



# Louisiana Public Service Commission

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## MEDIA RELEASE

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For Immediate Release

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### **LPSC Wins Partial Ruling on Rehearing at FERC, Customer Refunds Expected**

Baton Rouge – Yesterday, the Federal Energy Regulatory Commission (“FERC”) issued an order that confirms its requirement that System Energy Resources, Inc. (“SERI”) refund more than \$550 million to customers in Louisiana, Arkansas and New Orleans for tax-related tariff violations. FERC’s order also modified its original determination that SERI cannot collect rental payments for leases related to a previous Sale/Leaseback of part of the Grand Gulf Nuclear Station, located in Mississippi. The decision resolves a lawsuit brought by the Louisiana Public Service Commission (“LPSC”) and supported by regulators in Arkansas and New Orleans.

The LPSC disagrees with Entergy Corp.’s determination, who is the owner of SERI, that the FERC Order requires no refunds. In the order, FERC said:

On the particular issue of SERI’s uncertain tax positions, *the Commission in Opinion No. 581 found that SERI must refund amounts resulting from the improper exclusion of ADIT liabilities from the UPSA rate base.* The Commission also required SERI to calculate a refund amount that captures the revenue requirement impact resulting from all ADIT amounts resulting from SERI’s decommissioning uncertain tax positions during the entire 2004 to the present period of noncompliance and considers the timing of when such uncertain tax positions were actually resolved by taxing authorities, such that the ADIT balances used to compute the revenue requirement include only those balances for the periods during and until the tax position was resolved. *In this order, we make no modification to this*

*particular determination.* FERC clarified that “SERI may net out interest payments made to the IRS ... against the refunds associated with the corresponding inclusion of ADIT in rates.”

*Order Addressing Arguments Raised on Rehearing*, 184 F.E.R.C. ¶ 61,097, ¶ 116 (2023) (Emphasis Added).

The FERC order confirms that SERI does owe refunds, contrary to Entergy’s assertions. FERC denied SERI’s request for rehearing of the refund issue. Entergy’s public statement provides no FERC language alleged to support its position. “With this ruling, it is clear Entergy owes customers refunds and I will fight to make sure they get them,” said Vice Chairman Mike Francis. “The ruling is clear that Louisianans are owed a refund. It’s time for Entergy Corporation to stop these legal challenges and comply with the order to refund what is owed to our people. The time is now to bring the matter to rest,” added Commissioner Davante Lewis.

FERC’s order does modify its previous requirement that \$17 million annually of rental payments for new leases entered to replace a Sale/Leaseback could not be included in rates. FERC allowed an offset for the undepreciated remaining book value of the Sale/Leaseback property, which will provide partial recovery of the rental payments.

The LPSC expects that Entergy’s intransigence on the refund requirement, which exceeds \$550 million, will lead to continuing costly litigation. The LPSC regrets Entergy’s position, but will continue to pursue a just and reasonable outcome for customers. The impact of the decision is still being analyzed, but the LPSC estimates that refunds in excess of \$145 million will eventually be provided to Entergy Louisiana customers and more than \$180 million to Entergy New Orleans customers. The rental payments will only be partially included in rates going forward.

The Louisiana Public Service Commission is a constitutionally created independent regulatory agency dedicated to serving the public interest by assuring safe, reliable, and reasonably priced services from public utilities and motor carriers. The LPSC, reaffirmed in Article IV, Section 21 of the 1974 Constitution of the State of Louisiana, consists of five elected Commissioners who serve overlapping terms of six years. The Commission has jurisdiction over certain publicly-owned utilities providing electric, water, wastewater, natural gas, and telecommunication services, as well as all the electric cooperatives in Louisiana. It does not regulate Entergy New Orleans, which is regulated by the New Orleans City Council under its Home Rule Charter.

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