSON, COMMISSIONER**

\_\_\_\_\_  
**COURTNEY K. HJALTMAN, COMMISSIONER**

**ATTACHMENT III  
OFFICERS AND DIRECTORS OF TENASKA POWER MANAGEMENT, LLC**

Jerry K. Crouse* <b>Director/Chairman</b> (402) 691-9532 jcrouse@tenaska.com	Drew J. Fossum* <b>Director/Sr. VP &amp; Assistant Secretary</b> (402) 758-6127 dfossum@tenaska.com	Christopher A. Leitner* <b>Director/CEO</b> (402) 691-9725 cleitner@tenaska.com	Gregory A. Van Dyke* <b>Director/CFO</b> (402) 691-9720 gvandyke@tenaska.com
Curry D. Aldridge** <b>Senior Vice President</b> (817) 303-1876 caldridge@tnsk.com	Robert E. Anderson** <b>Vice President</b> (817) 462-8072 banderson@tnsk.com	J. Michael Bohan** <b>Vice President</b> (817) 303-1119 mbohan@tnsk.com	Jeremy D. Carpenter** <b>Vice President</b> (817) 303-1869 jcarpenter@tnsk.com
Adam J. Cochran** <b>Vice President</b> (817) 303-3632 acochran@tnsk.com	Keith E. Emery** <b>Senior Vice President</b> (817) 303-1870 kemery@tnsk.com	Mark G. Foreman** <b>Vice President</b> (817) 462-1524 mforeman@tnsk.com	Nick M. Gilmore** <b>Vice President</b> (817) 462-8055 ngilmore@tnsk.com
Christopher M. Grammer** <b>Senior Vice President</b> (817) 303-1102 cgrammer@tnsk.com	Mark J. Holler** <b>Vice President</b> (817) 303-1113 mholler@tnsk.com	William W. Horton** <b>Vice President</b> (817) 462-1519 bhorton@tnsk.com	Norma R. Iacovo** <b>Vice President</b> (817) 462-1507 niacovo@tnsk.com
Nicholas J. Johnson** <b>Vice President</b> (817) 303-1616 njohnson@tnsk.com	Jenni Z. Leger** <b>Vice President</b> (817) 303-1852 jleger@tnsk.com	James C. Lunday** <b>Vice President/Controller</b> (817) 303-1871 jlunday@tnsk.com	David C. Matthews** <b>Vice President</b> (817) 303-3604 dmatthews@tnsk.com
Carey D. Morris** <b>Vice President</b> (951) 290-1054 cmorris@tnsk.com	Kevin M. Page** <b>Vice President &amp; General Counsel</b> (817) 462-8053 kpage@tnsk.com	Ronald N. Quinn* <b>Executive Vice President/ Secretary</b> (402) 691-9504 rquinn@tenaska.com	Kevin R. Smith** <b>President</b> (817) 462-1513 ksmith@tnsk.com
Kara S. Whillock** <b>Vice President</b> (817) 462-1523 kwhillock@tnsk.com	Isabel Worley** <b>Vice President</b> (817) 303-3621 eworley@tnsk.com		

\*14302 FNB Parkway, Omaha, NE 68154

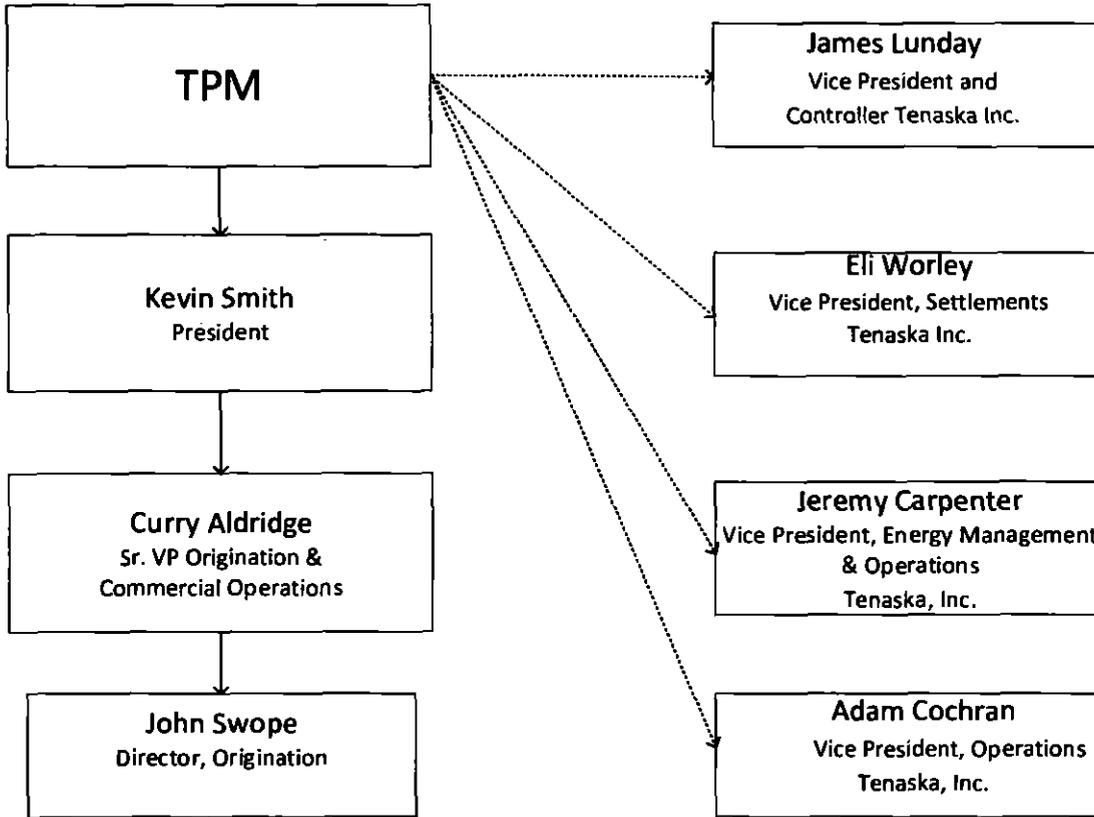
\*\*300 East John Carpenter Freeway, Suite 1100, Irving, TX 75062

**DATE OF DEPOSIT**

**JAN 22 2025**

**PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

ATTACHMENT V(c)



DATE OF DEPOSIT  
JAN 22 2025  
PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

