

LOUISIANA PUBLIC SERVICE COMMISSION
MINUTES FROM JANUARY 25, 2012
OPEN SESSION

MINUTES OF JANUARY 25, 2012 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN BATON ROUGE, LOUISIANA. PRESENT WERE CHAIRMAN FOSTER CAMPBELL, VICE CHAIR JIMMY FIELD AND COMMISSIONERS LAMBERT BOISSIERE, ERIC SKRMETTA AND CLYDE HOLLOWAY. ALSO PRESENT WAS EVE KAHAO GONZALEZ.

Open Session of January 25, 2012, convening at 12:12 P.M. and adjourning at 3:31 P.M., Natchez Room, 602 N. 5th Street, 1st Floor, Baton Rouge, Louisiana, with the above-named members of the Commission and Secretary Eve Kahao Gonzalez.

Ex. 1 Announcements

Secretary Gonzalez offered condolences to Jimmy and Laura Field on the loss of Commissioner Field's father-in-law.

Commissioner Holloway thanked everyone for their cooperation in moving the B&E to noon and reminded everyone that the February B&E will be at Louisiana College in Pineville, Louisiana, with a reception the night before in Long Leaf, Louisiana at the Southern Forest Heritage Museum.

Commissioner Holloway introduced his new Enforcement Agent, Clint Person.

Commissioner Field announced that Gulf Coast Power Association will hold a workshop in Houston, Texas on February 16 from 11am to 4pm. For additional information, please contact David Cruthirds.

Ex. 2 Election of Chairman and Vice-Chairman

Commissioner Field offered a motion to elect Commissioner Campbell as Chairman and himself as Vice Chairman. Commissioner Campbell seconded this motion.

Commissioner Holloway offered a substitute motion to elect Commissioner Field as Chairman and Commissioner Campbell as Vice Chairman.

Commissioner Skrmetta offered another substitute motion to re-elect Commissioner Field as Chair and Commissioner Holloway as Vice-Chair. This motion died for lack of a second.

Commissioner Holloway's motion was re-urged. Commissioner Skrmetta seconded this motion and it was brought up for a vote. By a vote of 3 to 2, this motion failed.

Commissioner Field's original motion was then brought back up for a vote. Therefore, on motion of Commissioner Field, seconded by Commissioner Campbell, with Commissioner Boissiere concurring and Commissioners Holloway and Skrmetta objecting, the Commission voted to elect Commissioner Campbell as Chairman and Commissioner Field as Vice Chairman for 2012.

Commissioner Skrmetta directed Staff to put the election of LPSC ERSC representative on the February Agenda.

Ex. 3 **R-32141** - Louisiana Public Service Commission, ex parte. . In re: Discussion and possible vote at the December 14, 2011 Business and Executive Session, Proposed General Order regarding the superseding of General Order dated October 11, 2010 and further supplementing General Order dated May 30, 2008 and General Order dated June 30, 1974, pertaining to Common and Contract Carriers of Passengers and Dispatch Taxicab Carriers under the jurisdiction of the LPSC, establishing rules, standards and registration for vehicles and their operators and further to adopt a Proposed Passengers Bill of Rights.

In re: Request for clarification.

At the request of Commissioner Holloway.

The Commission directed Staff to go back and further investigate the concerns voiced, including but not limited to, exclusions for limos regarding ADA accessibility, credit card machine requirements, and plastic seat covers, as well as the age limitation imposed on all vehicles and a proposed check list for suitability of vehicles.

- Ex. 4 Cleco Power LLC's Notice of intent to conduct its 2012 RFP for long-term generating power and/or purchase power contracts, pursuant to Commission's MBM Order.

In re: Request for authority to issue RFP for outside consultant.

On motion of Commissioners Field, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to authorize Staff to issue an RFP for outside consultant.

Commissioner Field directed Staff to have the consultant in the Cleco CSAPR FRP docket review the time table and commencement date to see if there could have been some other solutions or other parties could have bid if they knew they had a little more time to get transmission into the system.

- Ex. 5 2011 Test Year Review of the Formula Rate Plan of Density Utilities of LA, LLC

In re: Request for authority to issue RFP for outside consultant.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, with Commissioners Boissiere and Holloway concurring and Commissioner Campbell temporarily absent, the Commission voted to authorize Staff to issue an RFP for outside consultant.

- Ex. 6 **U-31894** - Entergy Louisiana, LLC, ex parte. In re: Application for Approval to Securitize Investment Recovery Costs Related to the Little Gypsy Unit 3 Repowering Project authorizing the Company to finance its investment costs pursuant to Act 988.

In re: Discussion and possible vote to hire Sisung Securities Corporation for post-bond sale monitoring and true-up.

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, with Commissioners Field and Boissiere concurring and Commissioner Campbell temporarily absent, the Commission voted to retain Sisung Securities Corporation to monitor post bond sales and true ups for a total budget of \$39,000, with no expenses.

- Ex. 7 **U-32058** - AEP Southwestern Transmission Company Inc. and Southwestern Electric Power Company (SWEPCO), ex parte. In re: Application of AEP Southwestern Transmission Company Inc. and Southwestern Electric Power Company (SWEPCO) for Recognition of AEP Southwestern Transmission Company Inc., as a Public Utility, with all Rights and Obligations attendant thereto, including but not limited to the Right to Own and Operate Transmission Facilities in the State of Louisiana, and with all Necessary Approvals being Granted to SWEPCO.

In re: Discussion and possible vote to hire an outside consultant to assist Staff in this matter.

On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to retain J. Kennedy and Associate, Inc. for a budget of \$37,500 plus expenses not to exceed \$2,200, for a total budget of \$39,700 to assist Staff in this matter.

- Ex. 8 Entergy Gulf States, LLC's Gas Operations Rate Stabilization Plan Annual Evaluation Reports for the 2011-2013 test years.

In re: Discussion and possible vote to hire an outside consultant to assist Staff in this matter.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to retain Exeter Associates, Inc. for a budget of \$30,000 plus \$3,000 in expenses, for a total budget not to exceed \$33,000 to assist Staff in this matter.

Ex. 9 **S-31874** - TRI-Water System, Inc., ex parte. In re: Request for increase in water rates (FHA/Non-Profit System).

In re: Discussion and possible vote on Staff Recommendation.

On motion of Commissioner Campbell, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation as contained in the Audit Memorandum filed into the record November 1, 2011 with the following change: The rate for the 1st 2,000 gallons of water for residential users will be \$14.50.

Ex. 10 **R-29380 Subdocket B** - Louisiana Public Service Commission, ex parte. In re: An Investigation Into the Ratemaking and Generation Planning Implications of the U.S. EPA Clean Air Interstate Rule.

In re: Staff Report

Staff Attorney Melanie Verzwylt, along with Staff Attorney Jeff Valliere and Outside Counsel Jeff Price, reported on the status of the CSAPR litigation before the DC Circuit, pending CSAPR matters at the EPA, and the comments requested in the Commission's rulemaking. Secretary Gonzalez commended Staff Attorneys Melanie Verzwylt and Jeff Valliere for the hard work on this docket.

Ex. 11 **R-31850** - Louisiana Public Service Commission, ex parte. In re: Establishment of rules governing the regulation of water and/or wastewater utilities subject to the jurisdiction of the Louisiana Public Service Commission.

In re: Discussion and possible vote on Staff Recommendation.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept Staff Recommendation and adopt the Rules and Regulations governing water and/or wastewater utilities, but to keep the docket open to receive and address further comments on possible modifications to the Commission's General Orders dated 12/13/93, 6/1/95, 11/22/06 and 8/9/07, as well as comments regarding section 901 dealing with submetering of water. It was further ordered that the definition of customer as defined in the rules be corrected to include residential, commercial and industrial users.

Ex. 12 **U-29764** - Louisiana Public Service Commission, ex parte.. In re: Entergy Louisiana, LLC and Entergy Gulf States, Inc., retail proceeding to estimate and implement in retail rates in 2007 the rough equalization impact of FERC Opinions No. 480 and 480-A, FERC Docket EL 01-88-000, LPSC vs. Entergy Corp.

In re: Appeal of Interlocutory Ruling denying Entergy Louisiana, LLC's and Entergy Gulf States Louisiana, LLC's Motion to Stay Proceeding pending resolution of Entergy's upcoming change of control filing and Motion to Strike certain portions of the Direct Testimony of Louisiana Public Service Commission Staff consultant, Stephen Baron.

On motion of Commissioner Field, seconded by Commissioner Campbell, with Commissioners Boissiere and Skrmetta concurring and Commissioner Holloway temporarily absent, the Commission voted that the Motion of Entergy Gulf States Louisiana, L.L.C. and Entergy Louisiana, LLC for Interlocutory Review of the Administrative Law Judge's Ruling Denying Motion to Stay Proceedings and to Strike Testimony be resolved for the period between now and June 1, 2012 by adopting the Stipulated Agreement between the Staff and the Entergy companies, which states:

“The Staff will agree to stay formal hearing and testimony procedures as well as deposition discovery regarding all issues in Docket No. U-29764 until June 1, 2012, but will retain the right to conduct written discovery regarding the advisability of negotiating a new System

Agreement to govern transactions on the Entergy System upon the withdrawal of Entergy Arkansas, Inc. or Entergy Mississippi, Inc. and the terms of such new System Agreement, save and except discovery related to the Companies' proposal to join MISO being addressed in Docket No. U-32148 and issues relating to the Companies' participation in MISO that are within the scope of the ADR process set to commence at the FERC on January 31, 2012. The Company will not object to such written discovery on scope-of-docket grounds. For the period from today until June 1, 2012, the Staff will also be permitted to conduct written discovery on cost allocation issues raised by EAI's transition plan for its post-withdrawal reorganization and operations (as described in EAI's January 11, 2012 Supplemental Direct Testimony in APSC Docket No. 10-011-U), if directed to investigate that issue by the Commission. No testimony or issues will be stricken from Docket U-29764 at this time, but parties reserve the right to move to strike issues after the stay expires on the later of June 1, 2012 or the date upon which the Commission issues its public interest Order with respect to MISO in Docket No. U-32148. Following the expiration of the stay, the Staff and the Companies will seek to negotiate a defined scope and procedural schedule for the remainder of this investigation. By agreeing to these terms, the Companies do not waive any legal position(s) they may have concerning the jurisdiction of the Louisiana Public Service Commission to adjudicate or otherwise address any issue concerning the terms of or amendment to the System Agreement, any successor agreement or cost allocations under the ESI Service Agreement. Further, by agreeing to negotiate a new procedural schedule, the Companies do not concede that any additional testimony is necessary in this investigatory docket."

In addition, the Commission hereby clarifies that it intends for Docket No. U-29764 to include the potential impact of the Entergy Arkansas withdrawal on all System cost allocations that may affect Louisiana jurisdictional costs, including the mandates in Order No. 54 in APSC Docket 10-011-U.

Ex. 13 Entergy Services, Inc., Docket No. ER09-636 at the Federal Energy Regulatory Commission, Order Accepting Notices of Cancellation Compliance and ADR Proceeding Ex Parte Entergy Louisiana LLC and Entergy Gulf States, Inc. Retail Proceeding (System Agreement Modifications), Docket No. U-29764.

In re: Possible Executive Session pursuant to La. RS 42:17 to discuss mediation strategy concerning modifications to Entergy System Agreement.

On motion of Commissioner Holloway, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to go into Executive Session.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to come out of Executive Session.

Ex. 14 FERC Alternative Dispute Resolution proceeding initiated by Entergy Services, Inc.

In re: Discussion and possible vote to hire Stone Pigman Walther Wittman LLC to assist Staff as outside counsel in upcoming Alternative Dispute Resolution proceeding.

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to retain Stone Pigman to assist Staff with this matter, according to the following budget schedules: 1) If the ADR proceeding lasts three months or less, for a total budget not to exceed \$137,500.00, including fees of \$119,500.00 and expenses of \$18,000.00; **AND** 2) In the event that the ADR proceeding lasts between three months and six months, for a **total** budget not to exceed \$228,500.00, including fees of \$198,500.00 and expenses of \$30,000.00.

Staff confirmed to the Commission that the Alternative Dispute Resolution proceeding would be a non-binding mediation proceeding. Commissioner Skrmetta further directed Staff to request the mediation sessions be, at a minimum, three days a week at a time.

Ex. 15 FERC Alternative Dispute Resolution proceeding initiated by Entergy Services, Inc.

In re: Discussion and possible vote to hire J. Kennedy & Associates, Inc. to assist Staff as outside consultants in upcoming Alternative Dispute Resolution proceeding.

On motion of Commissioner Skrmetta, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to retain Kennedy to assist Staff with this matter, according to the following budget schedules: 1) If the ADR proceeding lasts three months or less, for a total budget not to exceed \$123,000.00, including fees of \$107,000.00 and expenses of \$16,000.00; **AND** 2) In the event that the ADR proceeding lasts between three months and six months, for a **total** budget not to exceed \$208,000.00, including fees of \$183,000.00 and expenses of \$25,000.00.

Ex. 16 Discussion by Special Counsel of the "Order on Remand" issued by FERC October 20, 2011, FERC Docket No. EL01-88-007, and the remedies and potential retail impacts arising therefrom.

LPSC Special Counsel reported to the Commission that customers of Entergy Gulf States Louisiana, L.L.C. ("EGSL") will receive \$75 million in refunds pursuant to the Order issued by the Federal Energy Regulatory Commission ("FERC") in FERC Docket No. EL01-88-007 on October 20, 2011. Special Counsel notified the Commission that, based on the refunds ordered by the FERC thus far, residential customers using an average of 1400 kilowatt hours per month would be entitled to a refund of approximately \$60.00. Special Counsel also informed the Commission that the Commission Staff is continuing to challenge the methodology used to calculate the refund due to EGSL customers, as well as to customers of Entergy Louisiana, LLC. Special Counsel then requested direction from the Commission as to whether the \$75 million refund to EGSL customers should be disbursed via a credit to EGSL customer bills in one month or whether the refunds should be disbursed in increments over a multi-month period. Special Counsel clarified that, if the refunds were to be disbursed over a multi-month period, EGSL would pay prime rate interest on the amounts retained, and that residential customers using an average of 1400 kilowatt hours per month would receive an approximate credit to their bills of \$15.00 per month if the refund is disbursed over a four-month period.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, with Commissioners Campbell and Boissiere concurring and Commissioner Holloway temporarily absent, the Commission voted to authorize LPSC Special Counsel to direct EGSL to disburse the \$75 million refund to EGSL customers as ordered by the FERC in FERC Docket No. EL01-88-007 on October 20, 2011 as a credit to customer bills over a four month period beginning in June 2012 and continuing through September 2012.

Ex. 17 1) Reports
2) Resolutions - Consideration of the adoption of a Resolution urging prompt FERC action on Request for Rehearing and Clarification of Opinion No. 505, FERC Docket No. ER07-956-000.
3) Discussions

On motion of Commissioner Field, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to adopt LPSC Resolution 2012-01 as read into the record.

Ex. 18 **U-32211** - BellSouth Telecommunications, Inc., D/B/A AT&T Louisiana, ex parte.. In re: Petition for Declaratory Relief and Refund of Certain Payments Made to Cameron Telephone Company, LLC Related to the Lake Charles/Carlyss EAS Route Implemented by Order No. U-17949-WW.

In re: Discussion regarding Staff's directive to BellSouth to continue to make payments pending Commission review of the filing and regarding Cameron's Motion for Temporary Restraining Order and/or Preliminary Injunction to Maintain Payments Pursuant to LPSC Order No. U-17949-WW.

At the request of Commissioner Skrmetta.

Commissioner Holloway made a motion that 1) AT&T be required to reinstate and continue payments until the Commission makes a final decision on the Petition and 2) The parties will adopt a expedited procedural schedule in order that the matter be resolved no later than the April 2012 B&E. Commissioner Field seconded this motion.

Commissioner Boissiere offered a substitute motion that AT&T continue to make payments,

but they would go into an escrow account pending the outcome of the docket. This motion died for lack of a second.

On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to order AT&T to reinstate and continue payments until the Petition is voted on. It was further ordered that the parties and the ALJ adopt a procedural schedule that will have this matter resolved no later than the April B&E.

Ex. 19 **S-32196 - Jefferson Davis Electric Cooperative, Inc., ex parte..** In re: Petition for Letter of Non-Opposition to Borrow Funds from National Rural Utilities Cooperative Finance Corporation.

In re: Discussion and possible vote on Petition for Letter of Non-Opposition.

At the request of Commissioner Holloway.

On motion of Commissioner Field, seconded by Commissioner Campbell, with Commissioners Boissiere and Skrmetta concurring and Commissioner Holloway temporarily absent, the Commission voted to accept the Staff Recommendation and authorize Staff to issue a letter of non-opposition pursuant to the conditions in the Audit Memorandum filed into the record on January 25, 2012

MEETING ADJOURNED

The next Business and Executive Session will be held February 15, 2012 at 9:00 a.m. in Pineville, Louisiana.