

**TRANSCRIPT OF THE LOUISIANA PUBLIC SERVICE COMMISSION BUSINESS
AND EXECUTIVE OPEN SESSION HELD ON APRIL 16, 2025 IN MANY, LOUISIANA.
PRESENT WERE: CHAIRMAN MIKE FRANCIS, VICE CHAIRMAN ERIC
SKRMETTA, COMMISSIONER DAVANTE LEWIS, COMMISSIONER JEAN-PAUL
COUSSAN, AND COMMISSIONER FOSTER CAMPBELL.**

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2 **BUSINESS AND EXECUTIVE OPEN SESSION HELD ON APRIL 16, 2025**
3 **IN MANY, LOUISIANA. PRESENT WERE: CHAIRMAN MIKE**
4 **FRANCIS, VICE CHAIRMAN ERIC SKRMETTA, COMMISSIONER**
5 **DAVANTE LEWIS, COMMISSIONER JEAN-PAUL COUSSAN, AND**
6 **COMMISSIONER FOSTER CAMPBELL.**

7 **CHAIRMAN MIKE FRANCIS:** Well, y'all are back. Y'all are back. Welcome
8 back to Toledo Bend, Cypress Bend Resort. Always have a great time here.
9 Always feel like I'm -- when I get this close to Jena, I feel like I'm at home, so
10 really comfortable. Thanks for all the crowd last night, the good work. We had a
11 good little visit, ate some seafood. I think we've already thanked all those people,
12 but we did have a gift from the seafood industry of Louisiana. For instance, some
13 good shrimp that we ate last night, and I want to compliment them and I want to
14 remind everybody let's keep our seafood business at home in Louisiana and I think
15 most of us believe in that and do that. I tell you what, just like the good old
16 Louisiana tradition that we do, let's start out with opening with a prayer and the
17 pledge. If y'all don't mind, we'll all stand. Remain standing for the pledge. I'll
18 do the prayer and I'm going to ask Commissioner Skrmetta to do the pledge. So
19 let's all pray.

20 **[CHAIRMAN MIKE FRANCIS LEADS IN PRAYER]**

21 **CHAIRMAN FRANCIS:** Commissioner Skrmetta for the pledge.

1 **VICE CHAIRMAN ERIC SKRMETTA:** Please join me in the Pledge of
2 Allegiance. Former and active duty military, please feel free to render a hand
3 salute.

4 **[VICE CHAIRMAN ERIC SKRMETTA LEADS IN THE PLEDGE]**

5 **COMMISSIONER FOSTER CAMPBELL:** I want to say something, Mike.

6 **CHAIRMAN FRANCIS:** Okay. Announcements, we'll start out with
7 Commissioner Campbell.

8 **COMMISSIONER CAMPBELL:** I want to thank you for bringing everybody
9 here. Last night was very nice. I remember 27 -- 26 years ago, or 27 years ago,
10 just for the record, I'll be in politics next year 50 years. Twenty-seven years in the
11 Senate, 26 years here. When I ran for the Public Service Commission, I told people
12 that I wanted to move the meetings around the state. That they had meetings only
13 once a month in Baton Rouge and only lobbyists came and that's true. I would like
14 to see more people come, but we're doing our best to move around the state. I want
15 to thank Mike for bringing it to Many. And I understand next month, we're going
16 to Lafayette, that's a good thing. And Natchitoches, in Christmas, we'll be back in
17 Natchitoches. But when I ran, I had everybody at the Public Service Commission
18 telling me that won't work, you can't do this, you can't do that. And you see how
19 it's worked, it's worked great. People -- we're bringing around to different parts of
20 the state where people who have things to say can come and testify. So thank you,
21 Mike. I think it was a nice thing last night. I appreciate you cooperating and trying
22 to make the Public Service Commission available to the people of the state. The
23 first time I went to a Public Service Commission meeting, I'll never believe it, I'll

1 never forget it. It was packed in a little room in Baton Rouge and I asked anybody
2 that doesn't work for a company, please stand up. And it was two people who stood
3 up. My daughter was at LSU at the time and another lady who watched the Public
4 Service Commission, but everybody worked for companies. That's not a good --
5 that's not a good look because there ought to be people in here that have no
6 connection to the various companies we regulate. So that's why I wanted to move
7 it around the state and give people a chance to say what they think about the Public
8 Service Commission. Good or bad, let's have it. But anyway, thanks for doing
9 what you did, Mike. It's a nice outing last night and I hope that we'll have many
10 more. Thank you.

11 **CHAIRMAN FRANCIS:** And I want to add onto what Commissioner Campbell
12 has said. Each one of us has an event once a year in our district. This is the third
13 time that we've had it here under my jurisdiction. And we are actually in
14 Commissioner Campbell's district now. We've snuck into the edge because of
15 reapportionment, this was in my district. But we had to move some votes up to the
16 northern end in Campbell's district, so I had to give him -- I had about half of Sabine
17 Parish, I had to give him all of Sabine. So he's kindly hasn't objected to me moving
18 over into the edge of his district, and I appreciate him for that. Just south of here
19 in Vernon, that's where my district takes off and goes all the way from the coast to
20 Morgan City. But we're both rednecks from north Louisiana, and we love this area,
21 and thank the Lord for letting us serve. Commissioner Skrmetta, you have
22 something to say?

1 **VICE CHAIRMAN SKRMETTA:** Yes. Just want to thank Commissioner
2 Francis for organizing this meeting in Toledo Bend. And it's been -- it's a beautiful
3 place. You know, there's a nice golf course and it's got a nice, beautiful fishing
4 opportunities. But I'm always reminded of what Winston Churchill said about golf.
5 He said nothing ruins a walk in the woods like a game of golf. So I did not bring
6 sticks or rod and just enjoyed the walk in the woods. It was very nice.

7 **CHAIRMAN FRANCIS:** That's a good one. That's a good one. Okay.
8 Commissioner Coussan.

9 **COMMISSIONER JEAN-PAUL COUSSAN:** Coussan. Next month's meeting
10 will be in Lafayette. It'll be the best meeting yet. Food, drink, possibly music, and
11 it will be in my district. So that'll be a little bit different.

12 **CHAIRMAN FRANCIS:** That's great. I know you're going to accept that
13 challenge. Thank you. Commissioner Lewis, you have something to say? You're
14 never without a speech.

15 **COMMISSIONER DAVANTE LEWIS:** Thank you, Mr. Chairman. I just
16 would say, we normally always meet in my district. So we are always welcome
17 back to the Galvez Building in the Natchez Room in District 3. But I also want to
18 thank you, Mr. Chairman, for hosting us here today and for having this meeting.
19 The only one thing I do want to talk about is our -- is the Low-Income Energy
20 Assistance Program, known as LIHEAP. As many may know, in this month's
21 round of federal cuts, we lost the entire staff responsible for this program. Nearly
22 100,000 Louisianan families received support from this program each year, which
23 is still only one-fifth of the households who qualify in our state for the need. These

1 cuts have put a lifeline program that provides emergency for extreme heat and cool
2 in danger. We know that the money is still flowing, but I would ask all utilities to
3 make sure that you are working with the community action programs to ensure that
4 any customer that is receiving LIHEAP dollars now does not face any significant
5 disconnections due to the fact of this federal cut. I'm encouraged by the bipartisan
6 letter that NARUC and NASUCA sent to members of Congress. And I've been in
7 touch with our congressional delegation. And I urge all public servants, advocates,
8 and utility companies to intervene to ensure we reverse course and protect the
9 essential services of LIHEAP. So I look forward to working with everyone on that.
10 So thank you, Mr. Chairman.

11 **CHAIRMAN FRANCIS:** All right. So I guess, Ms. Bowman, I do have one other
12 -- I heard there's a birthday girl in the crowd and we won't talk about how many
13 years. But is Dana Shelton here? Dana, you here? Yeah, y'all are back in the back.
14 Happy birthday, Dana. Dana, one of the things that Dana does for me is -- oh, sorry.

15 **COMMISSIONER CAMPBELL:** Tell them Bill Robertson's here, too.

16 **CHAIRMAN FRANCIS:** Okay. And former assistant to Commissioner
17 Campbell is Bill Robertson. Bill, where are you? We'll recognize Bill Robertson
18 also. All right. Bill, good to see you. I just want to thank Dana. Dana is a attorney
19 who serves with me on the Southwest Power Pool Board and she's a great help. A
20 lot of lawyers up there in those meetings and she's my lawyer. Okay. Ms.
21 Bowman. Okay.

22 **MS KATHRYN BOWMAN:** So we do -- [INAUDIBLE]. There we go. Okay.
23 So it's up. The only announcement I have, Commissioner, is that the May B&E

1 will still be held in Lafayette, but the date has changed. It will be May 19. It's a
2 Monday, May 19. The location is the same and it's -- but just we're moving it up
3 a couple of days. And that's the -- I'm sorry, and also, Exhibit 6 is being deferred.

4 **CHAIRMAN FRANCIS:** All right. Well, hearing none, looks like we need to
5 rock and roll.

6 **MS. BOWMAN:** So moving to Exhibit Number 2, which is Docket Number T-
7 37136. This is Cantium versus Rosefield Fourchon Operating. It's a complaint
8 against Rosefield for transportation and terminaling of crude oil as a common
9 carrier without a tariff on file with the Commission at rates that are excessive and
10 request that Rosefield pay reparations, refunds and demands for charges above just
11 and reasonable rates. It's a discussion and possible vote on Rosefield's motion for
12 immediate review of interlocutory ruling and a motion for a stay of proceedings
13 pursuant to Rule 57. Cantium filed a complaint on March 14, 2024, alleging that
14 Rosefield is a common carrier pipeline subject to the jurisdiction of the
15 Commission operating without a tariff on file and is charging Cantium unjust and
16 unreasonable rates. Notice of the proceeding was published in the Commission's
17 Official Bulletin and there were no intervenors. On May 15, 2024, Rosefield filed
18 exceptions, which if granted, would result in the dismissal of Cantium's complaint.
19 Rosefield asserted that the Commission lacks subject matter jurisdiction to hear
20 Cantium's complaint as Rosefield is not a common carrier pipeline subject to the
21 jurisdiction of the Commission and that Cantium has no right of action to bring the
22 complaint. On June 20, 2024, Cantium filed a reply opposing Rosefield exceptions,
23 and on July 10, Rosefield filed rebuttal. A hearing on these exceptions was held on

1 July 23, 2024. On December 3, 2024, the ALJ issued the ruling on exceptions
2 denying Rosefield exceptions finding that, based on the record to date, the
3 Commission has jurisdiction over the subject matter of Cantium's complaint and
4 that Cantium has a right of action to bring its complaint against Rosefield.
5 Rosefield timely filed its motion for review on December 13, 2024, requesting the
6 Commission reverse the ALJ's ruling and sustain its exceptions. In accordance
7 with the procedures set forth in Rule 57, the ALJ issued the referral of interlocutory
8 ruling to the Commissioners for review. As this is a referral of an ALJ interlocutory
9 ruling, there is no Staff recommendation. In order for the Commission to consider
10 this matter, the Commission must first vote to take the matter up under Rule 57,
11 and therefore, the Commission can also hear from the parties and ask any questions
12 they may have before voting on Rosefield's motion. We do have several parties
13 who would like to speak. I will start with Rosefield representatives, which is Jamie
14 Watts, Chris -- Chris, I'm going to butcher that. Capilis?

15 **MR. CHRIS CAPSIMALIS:** Capsimalis.

16 **MS. BOWMAN:** Capsimalis, thank you. If you two would like to come up. We
17 have other cards, but they look like they're from other representatives of other
18 companies. So if there's anyone else from Rosefield who would like to come up
19 as well.

20 **CHAIRMAN FRANCIS:** Yeah. So before we take any action, we will have a
21 discussion from both sides of this issue.

22 **MS. BOWMAN:** Yes, sir.

1 **CHAIRMAN FRANCIS:** It's a very complicated issue. It's in Commissioner
2 Coussan's district down in Port Fourchon. He and I both been active in the oilfield
3 for several years and we both admit that this is one that's a little more complicated.
4 It's going to take more than two lawyers to figure it out probably. Let's go ahead,
5 tell us who you are, and why you're here, and what you want to do.

6 **MS. JAMIE WATTS:** Thank you, Chairman, Commissioners. Jamie Watts on
7 behalf of Rosefield Operating -- Rosefield Fourchon Operating, excuse me, and I'm
8 joined by the CEO of Rosefield Fourchon Operating, Christopher Capsimalis.

9 **VICE CHAIRMAN SKRMETTA:** Sorry, Jamie. What's the name of the --
10 who's the first person you're representing?

11 **MS. WATTS:** Rosefield Fourchon Operating.

12 **VICE CHAIRMAN SKRMETTA:** Are they -- and how are they related?

13 **MS. WATTS:** There's only Rosefield Fourchon Operating.

14 **VICE CHAIRMAN SKRMETTA:** Okay.

15 **MS. WATTS:** Yes, sir.

16 **VICE CHAIRMAN SKRMETTA:** So you're representing two different parties?

17 **MS. WATTS:** No, sir. I'm only representing Rosefield Fourchon Operating.
18 That's the defendant in this matter.

19 **VICE CHAIRMAN SKRMETTA:** Okay. So the subsidiary of Rosefield or is it
20 one -- that's the whole company?

21 **MS. WATTS:** The whole company is Rosefield Fourchon Operating.

22 **VICE CHAIRMAN SKRMETTA:** Okay. All right. Got it. You just need to
23 pull the mic closer. Got it.

1 **MS. BOWMAN:** And, Commissioner, can you -- sorry, can you also pull your
2 mic closer?

3 **VICE CHAIRMAN SKRMETTA:** No. I will at the time. Sorry.

4 **MS. WATTS:** And we're here today because Cantium, who brought this
5 complaint, is seeking a regulatory solution to a private dispute that it has with
6 Rosefield. The applicable law is not an LPSC order, but instead it's a poorly
7 worded statute that predates Louisiana's 1921 Constitution that originally gave this
8 body jurisdiction over common carrier pipelines. Now, the ALJ did its best to apply
9 that 100-year-old law to this matter, but made an incomplete and incorrect
10 interpretation. And the result of that incomplete and incorrect interpretation, if this
11 body affirms it, is bad regulatory and business policy for Louisiana's petroleum
12 industry at a time when our state is situated to be not only a player, but a leader in
13 national and global energy dominance. This Commission does not have to decide
14 this matter today. Early on in this proceeding, some in this room commented on
15 the need for legislative resolution given the statute's unclear and outdated wording.
16 And now there are multiple bills pending in the session, which if successful, would
17 clarify the legislative intent behind this outdated and cumbersome law. We'll know
18 in a matter of weeks the outcome of that legislative process. And because Cantium
19 has requested refunds and other monetary compensation, if in fact it is determined
20 that the LPSC has jurisdiction and that Rosefield's fees are unreasonable, any pause
21 in this matter today will not harm Cantium. Instead it's Rosefield and others that
22 are similarly situated who will be harmed if the Commission declines to consider
23 the outcome of the pending legislative revisions and affirms the ALJ. Now, several

1 stakeholders have submitted statements in support of Rosefield positions including
2 local, national, and international industry and commercial interest. There's been
3 correspondence sent from LMOGA, from Empire, from the Liquid Energy Pipeline
4 Association, from the International Liquid Terminals Association. There's also
5 been correspondence from high levels of state government. Some of the
6 stakeholders are here today to express their concerns to you in person. Now, if the
7 LPSC decides to move forward today, it's being asked to determine whether its
8 authority pursuant to a 100-year-old law that predates the 1921 Constitution,
9 extends to stand-alone liquid storage tank terminals like the ones that appear in
10 purple on the chart before you. And Cantium is asking this Commission to do that
11 just so it can address a commercial dispute between Cantium and Rosefield. Now,
12 it's possible back in 1920, when the wording of this law was first adopted, that there
13 were no stand-alone terminal facilities like the Fourchon Terminal in Lafourche
14 Parish. So we don't know what the legislative intent of the statute was 100 years
15 ago. Now, in addition to seeking relief from this body, Cantium also asked FERC
16 to resolve its dispute with Rosefield and FERC quickly rejected Cantium's
17 complaint and it concluded that Rosefield's stand-alone storage terminal does not
18 trigger FERC jurisdiction. The jurisdiction to regulate the commercial fees
19 associated with Rosefield's Fourchon Terminal is neither FERC nor LPSC
20 jurisdictional. In FERC -- jurisdiction could be both LPSC and FERC, it could be
21 neither LPSC or FERC, which is the case in this dispute, or it could be one of the
22 two. It's not automatic that it's either FERC or the LPSC. Now, because neither
23 the FERC nor the LPSC regulate Rosefield's Fourchon Terminal's fees, doesn't

1 mean that the terminal's not subject to oversight by numerous other agencies. I
2 spoke with another -- a representative of another terminal with facilities located in
3 Louisiana and he said that his terminal facility is subject to more than 10 state and
4 national agency oversight. So there's a lot of eyes on the operations of these stand-
5 alone terminals. Additionally, we argued before the ALJ that Cantium has no
6 standing to bring this complaint against Rosefield. Cantium is not Rosefield's
7 customer. It doesn't own the crude that is stored in the Fourchon Terminal.
8 Cantium, through its own voluntary contractual arrangements that predate
9 Rosefield's ownership of the Fourchon Terminal, ultimately pays Rosefield's
10 terminal fees. Now, Cantium will say and has said that Rosefield has significantly
11 increased the Fourchon Terminal fees, but it won't tell you why. Prior to
12 Rosefield's ownership, which it acquired the Fourchon Terminal in August of 2023,
13 Chevron Pipeline Company, which is a global entity, owned the Fourchon
14 Terminal, the three tanks that you see in purple here. The Fourchon Terminal, when
15 it was owned by Chevron Pipeline Company, was part of Chevron's Gulf of Mexico
16 interstate pipeline enterprise. And that's why it was -- part of the reason why it was
17 regulated by FERC. It was -- and that included the Fourchon Terminal fees
18 pursuant to a consent order that Chevron received from FERC. Now, dating back
19 to when Cantium owned its facilities, which are shown in blue on the map, Chevron
20 had sold components of its interstate pipeline system to different purchasers. Now,
21 when Chevron marketed the Fourchon Terminal, both Rosefield and Cantium
22 wanted to buy it. Ultimately, Rosefield's bid was selected by Chevron. When that
23 sale closed in August of 2023, Chevron cancelled its FERC tariff and stakeholders

1 had an opportunity to oppose cancellation of that FERC tariff. No one did.
2 Cantium did not oppose cancellation of the FERC tariff. So after the FERC tariff
3 was cancelled, Rosefield issued its non-jurisdictional rate schedule. Now,
4 Rosefield does not dispute that its fees are higher than what Cantium was paying
5 when Chevron owned the Fourchon Terminal, but it's not an apples to apples
6 comparison. You're going from regulated to un-regulated. You're going from a
7 larger enterprise to a sole enterprise. It is not a fair comparison to just compare the
8 prior fee to the current fee. And additionally, terminal storage fees for facilities
9 other than Rosefield have fluctuated for decades without any involvement of this
10 Commission. The fee issue alone does not confer jurisdiction on the LPSC. Now,
11 the legal error that the ALJ committed is shown on this poster. On page 20 of her
12 ruling, she omitted the very language that applies to the tank facilities like the
13 Fourchon Terminal and that's included within the definition of a pipeline. The
14 statute says, and that's what appears at the top of this poster, that tank facilities as
15 herein designated and necessary for the proper conduct of its business as a common
16 carrier. However, the ALJ's cite, which is the second paragraph, you can see it's
17 quite shorter, she eliminated that entire clause about tank facilities being necessary
18 for the proper conduct of its business as a common carrier. You'll see at the bottom
19 where I overlaid both versions, this highlighted language, which is exactly where
20 Rosefield's Fourchon Terminal exists, was omitted from the ALJ's analysis.
21 Commissioners, regulating Rosefield has impacts beyond its rates and beyond its
22 dispute with Cantium. It will involve compliance reporting, access to Rosefield's
23 books and records, payment of annual inspection and supervision fees to the

1 Louisiana Department of Revenue. It could also expose Rosefield and other
2 terminals that are similar to it in the state to fee disputes that this body may have to
3 adjudicate. Now, Cantium is willing to upend the regulatory paradigm for all
4 Louisiana tank terminal facilities for its sole self-interest. And this Commission
5 should not forget that its decision has impacts beyond just Cantium and Rosefield.
6 This body makes regulatory policy for the entire state of Louisiana and affirming
7 the ALJ's erroneous ruling could threaten the future growth of investment in
8 Louisiana's oil, gas, and terminal industries by introducing regulatory risk and cost
9 that could drive business elsewhere. So in sum, on behalf of Rosefield Fourchon
10 Operating, I ask you to reject the ALJ's erroneous ruling and dismiss Cantium's
11 complaint against Rosefield Fourchon Operating, and in doing so, maintain
12 regulatory stability in Louisiana. And alternatively, I ask you to defer action until
13 the legislative process concludes.

14 **CHAIRMAN FRANCIS:** Ms. Watts, let me ask you a couple of questions.

15 **MS. WATTS:** Yes, sir.

16 **CHAIRMAN FRANCIS:** Why did FERC drop the tariff? Which FERC was
17 actually telling everyone this is what you're going to charge for the flow of oil,
18 right? Isn't that right?

19 **MS. WATTS:** FERC had issued a consent order involving Chevron regarding its
20 global pipeline enterprise that included the terminal fees that were part of that
21 enterprise. And when Chevron no longer owned the Fourchon Terminal, it no
22 longer needed to be subject to a FERC tariff. And so Chevron, as the party subject
23 to the FERC tariff, asked FERC to cancel that tariff and FERC gave public notice

1 for any stakeholders to weigh in on that action, and none did, and the tariff was
2 cancelled.

3 **CHAIRMAN FRANCIS:** So the pricing was then left up to the customers
4 shipping, receiving as to what they would charge; is that right?

5 **MS. WATTS:** It was left up to the parties, yes.

6 **CHAIRMAN FRANCIS:** Now, where does that oil come from? Is that in state
7 waters or federal waters?

8 **MR. CAPSIMALIS:** It comes from both state and federal waters.

9 **CHAIRMAN FRANCIS:** So there are some state water -- some oil from state
10 waters which could be under the Public Service Commission jurisdiction, but
11 federal waters, so it's a combination of oil coming from both sides of the fence
12 [INAUDIBLE] say.

13 **MS WATTS:** Right. And the party that's transporting that oil from state waters
14 would presumably be subject to LPSC regulation, but Rosefield is not transporting
15 oil.

16 **CHAIRMAN FRANCIS:** Where is this oil going to be delivered to?

17 **MS. WATTS:** Chris.

18 **MR. CAPSIMALIS:** Yeah. The oil is delivered to downstream pipelines. Most
19 commonly, it's being delivered to a Harvest pipeline called BOA.

20 **CHAIRMAN FRANCIS:** Could you pretty well prove that it's being delivered in
21 Louisiana?

1 **MR. CAPSIMALIS:** It's being delivered to a pipeline that's taking it to other
2 locations. The Harvest pipeline and where that takes it is, you know, outside of
3 our, you know, involvement.

4 **CHAIRMAN FRANCIS:** If you were in a lawsuit, I'm just speculating, would
5 the judge want to know where's this oil going to be delivered to? Is it inside
6 Louisiana? Is it just going through Louisiana?

7 **MS. WATTS:** Commissioner, I think that would depend -- the types of questions
8 a judge would ask in a lawsuit would depend on the types of claims that are before
9 the court.

10 **CHAIRMAN FRANCIS:** We're not in a position to ask other than just
11 wondering, you know, I wonder what -- these are things I come up with. We
12 regulate the flow of oil inside Louisiana. It's our jurisdiction to set the price that's
13 fair for everyone and somebody needs to set the price for this according to this
14 argument looks to me, like, just putting it real simple. So just want to make sure I
15 was thinking along the same lines.

16 **MR. CAPSIMALIS:** I think that Louisiana does regulate the flow on the pipeline
17 -- on the commercial pipeline downstream, you know, outside of the terminal. But
18 they've never regulated the fees associated with the terminal or other terminals.

19 **MS. WATTS:** Right. Because the terminal would have to be necessary for the
20 proper conduct of business as a common carrier.

21 **CHAIRMAN FRANCIS:** Amen. Okay. Common carrier. Got it. All right.
22 Commissioner Skrmetta, you got something?

1 **VICE CHAIRMAN SKRMETTA:** Sure. So -- and the initial FERC matter
2 wasn't the end of the issue at the FERC; was it?

3 **MS. WATTS:** Cantium's complaint at FERC was rejected.

4 **VICE CHAIRMAN SKRMETTA:** Okay. But the FERC -- did the FERC
5 determine that it was not involved -- this matter did not involve interstate commerce
6 and that it was intrastate?

7 **MS. WATTS:** FERC determined that it did not have jurisdiction pursuant to the
8 Interstate Commerce Act because this is not transportation.

9 **VICE CHAIRMAN SKRMETTA:** My understanding is that it made
10 determination that it was intrastate problem and not an interstate problem.

11 **MS. WATTS:** No, sir. The order did not go that far. It just determined whether
12 FERC had jurisdiction.

13 **VICE CHAIRMAN SKRMETTA:** Yeah. I think that that's an incorrect
14 assessment. The other aspect is, you know, in establishing intrastate pipeline
15 jurisdiction for the state, you know, we're looking at this -- so the matter is -- what
16 you're talking about is we're looking at something that is a terminal, but we're not
17 looking at what is in the tanks. We're looking at what comes out of the tank. So
18 eventually it comes out of the tank, right?

19 **MS. WATTS:** Yes, sir. These are storage tanks.

20 **VICE CHAIRMAN SKRMETTA:** Right. So when it comes out of the tank, does
21 it flow on the ground?

22 **MS. WATTS:** No. As Mr. Capsimalis said, it goes to pipelines that deliver it to
23 other locations --

1 **VICE CHAIRMAN SKRMETTA:** So it comes out of a pipe, out of a tank?

2 **MS. WATTS:** -- that someone else owns and operates.

3 **VICE CHAIRMAN SKRMETTA:** So who owns the pipe outside of the tank?

4 The tank itself is connected by a pipe, so who owns the pipes connected to the tank?

5 **MR. CAPSIMALIS:** Yes. There are interconnecting pipes within the property

6 that Rosefield owns.

7 **VICE CHAIRMAN SKRMETTA:** Well, I'm talking about the pipe that attaches

8 to the tank. Who owns the pipe that attaches to your tank?

9 **MR. CAPSIMALIS:** Rosefield Fourchon owns that.

10 **VICE CHAIRMAN SKRMETTA:** So Rosefield Fourchon. So the tank itself is

11 owned by you and the pipe attached to the tank. When we regulate the pipe, we

12 don't regulate the tank, I think that's an accurate assessment; isn't that correct?

13 **MS. WATTS:** The interterminal lines --

14 **VICE CHAIRMAN SKRMETTA:** Not talking about interterminal. I'm talking

15 about if we regulate pipe and it's intrastate, you would say that that's an accurate

16 statement that we regulate intrastate pipe? We don't regulate a tank, we regulate a

17 pipe.

18 **MS. WATTS:** Well, pursuant to the law, you regulate tank facilities that are

19 necessary for the proper conduct of its business as a common carrier.

20 **VICE CHAIRMAN SKRMETTA:** Right. I'm not looking at that particular

21 issue. I'm look at the fact that we actually regulate pipe of that intrastate nature.

22 Okay.

1 **MR. CAPSIMALIS:** But you don't regulate pipe within LNG facilities, or gas
2 plants, or refineries, or other [CROSSTALK] --

3 **VICE CHAIRMAN SKRMETTA:** I think that's left to be determined in a
4 different venue. The other aspect is, you know, I think you would agree, how many
5 times as an attorney here, have you seen the Commission go out and hunt pipeline
6 tariff cases?

7 **MS. WATTS:** I'm not aware of any, Commissioner.

8 **VICE CHAIRMAN SKRMETTA:** Right. So would you say that it's more likely
9 that the Commission in its common carrier issues, we deal with more things that
10 are associated with, like, hazardous waste trucks, tow trucks, other issues associated
11 under our common carrier jurisdiction?

12 **MS. WATTS:** Yes, sir.

13 **VICE CHAIRMAN SKRMETTA:** And would you say that the only times we
14 really see these type of issues with pipeline cases are probably of two different
15 sorts. It's people come to us when they need to establish a tariff on a pipeline, to
16 establish a tariff to satisfy a financing arrangement for the construction and building
17 of a pipeline to satisfy the acquiring of capital; is that one way?

18 **MS. WATTS:** I haven't been involved in those types, but --

19 **VICE CHAIRMAN SKRMETTA:** But you've seen those; haven't you?

20 **MS. WATTS:** -- I have general awareness.

21 **VICE CHAIRMAN SKRMETTA:** Yeah. And would you say that the other one
22 is when there are two parties on an interstate pipeline that have a dispute over the
23 tariff applied to a pipeline, but that's -- they come to the Commission for relief?

1 **MS. WATTS:** Yes. I wouldn't disagree with that.

2 **VICE CHAIRMAN SKRMETTA:** Okay. So the other issue is, you know, I
3 understand that there is a legislation now at the legislature that proposes to remove
4 jurisdiction of the Commission, but, you know, the Commission does not do
5 retroactive ratemaking; would you agree to that?

6 **MS. WATTS:** I think as a general proposition, the Commission avoids engaging
7 in retroactive ratemaking.

8 **VICE CHAIRMAN SKRMETTA:** Right. Well, and you know that the FERC
9 doesn't do that either, correct?

10 **MS. WATTS:** I can't speak for the FERC.

11 **VICE CHAIRMAN SKRMETTA:** Well, they don't. But the problem would be
12 that even if the legislature did a determination that removed jurisdiction of the
13 Public Service Commission, it cannot apply that law to the rights of individuals or
14 corporations that have existed before that legislation is approved and signed by the
15 governor. Wouldn't you agree that they can't apply things retroactively to establish
16 rights?

17 **MS. WATTS:** Well, first, Commissioner, my understanding of the legislation is
18 that it's not removing jurisdiction because, according to the law, the Commission
19 currently does not have jurisdiction over terminals and that's the legal error that
20 we're discussing today. Secondly, the legislation seeks to clarify the language from
21 a 100-year-old statute and clarifying amendments can be applied retroactively.

22 **VICE CHAIRMAN SKRMETTA:** Yeah. Well, I think there will be a lot of
23 disagreement on that particular issue, but the fact is if that rights are established,

1 it's going to be difficult to remove those rights. And if the rights are established
2 here at the Commission, the Commission may be indeed the proper jurisdiction to
3 establish a resolution of the conflict. Now, for future cases, if your so-called
4 clarification of the jurisdiction of the Commission changes that future conflicts may
5 be established to be resolved through the civil court system, then that may be the
6 way to go. You're probably right on that. But the real problem is that we don't
7 want to get parties involved in a ping-pong match. Because if the Commission
8 doesn't act to resolve the matter here, then it leaves open the pathway for the parties
9 to go to the civil court system. But it also leaves an option open to the judge in the
10 civil court system to say the proper party venue for this initially is to come back to
11 the Public Service Commission to have us act on this because the rights were
12 established. So we don't want you to get into that pathway. So if that -- the rights
13 and the issues were established here, then they would take the pathway to then
14 appeal it to the district court, or you could go straight to the supreme court if you
15 wanted to, but you could go into the civil court system. So I think that the problem
16 that I see this is that the -- if the legislature does take such action at its own volition,
17 that the rights established by these parties are established constitutionally and that
18 you have to resolve the matter here. Now, I'm okay with, you know, waiting this
19 out, but I think that it's going to be difficult to establish that you can remove the
20 rights of the parties simply by an act of the legislature and violate their
21 constitutional rights whether they're corporate or individual. I think I'm okay right
22 now with those questions. The one other issue I would have to ask is so let's say
23 that Cantium wants to just say, okay, fair shake, I don't want to do this anymore

1 with you, and they just want to build their own pipeline. What's the problem with
2 that?

3 **MS. WATTS:** Commissioner, as I understand it, Cantium voluntarily entered into
4 an agreement with Chevron that controls their ability to do that. Rosefield's not a
5 party to those limitations.

6 **VICE CHAIRMAN SKRMETTA:** Well, I mean, why can't Cantium just say we
7 just want to build our own pipeline. Everybody's unhappy, let's just, you know --
8 let's all shake hands and walk away from this because obviously we have a price
9 that was once X. Now it's four times X, which is evidently the root of this problem
10 is the cost of utilization of the pipeline system. So why can't they build their own
11 pipeline?

12 **MS. WATTS:** As I understand it, because they voluntarily agreed to not do so
13 when they entered into their contractual arrangement with Chevron.

14 **VICE CHAIRMAN SKRMETTA:** So it's a Chevron issue and not an issue with
15 Rosefield?

16 **MS. WATTS:** That's correct.

17 **MR. CAPSIMALIS:** Well, it's also some of the agreement with Chevron was
18 assigned to Rosefield when Rosefield acquired the terminal.

19 **VICE CHAIRMAN SKRMETTA:** So you acquired the Chevron rights?

20 **MR. CAPSIMALIS:** That's right. Some -- certain of the Chevron rights.

21 **VICE CHAIRMAN SKRMETTA:** Are the Chevron rights that you acquired are
22 these issues of allowing Cantium to build their own pipeline?

23 **MR. CAPSIMALIS:** That is part of it, yes.

1 **VICE CHAIRMAN SKRMETTA:** And so do you have a issue that would -- with
2 allowing Cantium to build their own pipeline?

3 **MR. CAPSIMALIS:** We have talked to them about options that would allow them
4 to build their own pipeline.

5 **VICE CHAIRMAN SKRMETTA:** And what would those options be?

6 **MR. CAPSIMALIS:** Well, we -- they have expressed an interest to have an
7 alternate path to market and we told them we actually have a separate line that we
8 would be willing to talk to them about working through something like that. But
9 also, you know, part of the context is we'd be happy to talk to them about many
10 different, you know, solutions to the problem commercially. You know, us
11 acquiring this terminal and investing significantly in the terminal has given them
12 options to flow to three different locations and multiple different purchasers and
13 they've benefitted from that. And we also invested a very significant amount in
14 buying the terminal, which was based on the context that those barrels were
15 committed to flow to the terminal. So we -- you know, that's part of what we bid
16 against other parties to purchase. And so if their goal is to flow elsewhere and not
17 come to the terminal, we would certainly be willing to talk to them about a
18 commercial solution that let them do that.

19 **VICE CHAIRMAN SKRMETTA:** Well, I want to ask the big question. Why
20 did the price go from X to four times X?

21 **MR. CAPSIMALIS:** Yeah. So, you know, we set the price based on the current
22 context and based on our analysis of the market and based on the investment that,
23 you know, we made which was very significant and we've continued to invest in

1 the terminal and we've improved the service. And so at the time when that rate was
2 set, you know, years ago when Chevron was the owner and it was part of the FERC
3 tariff, you know, the volumes that were arriving in that terminal were significantly
4 larger. Like, there's been multiple pipelines that were destroyed in Hurricane Ida,
5 there's been a very significant decline in production in the area, so the volumes
6 coming into that terminal are significantly less than what they were, you know, at
7 a time when that terminal rate was set. And so in addition to that, you know, we've
8 also improved, you know, to Cantium's benefit, you know, the options that they
9 have to flow. It gives them operational, you know, flow assurance and it's also
10 provided them with competitive bidders for their crude oil where they did not have
11 competitive bidders for their crude oil previously. So there's a lot of factors that
12 go into, you know, analyzing the value of the current context of the terminal.

13 **VICE CHAIRMAN SKRMETTA:** Was the established rate that you're talking
14 about, this 4X rate, was it unilaterally determined by Rosefield?

15 **MR. CAPSIMALIS:** It was based -- it was determined by Rosefield.

16 **VICE CHAIRMAN SKRMETTA:** So it was not a bilateral agreement, it was a
17 unilateral assessment?

18 **MR. CAPSIMALIS:** It was, yes.

19 **VICE CHAIRMAN SKRMETTA:** So why didn't you just do it 10 times?

20 **MR. CAPSIMALIS:** That's not what we -- that wasn't part of our strategy to
21 market and get a return on investment for our terminal.

22 **VICE CHAIRMAN SKRMETTA:** So why wasn't it just X? I'm serious about
23 this because there's a reason you go from -- there's a reason you go from X to 4X,

1 not 6X, not 3X, not 2X. So I'm trying to understand why you did a unilateral shift
2 in establishing a price on a pipeline tariff because I believe you can't have a meeting
3 of minds on a bilateral contract with a unilateral establishment of the price. Okay.
4 Look, it's a contract, right? So I want to understand why you established that price
5 to do that.

6 **MR. CAPSIMALIS:** Yeah. As I said, I feel like we've created value for the
7 terminal customers in establishing the rate at that level and then providing them
8 with services which are enhanced beyond what they were getting [CROSSTALK]
9 --

10 **VICE CHAIRMAN SKRMETTA:** Well, I'm going to make one comment and
11 I'm going to hand it off to Commissioner Coussan, but it sounds like you created a
12 value for yourself. So anyway, I'm done. Thank you.

13 **MR. CAPSIMALIS:** For both parties.

14 **CHAIRMAN FRANCIS:** Commissioner Lewis, you get the next.

15 **COMMISSIONER LEWIS:** Thank you, Mr. Chairman. I'm going to start my
16 questions with some basic questions, then I'm going to pick up where
17 Commissioner Skrmetta left off. So what would you describe the primary function
18 of the Rosefield facility? Is it storage, transportation? How would you describe
19 your facility?

20 **MR. CAPSIMALIS:** Yeah. The main function that it provides is common stock
21 storage, which allows the oil to be delivered to the terminal, come to rest at the
22 terminal, and then be redelivered to transportation pipelines owned by third parties

1 in a way that's more operationally beneficial to those pipelines. So [CROSSTALK]
2 --

3 **COMMISSIONER LEWIS:** So would you -- oh, I'm sorry, continue.

4 **MR. CAPSIMALIS:** Maybe I can help understand, but if -- the way oil pipelines
5 work is if you have an oil pipeline that doesn't go through a terminal, if you put a
6 barrel in one side, you have to take a barrel instantaneously out the other side. It's
7 like hydraulically packed. And so having a terminal in between, you know, two
8 different pipelines allows you to schedule the delivery of barrels. So for in this
9 case, you know, we may receive 7,000 barrels a day, and then every third day,
10 deliver 21,000 barrels. And so the commercial pipelines that are downstream that
11 deliver, in this case, that's the shipper that we take scheduling direction from and,
12 you know, they get benefit and it adds value to the crude. It allows them to transport
13 it in distinct batches that doesn't mix with high sulfur crude for example, or there's
14 other, you know, benefits. So that's among the functions that, you know -- that
15 common stock storage provides in the movement of oil.

16 **COMMISSIONER LEWIS:** Thank you. I want to go back to the questions or
17 the comments around FERC. So in the Rosefield Docket OR24-5-000, FERC --
18 and I think Commissioner Skrmetta's correct, FERC basically said they lacked
19 jurisdiction and declined jurisdiction simply because it does not qualify as an
20 interstate pipeline. So I'm curious, how does that determination not still precede
21 that the LPSC can have jurisdiction?

22 **MS. WATTS:** Because the FERC determined that it did not have jurisdiction
23 because this was not an interstate pipeline does not automatically mean that this is

1 an intrastate pipeline subject to the LPSC jurisdiction. And important in FERC's
2 analysis was its conclusion that the Fourchon Terminal is not providing the service
3 of transportation, which is important to the definition of pipeline. And so that's
4 where FERC's analysis stopped. And again, it is not -- the lack of FERC
5 jurisdiction does not equate to the existence of LPSC jurisdiction.

6 **COMMISSIONER LEWIS:** Oh, no. I completely agree with that. But I --

7 **MS. WATTS:** They can be parallel, they can be either/or, or they could be neither.

8 **COMMISSIONER LEWIS:** Right. I agree with you. I just don't see anywhere
9 where FERC actually says the opposite where they're determining that it is not
10 transportation. I mean, I think what FERC did, and when we look at Order 24-5-
11 00, they don't really get into that. They really talk about their jurisdiction.

12 **MS. WATTS:** It's toward the very end of the order, in one of the last paragraphs,
13 where it specifically addresses whether the facilities are in fact providing the
14 transportation service.

15 **COMMISSIONER LEWIS:** Okay. We'll circle back on that. I want to go back
16 to some of the underlying arguments that the ALJ made and understand your
17 position. I mean, so basically the ALJ applied the Standard Oil Company versus
18 the LPSC of 1923 in the determination that pipeline statuses are based off of
19 functions rather than ownership. How do you find her not applying this precedent
20 correctly in this case?

21 **MS. WATTS:** Because the function of the Fourchon Terminal Facility is storage.
22 It is not necessary and proper conduct for the business of a common carrier.

1 **COMMISSIONER LEWIS:** But wouldn't storage facilities can be regulated if
2 they're integral to transportation?

3 **MS. WATTS:** If a pipeline enterprise includes a storage facility, then that could
4 be regulated as part of the overall intrastate pipeline complex. This is a stand-alone
5 storage facility. It does not provide any pipeline services.

6 **COMMISSIONER LEWIS:** I appreciate that. But I also -- let's go back to the
7 other portions in her ruling, which is Coleman versus Chevron, which did, in the
8 Louisiana Fourth Circuit Court of Appeals, expanded the definition of pipelines
9 under the Louisiana law. So the ALJ explicitly cites Coleman to support the
10 arguments that Rosefield's crude oil transfers operations are functionally
11 equivalent to a pipeline and subject to regulation. And so I'm curious how you
12 dispute that legal precedent as well.

13 **MS. WATTS:** I dispute that because the Coleman case addressed the rights of
14 eminent domain, which are inherent in a regulated utility or common carrier.
15 Coleman was not interpreting whether or not the facilities were jurisdictional. It
16 was interpreting whether or not the jurisdictional facilities had rights of eminent
17 domain, so it's distinguishable from the facts in our matter.

18 **COMMISSIONER LEWIS:** Okay. Thank you. And so in your counter-
19 argument and rebuttal, you relied on Tesoro and TE Products that were arguing that
20 the loading and offloading activities do not constitute pipeline transportation.
21 However, these cases involved private use [INAUDIBLE] lines, whereas Rosefield
22 transports crude from third parties making this argument, I think, not applicable.

1 Why would that fall, using that -- why would you use that as a way if it's not a
2 private to private enterprise that the way that case that you cited in your rebuttal is?

3 **MS. WATTS:** Commissioner, I'm sorry. I'm not following your question.

4 **COMMISSIONER LEWIS:** Yeah. So I'm saying, so in your -- you argued the
5 misapplication of FERC precedent and you used Tesoro and TE Products II. And
6 you were arguing that the loading and offloading activities do not consist as a
7 pipeline transportation. However, that case involved a private line, whereas you
8 are transporting crude oils for third parties. So I'm trying to make how you are
9 reconciling that as part of your argument.

10 **MS. WATTS:** Rosefield Fourchon Terminal does not transport oil for third parties,
11 it stores oil for third parties, so there's the distinction.

12 **COMMISSIONER LEWIS:** So the distinction, you're basically saying is there's
13 no transport facilities within Rosefield?

14 **MS. WATTS:** That's correct.

15 **COMMISSIONER LEWIS:** Okay. My next question for you is, and
16 Commissioner Skrmetta started to handle this, Rosefield has increased the rates for
17 Cantium by 270% since acquiring the facility. I know you went into that, but I'm
18 really curious on any other comments on how do you justify this price increase
19 without competitive alternatives for crude transportation.

20 **MS. WATTS:** Chris.

21 **MR. CAPSIMALIS:** Yeah. As I mentioned, I think the service that we're
22 providing is significantly enhanced versus the service when the previous price had
23 been set. And we are providing to the shippers that flow in the system the ability

1 to market their crude to multiple different outlets, which they hadn't had when
2 Chevron owned it and Chevron did not invest in having, you know, other outlets
3 available for the shippers. And we've doubled the capacity that's available, you
4 know, within the -- and we have plans to continue investing and improving the
5 capabilities of the facility.

6 **COMMISSIONER LEWIS:** Thank you.

7 **MS. WATTS:** And, Commissioner, if I could add to that, perhaps a comparison
8 or an analogy is if a regulated electric utility sells a generation facility to a private
9 purchaser who then bids the cost of -- or the price of that energy and capacity into
10 a market, the Commission no longer has jurisdiction over the price that that facility
11 may be charging, it's market based.

12 **COMMISSIONER LEWIS:** No, thank you. I'm going to go look to one of the
13 points that was being made about opening the floodgate of regulation, and I think
14 Commissioner Skrmetta is absolutely correct that we're not out here -- this is not a
15 rulemaking. We're not changing this kind of unprecedented legal argument that
16 I've been hearing.

17 **MS. WATTS:** Sure. But --

18 **COMMISSIONER LEWIS:** And I know in our conversations, there was a list
19 provided of who we think would be coming under the LPSC if we upheld the ALJ's
20 ruling. And looking through that list, there are at least five other regulated common
21 carriers that were provided by you all that are already regulated, subject to the PSC.
22 And so I'm trying to figure out how do you distinguish yourselves from these

1 entities that would create this regulatory uncertainty that has kind of been the
2 talking point thus far?

3 **MS. WATTS:** And, Commissioner, that list when provided was described as
4 preliminary, but it also was described as being terminals that we're aware of that
5 are located in Louisiana. We did not claim that they were not regulated. We just
6 gave a list or an example of the volume of potentially impacted parties. And
7 Rosefield isn't suggesting that the Commission is going to go after and seek
8 disputes to adjudicate, but certainly if there are entities similarly situated to
9 Cantium and they see that now the rates that they're paying to similar terminals
10 could be regulated, then perhaps they will avail themselves of the Commission's
11 jurisdiction to confirm whether their rates are in fact just and reasonable.

12 **COMMISSIONER LEWIS:** Okay. Thank you. And the last question that I have
13 for you is I know we've talked and the request has been about a legislative fix and
14 I understand that. But I'm curious, why should I even consider that as a
15 determination? What's before me is not whether or not the legislature retroactively
16 or retrospective changes a pending statute. I have a pending case before me and
17 I'm very curious on why I should even take the legislative items and instruments
18 as a valid point in this discussion.

19 **MS. WATTS:** Sure. Commissioner, so what's one of the unusual things about
20 this matter is that there is not an LPSC order other than one that adopts the statutory
21 provisions for regulating common carriers. And so we're in the legislature or we're
22 dealing with legislation from the get-go because the Commission itself did not
23 make its own rule about regulation of common carriers. It deferred to the

1 legislation. The legislation, the verbiage is from 1920. The Commission did not
2 have authority to regulate common carriers in 1920. It didn't have that authority
3 until a year later when the 1921 Constitution was ratified. So there is an absence
4 of information about legislative intent. Like I mentioned earlier, we don't even
5 know if facilities like the Fourchon Terminal existed in 1920 when that verbiage
6 was adopted. And so the reason that pending legislation is relevant to this
7 discussion is that we have a very cumbersome legislative pronouncement. The
8 ALJ, doing the very best job, misapplied the language. And, I mean, you can see
9 clearly what she omitted from her analysis. So -- and again --

10 **COMMISSIONER LEWIS:** But on that point, she did cite the entire statute other
11 places in the ruling. I know --

12 **MS. WATTS:** But not in her analysis.

13 **COMMISSIONER LEWIS:** But it was already stated, so I don't think -- I think
14 that point's a little misguided where she didn't omit statute. What she did is when
15 she [INAUDIBLE] her entire analysis, she summarized the statute, which we have
16 seen in legal proceedings multiple times, but I hear where you're going with that.
17 I do --

18 **MS. WATTS:** She summarized the very clause where this dispute lives.

19 **COMMISSIONER LEWIS:** But she also cited the statute so, I mean, I just
20 wanted the record to be clear that she didn't completely eliminate portions of the
21 statute in her analysis. Her analysis just summarized the statute not in its entirety,
22 but the ruling does have that in the background summaries of the proceeding that
23 we have in front of us, correct?

1 **MS. WATTS:** Correct.

2 **COMMISSIONER LEWIS:** Okay. Thank you. So the only thing I would say,
3 Mr. Chairman, I'll wrap up, is that this is an interesting case. But I do think we
4 have to protect the LPC's jurisdiction. I do feel strongly that the letters that we
5 have received from the attorney general and some of the threats that we've heard
6 from the governor about changing our jurisdiction or adding Commission members
7 is unacceptable and I hope that that is not a strategy of Rosefield to use outside
8 agitators as a way to bully us into making a decision. I think we have enough of a
9 legal basis, enough of things to do, and I would hope that going forward, no matter
10 what we decide today, that we keep these matters before the Commission and not
11 use the outside politics to try to determine the facts of this case. Thank you, Mr.
12 Chairman.

13 **MS. WATTS:** And, Commissioner, if I may quickly respond to that point.

14 **COMMISSIONER LEWIS:** Yes.

15 **MS. WATTS:** In addition to Rosefield, there are numerous other stakeholders,
16 many of which you've received correspondence from, who reached out not only on
17 behalf of Rosefield, but on their own behalves to folks in state government. And
18 once those folks were made aware of this dispute and where it seemed that the
19 Commission was likely to land, they expressed their concerns. Rosefield did not
20 ask them to make any threats. Certainly, if we would have known that that type of
21 language may have been used, I think we would have had something to say about
22 it. But once those individuals got involved with their own concerns, that was not
23 something that Rosefield was involved in.

1 **COMMISSIONER LEWIS:** No, thank you for that. And like I said, if the
2 legislature changes the regulation, then it's prospective, and those companies and
3 everyone can do that. I just am getting frustrated that we're using the legislative
4 process in this proceeding, which I think Commissioner Skrmetta was absolutely
5 correct, I don't think could be retrospective regardless. So we can fight to make
6 sure that if you believe it shouldn't be regulated by the Commission in the future,
7 that we do so, but using that as a tool in this case, I just hasn't think has been duly
8 right. So thank you, Mr. Chairman.

9 **CHAIRMAN FRANCIS:** Commissioner Campbell.

10 **MS. BOWMAN:** And -- thank you.

11 **COMMISSIONER CAMPBELL:** Yes, ma'am. You said that the legislature's
12 working on this right now?

13 **MS. WATTS:** Yes, sir. There's two bills pending.

14 **COMMISSIONER CAMPBELL:** What good do you see coming out of that
15 rather than us taking it up today and handling it?

16 **MS. WATTS:** There will be clarified, updated, relevant language that will provide
17 guidance to this body and to other parties engaging in this industry.

18 **COMMISSIONER CAMPBELL:** And we're talking about a statute that's over
19 100 years old; is that what you want to get clear?

20 **MS. WATTS:** Yes, sir, 1920.

21 **COMMISSIONER CAMPBELL:** And so you feel like the legislature is going
22 in the right way? I mean, you're representing one client. Are they being unbiased
23 and trying to treat this thing as it should be treated?

1 **MS. WATTS:** This matter has been looked at by different agencies and with input
2 from numerous stakeholders who feel that the statute, as currently written, is
3 unclear and needs to be clarified.

4 **COMMISSIONER CAMPBELL:** What is the attorney general's -- she's got
5 involved in this; hasn't she? Is that correct?

6 **MS. WATTS:** I have learned that she has sent correspondence to the Commission.

7 **COMMISSIONER CAMPBELL:** Yeah. Well, what's her big deal?

8 **MS. WATTS:** I understand she asked the Commission to defer voting on this
9 matter until the legislative process concludes.

10 **COMMISSIONER CAMPBELL:** She thinks that the legislature has more sense
11 than the Public Service Commission; is that what you're saying?

12 **MS. WATTS:** No, sir. Not at all. She thinks that whether the legislation will be
13 successful is yet to be determined, but it would avoid inconsistent outcomes.

14 **COMMISSIONER CAMPBELL:** I heard Mr. Lewis talk about a threat. How
15 about telling me about a threat? I don't understand what you were talking about a
16 while ago.

17 **COMMISSIONER LEWIS:** Yes, Commissioner. It's been brought to my
18 attention that there was a statement by members of the legislature and potentially
19 the governor that if we decided to vote, that he would push some changes to the
20 PSC.

21 **COMMISSIONER CAMPBELL:** If we didn't vote?

22 **COMMISSIONER LEWIS:** If we voted today or if we voted before the
23 legislative process was over.

1 **COMMISSIONER CAMPBELL:** Yeah. Well, I don't know anything about that,
2 but I have a certain opinion about the Public Service Commission and what he plans
3 to do or what he doesn't plan to do. But that's all I have to ask right now. I want
4 to make a motion, but I'll hold up.

5 **VICE CHAIRMAN SKRMETTA:** We still have to get [CROSSTALK] --

6 **CHAIRMAN FRANCIS:** No, we wait.

7 **COMMISSIONER CAMPBELL:** I know. Let me get through talking. I'd like
8 to make a motion at the appropriate time.

9 **CHAIRMAN FRANCIS:** Okay. Yeah. At the appropriate time. Okay. Let's --

10 **COMMISSIONER COUSSAN:** I have a question, sir.

11 **CHAIRMAN FRANCIS:** Oh, we got one more. Okay. Go ahead, Commissioner
12 Coussan.

13 **COMMISSIONER COUSSAN:** Mr. Capsimalis, first, your company is in
14 Louisiana, operating in Lafourche Parish. I think, you know, obviously you've
15 been going through this legal issue for some time now, but I don't think there are
16 good guys and bad guys in this deal. We're happy that you're here. We're happy
17 that you're operating. We're happy that you've invested. We're happy that you
18 have employees. And, you know, to the extent that, you know, you have further
19 operations and investment in the state of Louisiana, we want to welcome that. And,
20 you know, despite the, you know, ongoing issues that you have with one of your
21 counterparties, you know, the issue before us is a jurisdictional issue. It's not a
22 good guy, bad guy issue. And so I've read -- well, I've listened to your testimony,
23 Jamie, and Commissioner mentioned the ALJ's ruling. I would like a little

1 clarification from my Staff. Kathryn, would you comment? I know we postponed
2 this hearing through today so that we could take another look at some of the ALJ's
3 rulings relative to the use of the revised statute and the, you know, deletion of some
4 of the highlighted language on the poster here and in some of their filings. Did the
5 ALJ address the common carrier issue in her ruling?

6 **MS. BOWMAN:** Sure, Commissioner. So I have read the ruling, and in my
7 opinion, the ALJ did do a thorough job in looking at the statutes, providing an
8 analysis of those statutes, and listening to the facts, both that were in all of the
9 written briefs as well as the hearing that she had on the issue and all of the live
10 testimony that she received. I do think she did an analysis of what is a common
11 carrier for jurisdictional purposes for the Commission.

12 **COMMISSIONER COUSSAN:** Okay. Thank you. I understand that there are a
13 couple of bills filed and, you know, they could be amended. We know the
14 legislative process. You know, I want to affirmatively state that as the definition
15 of pipeline is created by revised statute, I fully support the legislature and the bills
16 that are going through the process to look at that definition, to change the definition.
17 I've spoken with one of the legislators carrying the bill, told her I fully support her
18 efforts to do that. And really, for purposes of a lot of the slippery slope arguments
19 that I'm reading in the editorials, you know, this would preclude any further issues
20 of this particular definition which includes the word tank facilities. No matter when
21 it was actually written and how it applies, it actually does include the word tank
22 facilities. But if we change the definition or excluded specific things and operations
23 from that definition, then it would be helpful to the industry -- to the midstream

1 industry for its continued investment and growth in Louisiana. Is that an accurate
2 statement that it would clarify moving forward? I know we talked about
3 retroactivity, but in the least, we know it's going to clarify moving forward what
4 that definition of pipeline is as it relates to the jurisdiction of the PSC and pipelines.

5 **MS. WATTS:** Yes, Commissioner. Clarification is the primary purpose of the
6 legislation.

7 **COMMISSIONER COUSSAN:** Okay. I fully support that legislation. Being
8 one of the floor leaders for the oil and gas industry over my nearly decade in the
9 legislature, that's an important part of this whole component is that, yes, we're
10 dealing with jurisdiction here, but there's a, you know, overall perspective that we
11 have to look at. And I do appreciate that -- the comments made from third parties,
12 some maybe more agitating than others, but I don't remember you saying that about
13 third-party agitators, by the way, on other issues. But in this case, I'm glad we're
14 looking at a global look at it, you know, so that we can to continue the investment
15 in the oil and gas industry. With that said, Cantium is also a player in the -- a major
16 player in the oil and gas industry; are we in agreement with that? They're in the oil
17 and gas industry with you; aren't they?

18 **MR. CAPSIMALIS:** They sure are.

19 **MS. WATTS:** Yes.

20 **COMMISSIONER COUSSAN:** Okay. Again, we're not looking at good guys
21 and bad guys, upstream and -- the tariff that Rosefield promulgated as a non-
22 jurisdictional tariff, has Rosefield ever promulgated a jurisdictional tariff in any of
23 its operations, this one or otherwise?

1 **MR. CAPSIMALIS:** No.

2 **COMMISSIONER COUSSAN:** But you're obviously an executive with this
3 company and you have extensive experience as a petroleum engineer -- petroleum
4 engineer; is that correct? And in this industry, how much more work is it, as a
5 matter of just, you know, your operations, to do a jurisdictional tariff versus the
6 document that I looked at as your non-jurisdictional tariff? Looks like some
7 extensive work went into it and I know we talked about it earlier, but I'm not talking
8 about the amount. I'm just talking about the work that goes into the tariff that was
9 created, the non-jurisdictional versus a jurisdictional. What is the difference in the
10 work of the -- of your company between those two options in the event that we
11 were to find that this is jurisdictional?

12 **MS. CAPSIMALIS:** I think it's tremendously different. My only exposure to
13 tariffs in regulatory and -- that in regulated entities is in a FERC regulated gas
14 pipeline that we own and operate and it's now been decommissioned. But
15 especially in kind of late life, kind of more mature assets, lower flow, you know,
16 the regulatory overhead associated with that is almost, you know -- is almost too
17 large of a scale for a small, you know, pipeline. So this is -- that's also a Legacy
18 pipeline in the Gulf of Mexico, the one that I'm referring to. But I think more
19 importantly, it is that, you know, changing the context. So here it may be
20 administratively burdensome to become a regulated pipeline, but this was the value
21 and the cost of our investment was predicated on buying a line that was not -- I'm
22 sorry, buying a terminal that was not under, you know, jurisdiction and within an

1 industry that didn't have a precedent for those terminals being under jurisdiction.

2 So having a, you know -- a new interpretation of the regulations --

3 **COMMISSIONER COUSSAN:** Jurisdiction under the PSC.

4 **MR. CAPSIMALIS:** Yes. [CROSSTALK] --

5 **COMMISSIONER COUSSAN:** You were familiar with the jurisdiction of the

6 FERC?

7 **MR. CAPSIMALIS:** Yes.

8 **COMMISSIONER COUSSAN:** Okay. There was --

9 **MR. CAPSIMALIS:** But those lines had been under FERC's jurisdiction from,

10 you know -- from their inception. What I'm saying is here, what I think is really

11 harmful to investment and harmful to, you know, Rosefield specifically and

12 harmful to the industry in Louisiana is to have a precedent for these oil terminals

13 not having been under the Commission's jurisdiction. And then to, you know,

14 change that after the fact, after they've been auctioned and valued, you know, in

15 one way, and that would be Rosefield's perspective. But the perspective of

16 somebody that was considering building a large-scale terminal-like investment that

17 could -- that has, you know, pipe in line within its yard, you know, is that they

18 would be making a might -- maybe billions of dollars investment with the

19 expectation that it wasn't jurisdictional. And if there's, you know, issues around

20 clarity about whether it's going to continue to be non-jurisdictional, that would

21 chilling to somebody's willingness to invest. And, you know -- because that is

22 what, you know, arguably would happen to Rosefield here on a smaller scale. Is

23 we bought something at a price that was driven by the current context, commercial

1 and regulatory, and the price very much was impacted by that context. And then,
2 you know, to turn around, you know, shortly thereafter and say, you know, with an
3 interpretation that wasn't previously, you know, applied to a law that was arguably
4 --

5 **COMMISSIONER COUSSAN:** Legal -- like a legal interpretation?

6 **MR. CAPSIMALIS:** Yeah, or, you know, however it is. Or something that is
7 arguably -- it's ambiguous, but it's being applied in a different way than a, you
8 know, 100-year-old industry has applied it before, is the kind of thing that I think
9 would be -- well, it would certainly be harmful to Rosefield in this small, specific
10 incidence. But the point of us sharing the list of 55 other oil terminals is to show
11 that there's many others like us. There's also people that prospectively are
12 considering investing in the state with -- and those would be at much more higher
13 scale of investment and probably much more impactful, you know, individually to
14 the economy --

15 **COMMISSIONER COUSSAN:** Yeah.

16 **MR. CAPSIMALIS:** -- and the business environment here. So, you know, I think
17 that's why this has gotten the interest of, you know, agitators or other industry
18 participants is to look at Louisiana and say, you know, we have already invested a
19 lot of money in Louisiana, we want a stable regulatory environment here, or we're
20 considering making further investments in Louisiana and we want to know that we
21 have a stable regulatory environment here.

22 **COMMISSIONER COUSSAN:** So clarify a timeline for me. When these assets
23 were acquired by Rosefield, the FERC tariff had already been dropped?

1 **MR. CAPSIMALIS:** It had been -- it was cancelled.

2 **COMMISSIONER COUSSAN:** Wait, wait. I'm getting conflicting answers. So
3 would you like to answer first or would you like to answer? Because I just -- I'm
4 curious about when the actual closing occurred on the acquisition, had the FERC
5 tariff been dropped or was it still in place upon closing date?

6 **MR. CAPSIMALIS:** Yeah. It may be -- I'd have to get back to you with an
7 answer. It was part of the transaction that Chevron, this -- it was under a tariff.
8 Really, it was a pipeline tariff that Chevron had for a pipeline that this terminal used
9 to be impertinent to, and so it couldn't remain under that tariff, you know, because
10 we -- you know, it wasn't going to be, you know, owned or managed by Chevron
11 anymore. So Chevron cancelled the tariff effectively -- essentially it was, you
12 know, simultaneous with the transaction. I don't know if the day that FERC ruled
13 on it was, you know -- was before the closing or after the closing, but basically by
14 being sold and carved out of what used to be a pipeline tariff that Chevron had, the
15 terminal became outside of FERC's jurisdiction.

16 **COMMISSIONER COUSSAN:** And can I ask the Staff? I know -- so the Public
17 Service Commission, have we issued tariffs on pipelines ever in history?

18 **MS. BOWMAN:** Yes.

19 **COMMISSIONER COUSSAN:** Okay. When --

20 **MS. BOWMAN:** We approve tariffs that pipelines submit to us. I should say it
21 that way.

22 **COMMISSIONER COUSSAN:** Okay.

1 **MS. BOWMAN:** We do not create and issue the tariff. It's the pipeline submitting
2 it to us and us approving it.

3 **COMMISSIONER COUSSAN:** Okay. You know, I think a lot of this hinges on,
4 and I'm not going to belabor a lot of the points that have been made, but you know,
5 a lot of it does hinge on the facts of the case as applied to the law as defined in the
6 revised statutes. I mean, that's the crux of the issue. You know, your testimony
7 goes into great detail in your examination and cross-examination about what
8 happens to the oil going through your facility. Is it transported, is it transferred, is
9 it moved, is it, you know -- what's going on with the molecule? One barrel in, one
10 barrel out, you mentioned a second ago. And, you know, again, I see that you had
11 a lot of conversation with the attorneys and Ms. Watts, you know, objected to some
12 uses of legal terminology. Okay. And that was fair and she did a good job doing
13 that. But, you know, the question is, again, you know, the attorney for Cantium
14 was asking you, you know, what does convey mean, what does convey mean? And
15 we finally got to a point in the testimony when you accepted what -- I accept that it
16 says that. Which was the facility -- you're aware -- are you aware in Rosefield's
17 filings that Rosefield stated that it facilitates the movement of crude oil through its
18 facilities? I accept that it says that. And I believe that maybe was in the FERC
19 application or objection, but it was in some filings that you made and you were
20 accepting that it said that. Okay. And I'm not going into whether that's what you
21 believed or not, but I think that language in that conversation about the facts of
22 what's happening with the molecules of oil is important to the jurisdictional issue
23 that we have here. So, you know -- and the objections by your attorney was that

1 we were -- that the language being used and that we are reading here was, like,
2 legally loaded. Hey, we're not going to be able to, you know, object to the use of
3 the word transportation because obviously that's a key term in this whole deal.
4 What I'm getting back to is, you know, as you are investing in this asset and you're
5 assuming at that point that simultaneously the FERC jurisdiction is being dropped
6 for the reasons that we stated and the reasons that FERC stated, whether it's -- or
7 right now it's not interstate or now it's not X, Y, Z, as the Commissioner mentioned
8 and you mentioned in the last paragraph of that ruling. But when you read the
9 definition of pipeline, it doesn't take a lawyer to figure out that it says tank facilities.
10 And maybe it does take a lawyer to figure out what common carrier means, it takes
11 a lawyer to figure out what transportation means. But when I read that and the first
12 time I read it and I said, oh, it says tank facilities, I said, well, what's the next test
13 because we already -- we passed that test. You know, and now you get to the
14 common carrier question and it hinges on what is a common carrier. But did that
15 not give you pause about whether or not you were going to be regulated by the
16 Public Service Commission who regulates pipelines in the state of Louisiana as a
17 common reading of the definition of pipeline which has been around for 100 years
18 that says tank facilities? Did that give you pause? I'm wondering, like, as a risk,
19 regulatory risk, political risk, business risk, all those things, when you invested
20 because I certainly would have said hey, guys, we got some issues, you know, on
21 this definition of pipeline.

22 **MR. CAPSIMALIS:** Yeah. It didn't because I think the issue is that, you know,
23 if you look at a parallel to the FERC construct, is they consider tanks not to be

1 transportation if they're not, you know, required for interstate transportation. So,
2 you know, in every case that you have a tank facility, there's some pipe in the yard.
3 There's pipes that go between the tanks. There's pipes that are not linear, they're -
4 - you know, they comprise headers. So it's kind of like -- and then, if you dive into
5 -- there isn't clarification in the code that I'm aware of in Louisiana. But if you
6 dive into the, you know -- into the FERC's treatment of it, where it's been treated,
7 you know, a lot more extensively, you know, they consider these types of lines,
8 based on a variety of different character tests, to be terminal transfer pipe and not
9 pipelines and they draw that distinction for this very purpose. So the very purpose
10 is to say that you have tanks here. Every single tank in Louisiana has some pipe
11 and so if you got a bunch of lawyers to corner me and start trying to get me to, you
12 know, argue about what the definition of a pipe is and why is it not a pipeline. Is it
13 a pipe, is it in a line? We could play that game.

14 **COMMISSIONER COUSSAN:** Yeah.

15 **MR. CAPSIMALIS:** But the important thing is that if, you know -- if I'm going
16 to get cornered or everybody that owns a tank in Louisiana could get cornered and
17 have to, you know, argue about what's the definition of a pipeline because we don't
18 move, you know, oil from tank to tank in buckets, you know. I'm not -- you know,
19 it's taken to an absurd degree. Like, every oil meter in Louisiana is essentially a
20 wound steel tube, you know. And so you could find some lawyers that could put
21 me in the corner and try to get me to defend why that's not a pipeline because it's
22 going from point A in Louisiana to point B in Louisiana. But the precedent of the
23 FERC and the history of the industry in Louisiana is that the lines that connect tanks

1 and the lines that bring oil into tanks from the property line and out from tanks to
2 the property line and interconnecting tanks and headers and meters within a facility
3 are not pipelines. And so that's why the FERC has designated them specifically as
4 terminal transfer lines in other facilities, so. And the FERC has spent a lot of time
5 trying to delineate that from pipes that are -- they do consider transportation. And
6 so when this matter, as the terminal alone, not the terminal as part of a more
7 extensive Chevron -- you know, historical Chevron infrastructure, when this matter
8 was brought by itself back to FERC of just the tanks and the terminal transfer lines,
9 as we call them within our yard, that's what FERC found was that those are terminal
10 transfer lines by that definition which was set up to draw that distinction so that we
11 don't have a slippery slope where we say, you know, everybody that owns a tank
12 terminal in the state of Louisiana has some pipe and they're moving some oil from
13 one side or from one tank to the other or from one side of the yard to the other. And
14 I don't think it stops with oil terminals. It would apply also to refined product
15 terminals and it would apply to LNG plants and it could apply to gas plants.

16 **COMMISSIONER COUSSAN:** Well, you using plants and terminals, I mean,
17 but it's -- the definition is tank facilities. So we're not talking about the definition
18 of what a terminal is. I know you are, but we're trying to figure out what a tank
19 facility -- if you're telling me a tank is a terminal and they're the same thing, then
20 that's for another day. But I agree with you that FERC has more jurisprudence,
21 let's say, in decisions that take a, you know, step by step analysis of what all these
22 different issues are. So from a public policy standpoint, because you are more
23 knowledgeable, sounds to me like, than your average petroleum engineer. And I've

1 lived with -- my next door neighbor is a petroleum engineer, but hey, he's not as
2 knowledgeable as you. I'm just telling you. No offense to him. I hope he's not
3 listening. So you -- are you -- there was a line of questioning earlier, you know. It
4 seems like, back to my oil and gas industry upstream, you know, production, you
5 know, we've got a company that is going to I guess talk here in a second, but you
6 know, they're one of the last exploration production companies left in the state of
7 Louisiana, which is kind of crazy to say, producing oil within state waters, maybe
8 federal waters, but definitely state waters on a platform, you know. And, you know,
9 it seems to me, like from a public policy standpoint, I'm getting a lot of public
10 policy arguments. All these letters that we've received are public policy arguments.
11 You know, it seems like we should have also a public policy of ensuring that our
12 upstream oil and gas producers have, you know, a decent ability to get their product
13 to market, you know, without being overcharged. And I think that's why we're
14 here. Do we have jurisdiction over that or is that a business decision? Were bad
15 business decisions made? Whether it's because we didn't realize there was
16 jurisdiction or because they didn't -- the price was too high or you had a
17 counterparty driving up the cost. All those things, you know, could be in place, but
18 it seems to me like there's also a public policy argument that, you know, the reason
19 why the Public Service Commission regulates quasi-monopolies is so that we can
20 ensure that prices are not usurious and they're not -- you know, we're not gouging
21 anyone. And so you know, we're looking at this again, and that's the final statement
22 I'll make and I'll let you finish up. But, you know, we're looking at this from a
23 jurisdictional standpoint, but I 100% agree that there are public policy

1 considerations here specifically for upstream and the oil and gas producers who we
2 want to continue to invest. We're going to be reducing the severance tax rate in the
3 state of Louisiana through the legislature hopefully this year on new production and
4 making some new rule changes for workovers to hopefully get some more
5 production. You know, we've got a lot of pipelines, some interstate pipelines, and
6 I don't want to see random tanks being put up in the middle of pipeline systems that
7 now have the ability to put a non-jurisdictional tariff on the tanks just in order to
8 charge more than the jurisdictional tariff placed on the interstate, intrastate
9 pipelines that we may have already set. You know, that also could be an absurd
10 result in redefining a tank facility out of the pipelines. So, you know, I look at it
11 from the same point of upstream, midstream, and downstream, you know, when we
12 start talking about all of the other guys that are using a lot of these, like you were
13 just describing, different facilities. And what is the right public policy as a
14 balancing act of all of those interests to ensure future investment in the state of
15 Louisiana? And I want to make sure that, you know, we're not asking you to go to
16 zero. That would never be the case, you know, for you to go to zero. You know,
17 it would be a -- it would be a reasonable, you know, rate of return based upon the
18 investments that you made. And guess what? Maybe that is \$4 a barrel. You know,
19 that's a risk that I think is out there that this rate, based upon your investment and
20 the time that you expect your capital to be repaid, could be \$4 a barrel. So, you
21 know, I think there is a risk in that as well and that might be the most reasonable
22 rate based upon the damage from the storms, the capital investments that you had
23 to make, all of those other things and that's, you know -- that's another issue out

1 there. So with that I -- again, I appreciate, you know, you being here today. All
2 the way up here, you know, outside of your -- outside of our district and outside of
3 where you normally operate, and I appreciate your testimony.

4 **MS. WATTS:** Thank you, Commissioner. And we do have individuals who are
5 here from either -- further than Mr. Capsimalis who'd like to weigh in when
6 appropriate.

7 **CHAIRMAN FRANCIS:** You're saying you have more testimony?

8 **MS. BOWMAN:** We have three additional yellow cards for public comment.

9 **CHAIRMAN FRANCIS:** Okay. Who's the next?

10 **MS. BOWMAN:** So I have a Mr. Jay Cruz and a Steven -- is it Krane or Kaine?
11 I'm sorry I can't read the -- from Liquid Energy Pipeline Association, and then we
12 have one representative from Cantium, who we'll let go last.

13 **CHAIRMAN FRANCIS:** All right. So the next --

14 **MS. BOWMAN:** So Mr. Cruz and Mr. -- is it Krane?

15 **MR. STEVEN KRAMER:** Kramer.

16 **MS. BOWMAN:** Kramer.

17 **CHAIRMAN FRANCIS:** Okay.

18 **MR. CAPSIMALIS:** Thank you.

19 **CHAIRMAN FRANCIS:** Okay. Go ahead [CROSSTALK] --

20 **MS. BOWMAN:** Just please introduce yourselves for the record. Just please
21 introduce yourself for the record.

22 **MR. KRAMER:** Yeah. I'm Steve Kramer. I am senior vice president and general
23 counsel of the Liquid Energy Pipeline Association. Good morning and thanks a lot

1 for giving me an opportunity to provide some brief remarks this morning. We --
2 our association represents the interests of oil and other liquid energy pipelines that
3 transport crude, refined products, and other energy liquids throughout the country.
4 And these pipelines also own terminal facilities all over, but importantly here in
5 Louisiana. And needless to say, as you can imagine, the recommendation from the
6 Administrative Law Judge has gotten the attention of our members. They're quite
7 concerned with the broader implications of this recommendation by the ALJ for,
8 you know -- to extend state regulation over facilities that were never contemplated
9 by them to be regulated in the manner suggested by the Law Judge. It creates a
10 great deal of uncertainty for folks to think about the potential for reporting
11 requirements, paying fees to the Department of Revenue, and to have rate
12 challenges. To have folks that could come in and file a complaint, and suddenly
13 you're in the throws of a time, you know, extensive, resource intensive kind of
14 proceeding. They're going to have rate challenges for facilities that they never
15 would have contemplated to be subject to that type of regulatory review. There's
16 also concern about the potential that it will damper capital investment in facilities
17 here in Louisiana. When, you know, there's a potential for this uncertainty, for rate
18 challenges, regulatory burdens, things of that nature, when investors have an
19 opportunity to deploy their capital in different places, that's one thing that they'll
20 certainly look at. So, you know, there's quite a bit of unease about this
21 recommendation. It's something, again, that has not been contemplated by folks
22 that have been operating and owning these assets for decades in unregulated
23 markets. So we, you know, respectfully request that you consider these broader

1 implications that -- you know, the potential impacts on others, and thanks a lot for
2 letting me provide comments.

3 **CHAIRMAN FRANCIS:** Thank you.

4 **COMMISSIONER LEWIS:** Mr. Chairman, can I ask [INAUDIBLE]?

5 **CHAIRMAN FRANCIS:** Okay. Yes, sir. Yes, sir. Well, let's let the --

6 **COMMISSIONER LEWIS:** Mr. Chairman, can I ask him a question real quick?

7 **CHAIRMAN FRANCIS:** Well, I think --

8 **VICE CHAIRMAN SKRMETTA:** [CROSSTALK] let the other one first?

9 **CHAIRMAN FRANCIS:** Yeah. Let's let the other gentleman speak first.

10 **COMMISSIONER LEWIS:** Okay. That's fine.

11 **MR. JAY CRUZ:** Thank you, Commissioner. My name is Jay Cruz. I'm the
12 Senior Director for Government Affairs for the International Liquid Terminals
13 Association. I'd like to thank the Louisiana Public Services Commission for
14 allowing me the opportunity to provide a brief comment this morning. ILTA,
15 headquartered in Washington, DC, is the trade association representing and
16 advocating for companies such as Rosefield in the bulk liquid storage sector. As I
17 mentioned, I remember Rosefield brought this issue to our attention at the end of
18 last year. After discussing this case amongst our Louisiana-based membership and
19 exploring the potential consequences for the outcomes, it was decided that ILTA
20 would attend this hearing today to support Rosefield. In short, ILTA and its
21 membership find LPSC's actions to be irregular. We believe that the ALJ's ruling
22 will allow the LPSC to now regulate all terminal facilities for hire in Louisiana, a
23 level of oversight LPSC has not historically had. Likewise, the LPSC siding with

1 Cantium would open all common carriers to having their terminal fees being
2 challenged by shippers and any interested third parties. Both outcomes will have a
3 profound effect on the movement of bulk liquid products within Louisiana. Again,
4 thank you to the LPSC allowing me to comment this morning.

5 **CHAIRMAN FRANCIS:** Okay. I think Skrmetta got out ahead of you.
6 Commissioner Skrmetta.

7 **VICE CHAIRMAN SKRMETTA:** Just one quick question for both witnesses,
8 you heard a lot of the testimony I guess today from the parties so far. Do you
9 support the unilateral application of the cost of using a pipeline? The parties in this
10 case, in this case Rosefield, they stated what the cost to use the service is without
11 any negotiation back and forth on this. They told them what they're going to have
12 to pay for it. So are you supporting that concept of utilization of a service? Is that
13 -- they're going to be able to tell them what they're going to pay for it without
14 having a give and take on establishing the price of utilizing that the -- whatever the
15 thing is?

16 **MR. KRAMER:** I would say there's always a lot of factors that parties to a
17 transaction need to consider.

18 **VICE CHAIRMAN SKRMETTA:** Evidently not in this case. So it was a
19 unilateral determination of the cost of utilizing the thing, so there was no bilateral
20 meeting of the minds on this. So are you in favor of that?

21 **MR. KRAMER:** You know, again, I would assume that Rosefield, like any
22 operator, is going to look at a whole range of factors in setting the rate that it charges

1 a customer and that -- you know, going to depend on a lot of different circumstances
2 about the value added of the service that they provide.

3 **VICE CHAIRMAN SKRMETTA:** Yeah. Is that a yes or a no? I was just
4 checking.

5 **MR. KRAMER:** I can't speak to the specific, you know, meeting of the minds
6 between the two parties.

7 **VICE CHAIRMAN SKRMETTA:** So I guess that's a you don't know, right?
8 I'm sorry. I guess that's a I don't know the answer.

9 **MR. KRAMER:** I don't know the answer between those two specific parties. I
10 can just provide that whenever a service provider is determining a rate, they're
11 going to be looking at a range of issues and, you know, the value added to in the
12 transaction.

13 **CHAIRMAN FRANCIS:** Commissioner Lewis.

14 **COMMISSIONER LEWIS:** Thank you, Mr. Chairman. Did either one of your
15 associations file to intervene in this proceeding in this docket?

16 **MR. KRAMER:** LEPA did. Liquid Energy Pipeline Association.

17 **COMMISSIONER LEWIS:** You did.

18 **MR. KRAMER:** We have filed in --

19 **COMMISSIONER LEWIS:** Do you know when you did that?

20 **MR. KRAMER:** It was after the due date for, you know, interventions, but as this
21 issue arose and we engaged with our members on it and heard the concerns that
22 were raised by several folks, we felt like it was important to do.

1 **COMMISSIONER LEWIS:** And do you know -- we were looking, and do you
2 know if you were trying to file as an interested party or as an intervenor in the case?
3 **MR. KRAMER:** An interested party.
4 **COMMISSIONER LEWIS:** An interested party.
5 **MR. KRAMER:** Yeah.
6 **COMMISSIONER LEWIS:** And just -- I don't have the record in front of me,
7 was that prior or after the ALJ's --
8 **MR. KRAMER:** After.
9 **COMMISSIONER LEWIS:** After?
10 **MR. KRAMER:** Yeah.
11 **COMMISSIONER LEWIS:** So I guess this is my question, if this is such a great
12 concern of the industry and of your members, this case clearly was heading towards
13 adjudication in the ALJ process. Why was all the interested party or interventions
14 after the ruling and not being part of the ruling to build that record within the ALJ
15 proceeding? You see where I'm going with that because it seems --
16 **MR. KRAMER:** Yeah, no.
17 **COMMISSIONER LEWIS:** -- everyone waited for the ALJ to make a ruling,
18 and to my impression, please correct me if I'm wrong, that it was the assumption
19 that we would win. And then the ALJ disagreed with us and now all the floodgate
20 ran saying, wait a minute, wait a minute, you're going to up-have the industry. And
21 so if this was as substantial of a concern as I take you and many of the letters that
22 I've received at face value, and I believe you are concerned, why was that not part
23 of the initial adjudication?

1 **MR. KRAMER:** Thank you for the question. I think it really comes down to that
2 these assets, these types of assets have been operating in unregulated markets for
3 decades. So no one would've expected the kind of recommendation, particularly
4 after FERC, you know, and federal government denied that this was transportation.
5 We wouldn't have expected the state of Louisiana to do otherwise.

6 **COMMISSIONER LEWIS:** Okay. Thank you.

7 **COMMISSIONER COUSSAN:** I have just a brief question. And you just made
8 a comment that said unregulated markets, but again, we're -- you're saying that the
9 LPSC has not regulated terminaling facilities, correct?

10 **MR. KRAMER:** Ratemaking, correct. Tariffs.

11 **COMMISSIONER COUSSAN:** But we have regulated ratemaking. I mean, I
12 was -- I asked the Staff earlier, relative to pipelines as defined in our statutes. Right.
13 I'm not getting -- I'm just saying, I want to agree with you. I want to agree with
14 you that this situation that we're dealing with is very limited, very narrow in scope.
15 I want to give -- to me, in my opinion, I believe that I want to give you and your
16 association some assurances, not only if the definition is changed, but also if this
17 ruling doesn't go the way that you think it should. But that this does not in fact
18 apply to many of the services and the facilities that you're describing to me.
19 Whereas, I believe that it is only applicable to the exact facts and the exact
20 testimony in this case. Every case is a different matter like you just said. Might
21 look at a different -- business deals all have different factors and the facts of each
22 facility and tank as defined in the definition of pipeline, may be different. But I'm
23 trying to give you some assurances. I want what you want. I want less jurisdiction

1 on the issues that the two of you are facing that you're saying are non-jurisdictional
2 at the moment. I wouldn't necessarily agree that they're not regulated because
3 there's testimony in here, A, that they are regulated by FERC in some cases, by
4 PSC in some cases. And then there's somewhere testimony in here that says, oh,
5 in this case alone there's 10 -- actually, there was testimony just now that's there's
6 10 other agencies that regulate the operations. So to say that it's not regulated and
7 to say that this issue is going to change the whole regulatory framework, I think
8 that's a little bit of a stretch given the testimony, not my opinion, but given the
9 testimony today that we now have 12 -- 10, that they stated. There's 10 agencies
10 regulating them, federal and local and state, plus PSC, plus FERC. It's a regulated
11 market.

12 **MR. KRAMER:** Thank you, Commissioner. And for sure, there is a lot of
13 regulation over these facilities, but to the best of my knowledge, not economic
14 regulation, which is what we're talking about here, tariffs and things of that nature.
15 So that is a very different circumstance. It does cause a lot of different concern for
16 folks. Unregulated in the sense of economic regulation, I do stand corrected
17 [CROSSTALK].

18 **COMMISSIONER COUSSAN:** Thank you. I appreciate it. But we're working
19 and we're pulling in the same direction. Let's get this definition changed, let's
20 narrow the scope, and keep this applicable to these facts and these circumstances
21 and, you know, I'd like to communicate that to you as well.

22 **MR. KRAMER:** Thank you.

1 **COMMISSIONER COUSSAN:** This is a man that is in the oil and gas industry
2 for 50 years, you know, and --

3 **VICE CHAIRMAN SKRMETTA:** I buy gas.

4 **COMMISSIONER COUSSAN:** Thank you, guys. Appreciate it.

5 **CHAIRMAN FRANCIS:** It's sad to say, but years doesn't make you wise in
6 figuring this out, but we love our industry. Ms. Bowman, do you have somebody
7 else, have another card there?

8 **MS. BOWMAN:** Yes, sir. We have one representative for Cantium here. Mr.
9 Simone, if you want to come on up.

10 **VICE CHAIRMAN SKRMETTA:** That's the opposition.

11 **CHAIRMAN FRANCIS:** He's Cantium? Okay.

12 **MS. BOWMAN:** Yes, sir.

13 **CHAIRMAN FRANCIS:** We'll have -- Commissioner Lewis will be first up
14 when we get to that point.

15 **COMMISSIONER COUSSAN:** It's a question for Staff.

16 **MS. BOWMAN:** I'm sorry. Yes, sir.

17 **COMMISSIONER LEWIS:** Staff, I know we were talking and I just want to
18 understand the procedure of their -- well, their request to be an interested party.
19 Can you tell me the status of that and what is next? Because I think they made
20 points --

21 **EXECUTIVE SECRETARY BRANDON FREY:** Sure.

22 **COMMISSIONER LEWIS:** -- and I want to make sure we include them in the
23 record.

1 **SECRETARY FREY:** Commissioner, I actually had brought a copy of the case
2 file and it looks like they had filed a motion for leave to intervene on the 13th of
3 February. Cantium filed an opposition on March 12, so that's what's pending right
4 now. But typically, under Rule 57, when the ALJ has a ruling of any sort that's
5 been appealed to the Commission, they take the position that it's no longer in their
6 hands, it's in your hands. So likely the reason there hasn't been a ruling on that
7 request to intervene and the opposition is because this matter's in front of y'all.
8 Now, you have primacy, so you could rule on that as well if that's your choice, you
9 could rule on their intervention/request for interested party, which is a little bit
10 different than full intervenor status.

11 **COMMISSIONER LEWIS:** Okay. Great. Thank you.

12 **COMMISSIONER COUSSAN:** To the Staff -- Brandon, to the extent that we
13 take this issue under advisement, I would just like to keep that as part of our
14 procedures that we need to vote on that are pending, so that --

15 **SECRETARY FREY:** Sure.

16 **COMMISSIONER COUSSAN:** -- we don't -- that it's written out, so we don't
17 have to remember it.

18 **SECRETARY FREY:** Sure, sure.

19 **CHAIRMAN FRANCIS:** Okay. Go ahead and let us know who you are.

20 **MR. MATTHEW SIMONE:** Thank you. My name is Matthew Simone. I'm
21 here with my colleague Kelly Perrier. We're both on behalf of Cantium, LLC. I'm
22 outside counsel and general counsel of Cantium, LLC. I know we've had a lot of
23 testimony and discussion this morning, so I will try my best to be brief. Every

1 lawyer says that, but I'm really going to try this time. Let me just start off with
2 what the real issue here is, it's a factual issue. Is Rosefield's facility in the business
3 of transportation or terminaling? The fact of the matter is that it's in the business
4 of transportation. It's not a terminal. The ALJ heard extensive testimony and
5 briefing on this topic, look at that statutes, and said it's a pipeline. It transports
6 pipeline from one spot in the state to another spot in the state of Louisiana. They
7 found that the tank did nothing but act as a passthrough. There's no terminaling
8 going on on that facility. You also heard Mr. Capsimalis today even talk about it.
9 He said that this had a FERC pipeline, that it's a small pipeline. Again, it is a
10 pipeline that moves oil from one spot in Louisiana to another, which fits directly
11 within our statutes. And there is no distinction, as you might find in FERC
12 somewhere, about a smaller pipeline. The statute that was, I believe, put in front
13 of you does not talk about diameter, size, distance. You don't have to have a 200-
14 mile pipeline to make it under LPSC jurisdiction. Doesn't have to be a 30-inch-
15 wide pipeline to be under FERC -- under LPSC jurisdiction. It has to be a tube
16 made of pipe -- I mean, made of steel, which conveys oil from one point to another
17 for a third party. In this case, that's Cantium. Let's talk briefly about the history
18 of how this facility came to be. Chevron owned the whole thing, the production,
19 the movement to its facilities. It changes its mind. It wants to sell off parts of its
20 business because there may be some more advantageous commercial reasons to go
21 somewhere else. So Cantium buys those facilities that are having production in
22 federal and state waters. It's moving its product through Chevron's facility next
23 door, okay? Chevron has the FERC tariff still. Chevron then sells the asset to

1 Rosefield, and then all of a sudden, you have a situation in which Rosefield pulls
2 the tariff and says I want you to pay from \$0.67 to about \$2.50 a barrel. It's a
3 humungous increase. Every barrel is now up four times. Now, it's important there
4 what didn't happen, there was no improvement, no change of service on behalf of
5 Rosefield in favor of Cantium. Cantium's not getting a better deal here. They're
6 not getting a better service. The same service, which was movement of their oil
7 from point A to point B, remains the exact same as it did when Chevron owned it.
8 The only difference now is that you have a tremendous increase in price. Again,
9 let's look at what is going on in the facility. I'm sorry, you know, I'm going to start
10 before what happens in Cantium's facility. They produce oil, that oil then goes to
11 Cantium's facility. Cantium is the one who does the dewatering, does anything it
12 needs to do for its oil. That oil then goes through a pipeline owned by Rosefield.
13 It passes through a tank. The pipeline then goes outside of that tank, still owned by
14 Rosefield. Then Rosefield's pipeline goes under a canal, owned by assumingly a
15 third party, then Rosefield's pipeline connects to an interconnection to a third party.
16 What's important here is not so much what's done, which is a transportation of
17 crude oil, but what's not being done. And what's not being done are terminaling
18 services. There's no storage, I think this is a humungous point. They kept talking
19 about storage, storage. In their tariff, they discuss if there is storage of this oil, that
20 is then going to be a separate contract between the parties that'll be paid separately.
21 If this was a storage fee that we were paying, we wouldn't be talking about \$2.50 a
22 barrel. Instead we'd talk about per day, per month, per week, whatever it may be.
23 That's storage. That's what a term line does. Terminaling, also they talked about

1 commingling of oil. I understand that, you know, I began at -- doing oil marketing
2 cases in which learned all about when oil from different spots comes into one tank,
3 one's a better quality, one's a less quality. You measure that out, find out what's
4 the difference of value. And some people get added value, some people get lesser
5 value. But in any event, there's always some type of value added in a terminal
6 storage. Here, that doesn't happen. The same oil, it's the same molecule as it goes
7 in as it comes out. No change whatsoever. Now, I believe one of you asked about,
8 well, why'd you enter this contract? Well, we entered into this contract with
9 Chevron. Rosefield now is our obligee. So -- I'm sorry, yes, obligee. So at this
10 point, we have to go through them. There's no other way around. There's a
11 contract that says we must. Now, what's important is that contract talks about that
12 this service is -- Rosefield is a common carrier. It talks about the rate must be a
13 transportation tariff. That's what we want to pay, a transportation tariff through
14 Rosefield's pipeline. And the statutes are meant for this situation. When crude oil
15 cannot go through a pipeline regulated by LPSC at a fair rate, we have the ability
16 as a substantial interested party to come to you and say help us. Help us get our
17 crude oil to market because right now, we have no other way to do it. We don't
18 have it physically because there's no other way to move this oil. It goes from
19 offshore to Fourchon and it has to go through Rosefield's facility to get to market.
20 It has to go through that tank to get to market. There's not a bypass. If there was
21 a bypass to go around that tank, we'd be happy to use it. But instead that tank is a
22 necessary and integral part of this process, and again, that follows the exact
23 language of the statute. That's the exact analysis that the ALJ made in her ruling.

1 She asked the question to Mr. Capsimalis at the hearing. Is there any other way for
2 this oil to go? Can you go around it? And the answer is no, and that's what makes
3 it integral and necessary that it has to move [INAUDIBLE] and that's why it fits
4 clearly into the statutes. So what's at stake here? What's at stake here really is
5 Cantium's ability to survive. Cantium purposely situated itself to be headquartered
6 in Louisiana. It's a Louisiana company. Looking at some facts here, it employs
7 300 Louisiana residents. It's paid \$81 million in severance taxes since 2017. It's
8 paid \$75 million in royalties to the state of Louisiana. It's plugged and abandoned
9 \$150 million worth of facilities. It's on board to do more than that, and it wants to
10 keep doing that. It wants to keep being a Louisiana --

11 **COMMISSIONER CAMPBELL:** [INAUDIBLE]

12 **MR. SIMONE:** I'm sorry, Mr. Commissioner --

13 **COMMISSIONER COUSSAN:** How many plugged and abandoned
14 [INAUDIBLE]?

15 **MR. SIMONE:** I do not have the exact well number. I do have the amount of
16 money that we've paid to do so, and that number is \$150 million to plug and
17 abandon wells. Oh, I'm sorry, when did we start operations? That was 2017.

18 **COMMISSIONER CAMPBELL:** What does it do now?

19 **MR. SIMONE:** In what terms? What is it paying now or what is it -- I have this
20 only on a total from '17 to '23, but it does remain paying into Louisiana coffers
21 through severance taxes and royalties to the state because it is producing -- want to
22 be mentioned, one of the last producers in state waters. Everyone's run offshore,

1 and I get why. It makes more money, and that's great, you know. We're not here
2 to judge that.

3 **COMMISSIONER CAMPBELL:** And they don't pay any taxes.

4 **MR. SIMONE:** They don't pay any taxes.

5 **COMMISSIONER CAMPBELL:** That's a little bitty -- little bitty deal.

6 **MR. SIMONE:** And it's not a small number. Maybe \$81 million is a small number
7 in the big scheme of things. I think it's a big number. I think it's a huge number
8 to be paying.

9 **VICE CHAIRMAN SKRMETTA:** I got a quick question.

10 **CHAIRMAN FRANCIS:** Okay. Commissioner Skrmetta.

11 **VICE CHAIRMAN SKRMETTA:** Quick question. When you mentioned earlier
12 that the pipe goes through a tank, goes through a pipe, does the pipe -- excuse me.
13 Does the tank provide any other service other than it's just holding it as it moves to
14 another pipe? Does it provide any actual storage or is it just because they haven't
15 made it into a pipe?

16 **MR. SIMONE:** It passes through. I will -- just to make sure everybody's aware
17 that the oil does stay in there for a couple of days, but that is only as a operational
18 ability to move through. But there's no value added. The oil is not changed.

19 **VICE CHAIRMAN SKRMETTA:** I mean, is it a horse or is it a horse of a
20 different color? I mean, you know, is it a tank or is it effectively just there because
21 it was there before they bought it and they utilized it as a pipe?

22 **MR. SIMONE:** It's the latter, it's a passthrough.

1 **VICE CHAIRMAN SKRMETTA:** And the other question is is that, you know,
2 how do you -- how do you express your issue associated with the fact that it went
3 from X to X time 4 in a unilateral manner in a contract that you entered -- you held
4 with Chevron? But how does that shift in the pricing to where you get this
5 enormous price change which takes you from being -- I hate to use the term liquid
6 because it sounds, you know, silly, but keeps you from being financially liquid to
7 be in a position of questionable -- you know, existence as a company?

8 **MR. SIMONE:** Commissioner, you're exactly right. When oil goes to a certain
9 dollars per barrel, it is noneconomic, we are losing money, and we can't exist.
10 We're in the business to try to turn a profit and we can't do that if the rate is this
11 high.

12 **VICE CHAIRMAN SKRMETTA:** So how do you get to that point to where
13 they're raising the prices on a intrastate pipeline? And I still think it's an intrastate
14 pipeline no matter how you look at it. At part of that you could talk tank, but at
15 some point, it's a pipeline. How in that contract do they have a unilateral moment
16 to where they can change the cost of the tariff? Because even if it's a private tariff,
17 it's still a tariff on the flow rate. How does that happen to where they have that
18 ability to do so to you?

19 **MR. SIMONE:** That was in the contract. That was negotiated with Chevron
20 before we knew Chevron was going to sell. Obviously, there's been FERC
21 regulated pipeline underneath the avenue of us having the ability to seek relief in
22 the event that it was raised so high.

1 **VICE CHAIRMAN SKRMETTA:** Was the FERC -- did the FERC provide relief
2 from that type of unilateral action?

3 **MR. SIMONE:** Absolutely.

4 **VICE CHAIRMAN SKRMETTA:** So since the FERC abandoned it, they
5 abandoned the protections that the FERC provided?

6 **MR. SIMONE:** Absolutely.

7 **VICE CHAIRMAN SKRMETTA:** So they abandoned that to the protections of
8 what's not the FERC. So if it's not the FERC, then by logic, it's the state?

9 **MR. SIMONE:** Correct.

10 **VICE CHAIRMAN SKRMETTA:** Okay. Thank you.

11 **CHAIRMAN FRANCIS:** All right. Lewis, Commissioner Lewis.

12 **COMMISSIONER LEWIS:** Yes. I want to stick kind of where this conversation
13 was going. So is it -- my understanding correctly that your lease with Chevron
14 restricts your ability to build your own pipeline on your facility?

15 **MR. SIMONE:** Correct.

16 **COMMISSIONER LEWIS:** And so you would need their consent to build a new
17 pipeline?

18 **MR. SIMONE:** That's correct.

19 **COMMISSIONER LEWIS:** And you have, in fact, proposed an alternative path
20 and been denied by Chevron; is that also correct?

21 **MR. SIMONE:** That's correct.

22 **COMMISSIONER LEWIS:** So how are you not a captive customer to Rosefield
23 then?

1 **MR. SIMONE:** We are completely captive. We have nowhere else to go but here.

2 **COMMISSIONER LEWIS:** So in other words, you do not think you have an

3 open and fair access to market door for your product; is that correct?

4 **MR. SIMONE:** Commissioner Lewis, that's exactly right.

5 **COMMISSIONER LEWIS:** Okay. My other question is can you identify other

6 facilities with similar operations that the LPSC has classified as a pipeline rather

7 than a terminal?

8 **MR. SIMONE:** No. I cannot and I've been doing this in the pipeline industry now

9 for 15 years. I've never come across a situation like this and I've never seen a

10 facility like this. We're not talking about pipelines that are going from tank to tank

11 inside a facility. We're not talking about pipelines inside an LNG facility. We're

12 talking about the movement of a -- of transportation of oil through a pipeline.

13 **COMMISSIONER LEWIS:** And how does Rosefield's current charges compare

14 to the regulated pipeline tariffs in Louisiana that you -- I'm assuming you have

15 looked at?

16 **MR. SIMONE:** Yes. They're exceptionally higher for the service and the distance

17 that they're providing.

18 **COMMISSIONER LEWIS:** And my last question is has -- does Cantium entered

19 into negotiations with Rosefield over a transportation rate, and if so, what was the

20 result of those conversations or negotiations?

21 **MR. SIMONE:** We have attempted, and they have gone nowhere. We have been

22 told this is the price.

1 **COMMISSIONER LEWIS:** And so your position is you have no alternative
2 transportation options. And if no options exist, how do you then impact your
3 negotiating power and pricing exposure?

4 **MR. SIMONE:** We don't. We have none.

5 **COMMISSIONER LEWIS:** Okay. Thank you.

6 **CHAIRMAN FRANCIS:** All right. Any other questions?

7 **COMMISSIONER COUSSAN:** [CROSSTALK]

8 **CHAIRMAN FRANCIS:** Okay. Commissioner Coussan.

9 **COMMISSIONER COUSSAN:** Did we cut you off? Did you have more to say?

10 **MR. SIMONE:** I -- let me check really quick, I think that was it. I think the only
11 other point I want to raise in terms of, you know, the policy fears that have been
12 raised here is that they're unfounded only because of what the fear would be. Like
13 I was mentioning with Commissioner Lewis is we don't believe that the LPSC does
14 have ratemaking jurisdiction for storage or terminaling by itself. That is a different
15 avenue. If you're talking about when oil is brought into a terminaling facility and
16 then brought out, what goes on inside that storage facility is quite different than is
17 happening here. That's why I think that those policy arguments really don't apply.
18 And I think, Commissioner Coussan, to your point, that's not what the LPC is trying
19 to do. It's trying to look at this as a one instance of fact and find that this fits
20 underneath the statutes and that you're not trying to expand your jurisdiction.

21 **COMMISSIONER COUSSAN:** And from the standpoint of where you started,
22 which is you're one of the last exploration production companies in state waters,
23 based in Louisiana, from the public policy standpoint, can you just comment on,

1 you know, what does it say if we don't act? What does that tell future producers
2 that also are looking at our severance tax rates, which we're about to drop if the
3 legislature gets their way this year? And I believe the administration is supportive
4 of those efforts to reduce our severance tax rate to be more competitive with our
5 neighbors, which is all a good move for the exploration, production industry. What
6 does it say if we don't take action in this case for the existing companies? Because
7 I always say we do a lot to attract businesses to the state, but we need to keep them
8 here, too. And so I already made a comment to the midstream and to Rosefield, we
9 want them to stay, we want them to invest, we want them to, you know, invite more
10 of their partners over here to bring in business. But at the same time, you know,
11 you're a part of that process as well in the industry. Can you comment to that and
12 what, you know, you would be looking for? And your client and, you know,
13 perhaps this is her turn to, you know, speak on behalf of the entity, but what does
14 it say as a public policy matter should we not take action?

15 **MR. SIMONE:** It allows where the statutes were meant to stop for the past 100
16 years. It allows anybody to go buy any piece of a pipeline. You can even go buy
17 a small piece and you put a tank on it and that allows producers then to be held
18 captive like we are right now, to be able to say you can't move your oil unless you
19 pay our unfair rate because we want it. That's the reason, we want it. And it's not
20 just producers, by the way. This is going to apply because this statute doesn't apply
21 just to crude oil, it applies to every liquid hydrocarbon that's being moved through
22 a pipeline. So that would mean that we're talking about LNGs in the future.
23 Everyone knows that an LNG is a great situation. If you're moving liquified natural

1 gas through the state, I can then stop that from going through and put up a number
2 that's incredibly high. We know the economics for an LNG. That would be the
3 thought, that you can then stop those projects from happening by only buying a
4 small, say, 1,000, 2,000-foot pipeline on it and then make a rate that would say that
5 the LPSC cannot regulate it because it moves through a tank at some point. Even
6 our existing refineries that are moving their products or need some type of ethylene,
7 propylene in a liquid form that's going to go and do the feedstocks up and down
8 the river, same issue. So it's not limited to only -- it is going to affect producers,
9 it's going to affect the potential for producers to want to have economic ability to
10 do so. But it's going to go past that as well to all of our oil and gas industries.
11 Anyone that's using liquified hydrocarbons is going to be faced with this same
12 opportunity where somebody can step in and shut it down by giving a price. And
13 they can make a price four times, Commissioner Skrmetta, ten times if they want.
14 Whatever the rate's going to be, they get to make it up. And that is [INAUDIBLE]
15 nothing but chill, not just crude oil producers, but producers that need any type of
16 liquified petroleum. And I want to turn it over to Ms. Perrier.

17 **VICE CHAIRMAN SKRMETTA:** Before you hand it over.

18 **MR. SIMONE:** Yes.

19 **VICE CHAIRMAN SKRMETTA:** I will say, I can understand the concerns of
20 the terminals if the tank's at the end of the pipe. But when the pipe's going through,
21 like you just said, that if someone wanted to, like, manipulate the system, they could
22 put a small tank in the middle of a pipeline anywhere and say, okay, now we can
23 just jam it.

1 **MR. SIMONE:** Right.

2 **VICE CHAIRMAN SKRMETTA:** But in this case, like you said, it's not being
3 used for the purposes of storage. It's a throughput. So I understand what you're
4 talking about.

5 **MR. SIMONE:** And I look at this a lot as, you know, St. James. As, you know -
6 - when I think terminals, I think St. James. And you go out there and you see the
7 size of it, it's incredible. And you see the terminals are there for storage. That's
8 not what's happening here. Also, St. James, you see the ships coming back and
9 forth now, exporting, and they used to be importing crude. That's a terminal. And
10 we're not saying at all that the LPSC should, you know, go and start affecting
11 terminals. We're saying that if you're only moving crude through a pipeline that
12 happens to pass through a tank, but does nothing of value like storage or allow it to
13 go on to a barge, or a ship, or a truck, then you're moving it through. And especially
14 here when that movement through that tank, when that tank is integral and
15 necessary because there's no other way for it to be moved unless it goes through
16 that tank.

17 **CHAIRMAN FRANCIS:** Okay. Commissioner Coussan.

18 **COMMISSIONER COUSSAN:** Are there any other witnesses that --

19 **COMMISSIONER LEWIS:** I think [CROSSTALK].

20 **COMMISSIONER COUSSAN:** Oh, I'm sorry, go ahead.

21 **MS. PERRIER:** Oh no. I left litigation to not have to sit here and argue a point.
22 No, if there are any specific questions, I feel like Mr. Simone hit all of the high
23 points.

1 **COMMISSIONER LEWIS:** I have one last question, and I would like your
2 opinion on this. So there -- you bid on this pipeline, correct?

3 **MS. PERRIER:** Yes. Yes, Commissioner.

4 **COMMISSIONER LEWIS:** After the Chevron sale?

5 **MS. PERRIER:** Yes. And during the bidding process, there was a broker involved
6 and we had emailed the broker to confirm that this would remain FERC regulated
7 and the broker consulted with Chevron and said this will remain jurisdictional. So
8 that was part of our assessment on how we were going to bid on this asset.

9 **COMMISSIONER LEWIS:** How would you respond to the assertion that you're
10 just a sore loser?

11 **MS. PERRIER:** I mean, if that's the case, we negotiated something with Chevron
12 that was part of a applicable transportation tariff. That is what we intend to pay,
13 and now we have a non-jurisdictional terminal tariff that describes not terminaling.
14 I think we are not being a sore loser. We're trying to adhere to our contract and
15 that's not happening.

16 **COMMISSIONER LEWIS:** And so you originally filed your complaint with
17 FERC based off of --

18 **MS. PERRIER:** Yes.

19 **COMMISSIONER LEWIS:** -- the understanding of the broker when you entered
20 -- when you were competing for the sale?

21 **MS. PERRIER:** Yes. Yes. And that was because it had been historically under
22 FERC. We didn't -- all of the -- we paid a FERC tariff on every barrel. We didn't

1 figure out, like, what percentage was going interstate versus intrastate, because we
2 just paid that flat rate on all barrels.

3 **COMMISSIONER LEWIS:** Okay. Thank you.

4 **COMMISSIONER COUSSAN:** So, you know, I think at least myself speaking,
5 but, you know, we want to unleash American energy. If it's uneconomical for you
6 to continue producing, what does that mean for your production offshore
7 Louisiana?

8 **MR. SIMONE:** It'd shut down.

9 **MS. PERRIER:** Yeah. This is 40% of our business model, so we'd lose 40%.
10 And, yeah.

11 **MR. SIMONE:** It's going to shut those wells in. The oil will stay underground
12 and no one's going to use it and it's going to go nowhere.

13 **COMMISSIONER COUSSAN:** Okay. Thank you.

14 **MS. BOWMAN:** Ms. Kelly, will you sign a yellow card, please?

15 **MS. PERRIER:** Yes.

16 **MS. BOWMAN:** Thank you.

17 **CHAIRMAN FRANCIS:** I'd like to make a short announcement. We're not
18 going to break for lunch. Get you some cheese, all right? All right. Commissioner
19 Coussan got a --

20 **COMMISSIONER COUSSAN:** Well, do we have anymore witnesses for this
21 matter?

22 **MS. BOWMAN:** No, we do not.

23 **CHAIRMAN FRANCIS:** Do you have a suggestion to move this on?

1 **COMMISSIONER COUSSAN:** Well, I have a motion to take this matter under
2 advisement to be brought up for a vote at a future meeting.

3 **CHAIRMAN FRANCIS:** Like in the city of Lafayette next month?

4 **COMMISSIONER COUSSAN:** Well, to be brought up at a vote at a future
5 meeting. But not to -- we would not be issuing an opinion outside of a meeting.
6 We would be waiting for a vote at a future meeting.

7 **VICE CHAIRMAN SKRMETTA:** Second.

8 **CHAIRMAN FRANCIS:** Okay. Discussion. So we would not be influencing
9 the legislature --

10 **COMMISSIONER CAMPBELL:** Well, let me ask something.

11 **CHAIRMAN FRANCIS:** -- any possible legislation they'd make and so -- by
12 voicing our opinion right now. Okay. All right. Got that. A [INAUDIBLE], a
13 second, to move it up to Lafayette. And so, Commissioner Campbell, you got a
14 question over there?

15 **COMMISSIONER CAMPBELL:** Yeah. Are we just disregarding whatever the
16 legislature is doing?

17 **CHAIRMAN FRANCIS:** No, I don't think so.

18 **VICE CHAIRMAN SKRMETTA:** We're going to wait and see.

19 **CHAIRMAN FRANCIS:** We're just waiting to -- I think the legislature's thinking
20 about taking some action and we're kind of waiting to see what the legislature will
21 say about it. We'll be meeting at a later date and hopefully the legislature will solve
22 our problems with some action.

23 **COMMISSIONER COUSSAN:** Solve some problems in the future.

1 **CHAIRMAN FRANCIS:** Yeah. Okay.

2 **COMMISSIONER COUSSAN:** So that's my pending motion.

3 **CHAIRMAN FRANCIS:** Everybody understand that? Is it -- any objection to

4 moving this over to the meeting in Lafayette next month? [NONE HEARD]

5 Hearing none, that's done. Okay. Well, we got through that one. Thank goodness.

6 Thank y'all. All right.

7 **MS. PERRIER:** Thank you, Commissioners.

8 **VICE CHAIRMAN SKRMETTA:** Come on, Kathryn, let's go.

9 **MS. BOWMAN:** All right. I'm moving. So Exhibit Number 3 is Docket Number

10 T-37357. This is the Commission versus Benson Dupre Moving on alleged

11 violation of Order Number T-37085, by engaging in activities related to moving

12 household goods prior to complying with the requirements of Revised Statutes

13 45:164(E) and General Order dated March 16, 2021, and for failure to comply with

14 requirements of General Order dated April 3, 2008 as amended. It's a discussion

15 and possible vote pursuant to a Rule 57 on affidavit and stipulation executed by the

16 carrier, so this will need two votes. As a result of violating Commission Order

17 Number T-37085, a citation was issued to the company. In response to that citation,

18 the owner of the company executed an affidavit and stipulation on behalf of the

19 company admitting to violating all allegation -- violations in the citation. In the

20 affidavit and stipulation, carrier agreed to the imposition of a \$1,500 fine and a \$25

21 citation fee with \$1,000 being suspended contingent on the following conditions:

22 That execute the affidavit and stipulation by date certain and paying all fines and

23 fees; ceasing activities related to moving household goods until such time as a

1 common carrier certificate is obtained; and seeking such common carrier
2 certificate. Staff recommends that the Commission: 1) Exercise its original and
3 primary jurisdiction under Rule 57 to consider the affidavit and stipulation; and 2)
4 Accept that affidavit and stipulation executed on February 20, 2025 for fines and
5 fees totaling \$525.

6 **VICE CHAIRMAN SKRMETTA:** Move to bring the matter under Rule 57.

7 **COMMISSIONER LEWIS:** Second.

8 **VICE CHAIRMAN SKRMETTA:** Move to -- oh, sorry.

9 **MS. BOWMAN:** You're good. You're on.

10 **CHAIRMAN FRANCIS:** Commissioner Skrmetta moves that we take it up under
11 57. It's seconded by Commissioner Lewis. Any objection to that? [NONE
12 HEARD] Hearing none --

13 **VICE CHAIRMAN SKRMETTA:** Move to accept Staff recommendation.

14 **CHAIRMAN FRANCIS:** Move to accept Staff recommendation under
15 Commissioner Skrmetta.

16 **COMMISSIONER LEWIS:** Second.

17 **CHAIRMAN FRANCIS:** I'll second that. Any objection or follow-up? [NONE
18 HEARD] So it's in the books, it's done.

19 **MS. BOWMAN:** Exhibit Number 4 is Docket Number T-37449. This is the
20 Commission versus Smitty Express Services on alleged violation of Revised
21 Statutes and General Order dated November 22, 2011 for failure to submit gross
22 receipts and/or to pay the state proper fees for the years 2022 and 2023 for
23 inspection, control, and supervision of its business services authorized in Common

1 Carrier Certificate Number 080 -- no, 8085. Discussion and possible vote pursuant
2 to Rule 57 on a affidavit and stipulation. As a result of the investigation conducted
3 by the Transportation Staff, a citation was issued and based on the aforementioned
4 violations. In response to that citation, the owner of the company executed an
5 affidavit and stipulation admitting to all the violations. And in that affidavit and
6 stipulation, the carrier agreed to the imposition of a \$500 fine and a \$25 citation fee
7 with 250 being suspended contingent on conditions of not violating the revised
8 statutes for three years, providing copies of all of the inspection and supervision
9 returns to the Commission, and agreeing to pay all the fines and fees as stipulated
10 in the affidavit. Staff recommends that the Commission exercise the original and
11 primary jurisdiction under Rule 57 to consider the affidavit and stipulation, and
12 execute -- excuse me, and accept the affidavit and stipulation executed on March 6,
13 2025 for fines and fees totaling \$275.

14 **VICE CHAIRMAN SKRMETTA:** Move to bring the matter up under Rule 57.

15 **COMMISSIONER LEWIS:** Second.

16 **CHAIRMAN FRANCIS:** Commissioner Skrmetta moved -- makes the motion
17 that we take this up under Rule 57, seconded by Commissioner Lewis. Any
18 objections? [NONE HEARD] Hearing none, it's under Rule 57.

19 **VICE CHAIRMAN SKRMETTA:** Move to accept the Staff recommendation.

20 **CHAIRMAN FRANCIS:** And Commissioner Skrmetta moves that we accept
21 Staff recommendation. Second by Commissioner Lewis. So it's done, Number 4
22 is in the books.

1 **MS. BOWMAN:** Exhibit Number 5 is Docket Number R-35462. This is the
2 Commission's rulemaking to research and evaluate customer-centered options for
3 all electric customer classes as well as other regulatory environments. It's a
4 discussion and possible vote on Entergy Louisiana's motion for Commission
5 guidance and consideration. This proceeding was initiated through a notice of
6 proceeding issued by the Commission on January 9, 2020, after a directive from
7 then Commissioner Greene. Staff was directed to research customer-centered
8 options for all electric utility customers and to recommend a plan for how to ensure
9 those customers are the focus in Louisiana. The docket was also designed to
10 consider any proposals not already being addressed in other dockets, as well as
11 other options that may mitigate increased rates for Louisiana ratepayers. The
12 proceeding was published in the Commission's Official Bulletin and 30
13 stakeholders intervened. After numerous rounds of discovery and request for
14 comments, as well as multiple technical conferences, the Commission issued
15 General Order dated August 1, 2024, which accepted Staff's final Phase 1 report
16 and proposed final rules filed into the record on June 7, 2024. The general order
17 promulgated rules regarding annual reporting obligations for electric utilities,
18 periodic reporting of utility companies' outside attorney and consultant expenses,
19 renewable energy credit values, sleeved power purchase agreements, and directed
20 all utilities to submit filings related to green tariff options. On December 30, 2024,
21 Staff filed its Phase 2 report, and on January 24, 2025, and in response to Staff's
22 Phase 2 report, Entergy Louisiana filed its motion for Commission guidance and
23 consideration. The motion suggested that the docket has successfully completed

1 its stated objectives and has run its course. Therefore, Entergy is requesting
2 renewed guidance from the Commission as to the future of this docket. A notice
3 of reply period was issued by Staff, and 10 stakeholders filed responses. Staff
4 makes no formal recommendation, as this is a policy decision. And if the
5 Commission is going to vote on this today, we do have two cards for --

6 **VICE CHAIRMAN SKRMETTA:** Move to hold this matter over for 30 days
7 until we meet in Lafayette.

8 **CHAIRMAN FRANCIS:** Okay. We would --

9 **COMMISSIONER CAMPBELL:** I'll second.

10 **CHAIRMAN FRANCIS:** Exhibit Number 5, suggested by -- it be moved over to
11 Lafayette. And I don't know -- Campbell's got a second on that. Anybody else got
12 anything to say about that? [NONE HEARD] We're going to have a overload in
13 Lafayette next month, so y'all bring your lunch bucket. Okay. So hearing none,
14 looks like it's easily moved over to Lafayette. So some people call that kicking the
15 can down the road; is that what I hear? Okay. Okay. Number 6. Exhibit 6.

16 **MS. BOWMAN:** Exhibit 6 is deferred, and so we're moving to Exhibit 7. Exhibit
17 7 is Docket Number S-37488. This is American Broadband Holding Company,
18 Cameron Communications, Cameron Telephone Company, Elizabeth Telephone
19 Company, and LBH. It's a request for approval of non-opposition to issuance of
20 guarantees and pledge of assets as security in connection with debt incurrence by
21 American Broadband Holding Company. It's a discussion and possible vote on
22 Staff's report and recommendation. On January 24, 2025, the companies and the
23 regulated subsidiaries jointly filed this request, pursuant to the Commission's

1 General Order dated March 18, 1994, seeking the Commission's non-opposition to
2 the regulated subsidiaries providing guarantees and granting security interests in
3 their respective assets and mortgages on their real property in connection with
4 financing obtained by the regulated subsidiaries' indirect parent and all of the direct
5 and indirect subsidiaries as guarantors. The request was published in the
6 Commission's Official Bulletin and no interventions were received. Based on
7 Staff's review of the request submitted in connection with the proposed transaction
8 and the analysis of the 18 factors, Staff recommends that the Commission express
9 its non-opposition to the proposed transaction. Therefore, Staff recommends that
10 the Commission express its non-opposition to the request including the conditions
11 contained in Staff's report and recommendation which was filed into the record on
12 March 20, 2025.

13 **VICE CHAIRMAN SKRMETTA:** Move to accept Staff recommendation.

14 **COMMISSIONER COUSSAN:** Second.

15 **CHAIRMAN FRANCIS:** Moved by -- accept Staff recommendation by
16 Commissioner Skrmetta, seconded by Commissioner Coussan. Is there any
17 discussion or opposition? [NONE HEARD] Hearing none, Number 7 is approved.

18 **MS. BOWMAN:** Exhibit Number 8 is Docket Number U-36992. This is
19 Northeast Louisiana Power Cooperative's application for an increase in rates,
20 including interims, for the establishment of an emergency fund. It's a discussion
21 and possible vote on an uncontested stipulated settlement pursuant to Rule 57 of
22 the Commission's Rules of Practice and Procedure and so this will need two votes.
23 On September 29, 2023, Northeast filed its application, which was published in the

1 Commission's Official Bulletin with no interventions occurring. The Commission
2 authorized NELPCO's current interim rates in Order Number U-36992 in January
3 of 2024. The order authorized NELPCO to increase its rates by the full base rate
4 relief sought in this proceeding, which was an approximately 12%. Staff reviewed
5 NELPCO's application and accompanying testimony and exhibits and conducted
6 discovery. And on July 1, 2024, filed its direct testimony and Staff report.
7 Thereafter, the parties engaged in settlement negotiations, and on April 4, 2025,
8 NELPCO and Staff entered into an uncontested stipulated settlement. The major
9 terms of the settlement are that NELPCO is authorized to increase rates in the
10 amount of approximately \$3.1 million in annual revenues in order to achieve a
11 TIER of 1.76. They're also authorized to implement a rider to fund an emergency
12 reserve fund at approximately \$300,000 per year on a per customer basis until
13 NELPCO achieves 15 days of operating expenses as requested. Staff recommends
14 that the Commission exercise its original and primary jurisdiction under Rule 57 to
15 consider the stipulated settlement and accept that stipulated settlement which was
16 filed into the record on April 4, 2025.

17 **COMMISSIONER CAMPBELL:** I make a motion we bring this up under Rule
18 57.

19 **VICE CHAIRMAN SKRMETTA:** Second.

20 **CHAIRMAN FRANCIS:** We have a suggestion from Commissioner Campbell
21 to bring this up under Rule 57, seconded by Commissioner Skrmetta. Is there any
22 objection? [NONE HEARD] Hearing none, we'll take it up under 57.

1 **COMMISSIONER CAMPBELL:** I would make a motion that we take the
2 uncontested stipulated settlement of the Commission pursuant to 57.

3 **CHAIRMAN FRANCIS:** Okay. We got a motion from Commissioner Skrmetta
4 and I'll second that. Is there any opposition or discussion? [NONE HEARD]
5 Hearing none, Exhibit 8 is approved.

6 **MS. BOWMAN:** Exhibit Number 9 is Docket Number U-37074. This is
7 SWEPCO's application for approval of a revised renewable energy credit tariff
8 pursuant to Order Number U-35324. It's a discussion and possible vote on an
9 uncontested stipulated settlement. On December 19, 2023, SWEPCO filed the
10 instant application proposing a revised REC tariff, which expanded the voluntary
11 rider options available to customers. Notice of the application was published in the
12 Commission's Official Bulletin with Walmart filing a -- excuse me, a petition for
13 late intervention, which was unopposed. After several rounds of testimony by Staff,
14 Walmart, and SWEPCO, the parties entered into settlement discussions. And on
15 March 21, 2025, the parties entered into an uncontested stipulated settlement. The
16 major terms of that settlement are that SWEPCO's revised REC tariff, submitted as
17 part of its testimony filed November 8, '24, shall be implemented upon approval
18 by the Commission, and there are parameters in place should the expenses for
19 implementation of the revised REC rider tariff exceed the revenues generated by
20 the REC rider tariff. SWEPCO shall also submit an annual report of the
21 subscription rates and revenues derived by the use of the REC rider tariff. Staff
22 recommends that the Commission approve the uncontested stipulated settlement
23 filed into the record on March 25, 2025.

1 **COMMISSIONER CAMPBELL:** I'd like [CROSSTALK] we accept Staff
2 recommendation.

3 **CHAIRMAN FRANCIS:** Okay.

4 **VICE CHAIRMAN SKRMETTA:** Second.

5 **CHAIRMAN FRANCIS:** All right. There's a motion by Commissioner
6 Campbell and second by Commissioner Skrmetta. And is there somebody with
7 SWEPCO here? Come up and -- hopefully, we're this close to Shreveport.
8 Anybody with SWEPCO like to come up? Yeah. Okay. We got some heavy duties
9 here.

10 **MS. BOWMAN:** And, Melissa, you can just sign the clipboard since you're
11 counsel.

12 **MS. MELISSA GAGE:** Yes, ma'am.

13 **MS. BOWMAN:** Thank you.

14 **MS. GAGE:** Good morning. Melissa Gage, vice president of regulatory and
15 finance with SWEPCO. And you all know Bobby.

16 **MR. BOBBY GILLIAM:** Good afternoon.

17 **CHAIRMAN FRANCIS:** Are we in SWEPCO area right here or CLECO area?

18 **COMMISSIONER CAMPBELL:** It's not in Lafayette.

19 **VICE CHAIRMAN SKRMETTA:** It's the co-op -- co-op or --

20 **COMMISSIONER CAMPBELL:** He asked are you -- does SWEPCO handle
21 anything in Lafayette.

22 **MR. GILLIAM:** Right in this very spot.

23 **COMMISSIONER CAMPBELL:** The answer is no.

1 **CHAIRMAN FRANCIS:** No.

2 **MS. GAGE:** Are we -- I believe we are sitting in SWEPCO territory, I'm looking
3 at the team.

4 **UNIDENTIFIED SPEAKER:** Yes.

5 **MS. GAGE:** Yes sir, we are.

6 **VICE CHAIRMAN SKRMETTA:** And he knows.

7 **MS. GAGE:** Yes. I think the answer is yes.

8 **COMMISSIONER CAMPBELL:** What do you have in Lafayette?

9 **UNIDENTIFIED SPEAKER:** Oh, I thought we were talking about here.

10 **CHAIRMAN FRANCIS:** No, I said here.

11 **COMMISSIONER CAMPBELL:** He said Lafayette.

12 **VICE CHAIRMAN SKRMETTA:** He said here.

13 **CHAIRMAN FRANCIS:** I said here.

14 **COMMISSIONER CAMPBELL:** Oh, you did?

15 **CHAIRMAN FRANCIS:** I'm sorry, I wasn't clear. Here, Sabine Parish, on the
16 border of Toledo Bend.

17 **COMMISSIONER CAMPBELL:** They got Valley Electric down here.

18 **CHAIRMAN FRANCIS:** This is the old Valley Electric co-op which was
19 purchased by SWEPCO.

20 **MR. GILLIAM:** Correct.

21 **CHAIRMAN FRANCIS:** So you're keeping the lights on here in this building,
22 right? Okay.

23 **VICE CHAIRMAN SKRMETTA:** Hair, skin, and hide.

1 **CHAIRMAN FRANCIS:** Lots of big tall pine trees falling on our lines, right?

2 Okay. Right.

3 **MR. GILLIAM:** Lots of trees.

4 **COMMISSIONER COUSSAN:** Get his microphone just a little closer, maybe

5 from the side.

6 **CHAIRMAN FRANCIS:** Okay. Who is this talking now?

7 **MR. GILLIAM:** Bobby Gilliam representing SWEPCO.

8 **CHAIRMAN FRANCIS:** Okay.

9 **COMMISSIONER CAMPBELL:** This is already passed, Mr. Chairman.

10 **VICE CHAIRMAN SKRMETTA:** Yeah, we just brought it up. We didn't --

11 **MR. GILLIAM:** Okay. So want to make sure. What do y'all want

12 [CROSSTALK]?

13 **COMMISSIONER LEWIS:** [CROSSTALK].

14 **MR. GILLIAM:** Okay. I'm sorry.

15 **COMMISSIONER LEWIS:** Thank you. Thank you, Melissa and Bobby. First,

16 I want to applaud you both for thinking through these different ways to cater to

17 your different customer types. I mean, I think this proposal shows a very thoughtful

18 and considerate need for your current customers and also for your potential

19 customers. I also have read and really appreciate the work that you did to satisfy

20 Walmart's needs that they requested. I know they are a big customer and them

21 contributing to new renewables can go a very long way. So I just have really two

22 quick questions for you with those comments in mind. So with these final four

1 options are you confident that these can help you diversify your portfolio and get
2 some new, low-cost resources deployed?

3 **MS. GAGE:** Yes, sir. I mean the purpose of this tariff is to be able to offer these
4 REC credits to our customers, so that then they can make the demonstration for
5 their own renewable efforts, and so they're able to use this rider to do that. But this
6 is -- the rider is using our existing renewable assets.

7 **COMMISSIONER LEWIS:** Thank you. And then the last question I have, could
8 you commit to reporting or at least working with me on the program's successes
9 and the effects on bills and generation decisions?

10 **MS. GAGE:** Certainly, we can do that.

11 **COMMISSIONER LEWIS:** Well, thank you. Like I said, once again, I
12 appreciate the work that you did on this and I am in support.

13 **MS. GAGE:** Thank you.

14 **CHAIRMAN FRANCIS:** Okay. Is there any other discussion? Oh, come on,
15 nobody got anything? Okay. I'll think -- y'all keep up the good work and keep the
16 lights on and pass all those tests. You know we have -- what's the name of the --

17 **VICE CHAIRMAN SKRMETTA:** SAIDI/SAIFI.

18 **CHAIRMAN FRANCIS:** SAIDI/SAIFI, yeah. We're going to be watching that
19 real close and I don't think there's any opposition to this motion and second, so
20 looks like it's a done deal. Y'all got your wish.

21 **MR. GILLIAM:** All right. Thank you. Thank you.

22 **CHAIRMAN FRANCIS:** Okay.

1 **MS. BOWMAN:** Exhibit Number 10 is Docket Number U-3722 -- Bobby, sign
2 the clipboard. Docket Number U-37222. It's Jefferson Davis Electric
3 Cooperative's request for approval of a revenue adjustment, establish of a formula
4 rate plan, continuation of its storm rider, with modifications to its terms and
5 conditions and associated rate schedules for an interim relief. It's a discussion and
6 possible vote on an uncontested stipulated settlement. On May 31, 2024, JDEC
7 filed the instant application which was published in the Commission's Official
8 Bulletin with no interventions. At the October '24 Business and Executive Session,
9 the Commission approved JDEC's request for interim rate relief. Following
10 discovery on the application and accompanying testimony, Staff filed its
11 recommendation on November 21, 2024. And on December 13, 2024, JDEC filed
12 correspondence indicating it agreed with Staff's recommendation, subject to a
13 clerical error clarification. Subsequent, JDEC and Staff executed an uncontested
14 stipulated settlement, which was filed into the record on January 17, 2025, with the
15 major terms being as follows: JDEC is authorized to implement an increase in rates
16 to achieve an additional approximately \$7.2 million in operating revenues which
17 would provide an opportunity for JDEC to achieve a MDSC of 1.90; it's authorized
18 to adjust all rate class fixed billing components as proposed in its request; it's
19 authorized to implement a formula rate plan with a three year term utilizing a
20 MDSC bandwidth with a band of 1.8 up to 2.0; and it's authorized to continue to
21 utilize the storm rider authorized in Order Number U-36442 with modifications to
22 reduce the mills from \$5.65 per kilowatt hour, with proceeds to be provided to CFC
23 as good faith interest payments on its ELOC until such time as that is no longer

1 necessary. Staff recommends that the Commission approve the joint stipulation
2 filed into the record on January 17, 2025. So we'll entertain a motion and a second.

3 **CHAIRMAN FRANCIS:** I'm sorry. I'm sorry.

4 **VICE CHAIRMAN SKRMETTA:** Exhibit 10.

5 **CHAIRMAN FRANCIS:** Yeah. I'm going to make a motion that we accept Staff
6 recommendation.

7 **VICE CHAIRMAN SKRMETTA:** Second.

8 **CHAIRMAN FRANCIS:** And seconded by Commissioner Skrmetta. Any
9 discussion or objection here? [NONE HEARD] Hearing none, Number 10 is
10 passed.

11 **MS. BOWMAN:** Exhibit Number 11 is Docket Number U-37422. It's Cleco
12 Power versus Southwest Louisiana Electric Membership Corporation's complaint
13 alleging violation of the Louisiana Revised Statute 45:123 and Commission's
14 General Order dated October 6, 2005 which is the 300-Foot Rule Order. On
15 October 31, 2024, Cleco filed the instant complaint pursuant to the Commission's
16 order and notice of the complaint was published in the Bulletin with no
17 interventions. SLEMCO filed its answer on November 12, '24, and the reply
18 testimony was filed on January 17, '25. After engaging in written discovery and
19 depositions, the parties notified the Tribunal at a status conference on March 27 of
20 this year that Cleco, SLEMCO, and Staff had reached a stipulated settlement
21 resolving all issues. On April 2, '25, the parties filed the Rule 6 packet containing
22 that settlement, which SLEMCO acknowledged and does not challenge Cleco's
23 exclusive right to provide electric service to Southland at the Highway 103 East site

1 in Washington, Louisiana. Further, SLEMCO agrees to cease all efforts to provide
2 permanent services to that project. Staff recommends that the Commission accept
3 the uncontested stipulated settlement filed into the record on April 2, 2025.

4 **CHAIRMAN FRANCIS:** Motion to accept Staff recommendation.

5 **VICE CHAIRMAN SKRMETTA:** Second.

6 **CHAIRMAN FRANCIS:** Seconded by Commissioner Skrmetta. Any objection
7 or suggestions? [NONE HEARD] Hearing none, Exhibit 11 is approved.

8 **MS. BOWMAN:** Exhibit Number 12 is Docket Number U-37483. This is
9 Beauregard's application for an increase in rates, approval of formula rate plan,
10 including modifications to standard terms and conditions, and for interim rate relief.
11 It's a discussion and possible vote on an interim rate increase and tariff pursuant to
12 Rule 57 of the Commission's Rules of Practice and Procedure, at the request of the
13 Chair. On January 14, 2025, Beauregard filed the instant application in which
14 notice was filed in the Commission's Official Bulletin with one intervention by
15 former General Manager Brian Zelenak. Beauregard is requesting the authority to
16 implement an interim base rate increase in the amount of 40% of the overall
17 requested base rate increase effective June 1 of this year. Beauregard has indicated
18 in their application that should this interim rate increase be approved, the monthly
19 bill for a residential customer using 1,250 kilowatt hours would increase \$3.42.
20 Beauregard requested, pursuant to Section 501 in the Commission's General Order
21 dated July 1, 2019, to implement these changes to its tariff related to the high load
22 factor and the high load factor air separator plan. The request to consider coincide
23 with the company's transition from the Louisiana Generating, LLC to 1803 Electric

1 Cooperative for power supply and delivery. At this time, Staff has not had an
2 opportunity to fully review the application. Staff recommends that the Commission
3 exercise its original and primary jurisdiction to take up Beauregard's request. And
4 while Staff does not make a formal recommendation regarding the request, Staff
5 recommends that if the request is granted that Beauregard file proof of applicable
6 bond requirements with the Commission; be required to file an updated tariff
7 indicating the interim rates, terms, etcetera with the Utilities Division within 30
8 days of the order approving interim rates; and Beauregard cannot begin charging
9 the interim rate until proof of the applicable bond requirements and updated tariff
10 have been provided to and approved by Staff.

11 **CHAIRMAN FRANCIS:** Staff, Chairman moves to [INAUDIBLE] under Rule
12 57.

13 **VICE CHAIRMAN SKRMETTA:** Second.

14 **CHAIRMAN FRANCIS:** And second. And the Chair moves to approve it.

15 **VICE CHAIRMAN SKRMETTA:** Second.

16 **CHAIRMAN FRANCIS:** A second. Any discussion? Commissioner Lewis got
17 some questions.

18 **COMMISSIONER LEWIS:** Yes. Can I have Mike or Kara, please, real quick?

19 **CHAIRMAN FRANCIS:** And this Beauregard, the co-op is in my district. Over
20 40,000 meters and it's got a nice little customer base on commercials, like a lot of
21 the co-ops. So it's really a growing area north of Lake Charles, all up through there.
22 Got a new manager, Mike Viator. But I've had my eye on you guys, so far you're
23 doing pretty good. Commissioner Lewis, go ahead.

1 **COMMISSIONER LEWIS:** Thank you. Thank you, Mr. Chairman. And, Mike,
2 it was a pleasure meeting with you and congratulations. And I know y'all have
3 been navigating some difficulties at Beauregard and I know there has been some
4 challenges, but I want to, one, commend you and celebrate what I think you're
5 doing which is to right the ship. And, Mike, please correct me if I'm wrong in
6 reading this, you were able to find about 1.4 million savings in your annual budget;
7 is that correct?

8 **MR. MIKE VIATOR:** That's correct, Commissioner. But amongst, you know,
9 other things, right-of-way, clearings, contracts, that types of things, we're allowing
10 through attrition not backfilling some jobs, you know, merging some
11 responsibilities. We haven't fired anybody or anything, but, you know, some
12 retirements have happened. We've done away, I think, so far with about seven
13 jobs, various things like that, programs that have gone on. But we are looking for
14 every opportunity we can to save money for the members.

15 **COMMISSIONER LEWIS:** Well, which I think is extremely appreciative when
16 you bring in an interim rate to showcase that you did some internal work also to
17 make it clear. Do you -- you believe on top of that, your new power supply will be
18 enough to offset an increase, and then if that we find it justified, that it would be
19 reasonable for your customers; is that correct?

20 **MR. VIATOR:** Yes. That's one of the reasons of the timing. You know, we're
21 scraping the bottom of the barrel and probably needed to do this before now, but
22 we've tried to hold off until the timing where we'll first start to realize the savings
23 from 1803. So the 1803 billing will start on June 1 and that's when we're asking

1 for this to take place. So what we read a while ago is about \$3.70 on the average
2 member, the 1,250-kilowatt member, theirs will increase about \$3.50 -- or we'll get
3 an extra \$3.50 off of that. But the member's bill is actually going to go down more
4 than \$15. So what we're saying and what we've been -- yeah. What we've been
5 telling the members is that the savings from 1803 will more than cover the cost of
6 the increase and still be able to provide some relief to me and to them. I'm a
7 member also of Beauregard.

8 **COMMISSIONER LEWIS:** Yeah, I know. And I see that as a very good
9 trajectory and I'm really pleased to hear that and I just wanted to make sure that it's
10 a sustainable future. And so the last question that I have is can you just share how
11 you believe this will help balance your books? And what else are you thinking
12 about or considering doing to ensure the financial stability while keeping your
13 services of course reliable and of course more resilient as southwest Louisiana faces
14 more natural disasters as of recent times?

15 **MR. VIATOR:** Sure. I mean, this is going to make -- the primary need, like I
16 said, we're scraping the bottom. The primary need for the interim now is that
17 without it, we're going to be in default of our MDSC covenant. With it, we'll be -
18 - we're projecting to be at a 1.38. Without it, for the remainder of the year, we'll
19 be at like a 1.24. So that's why it's critical that we do it now. We're going to
20 continue to look for every opportunity that we can, we're about to restructure some
21 things in our warehouse where we're shopping out things a little bit better, trying
22 to keep better tabs on inventory to help keep some overhead things down. We have
23 a lot of ideas. I've met with each employee, at the time we had like 125. Met with

1 each of them one at time and the last question that I asked each one of them is, from
2 the three goals that we have which is safety, reliability, and cost of the member, if
3 you were CEO for one day, what's the first thing you would do? And we've made
4 a list of those things, we've actually implemented some of them, you know. We've
5 gotten some good ideas from that, so we're going to continue to do those things and
6 do everything we can to try to keep the cost low. We've started a brand-new
7 reliability team looking at the SAIDI and the SAIFI numbers. We have excellent
8 data gathering systems. I mean, I haven't seen any better in this state. That data
9 has really not been used for great purposes other than just reporting to you guys.
10 Our engineering team has taken that data now and has analyzed it, picked out the
11 top 10 -- or the bottom 10, if you will, the 10 most prone areas looking for
12 engineering solutions to try to improve them. I mean, I think we've got some
13 exciting stuff going on.

14 **COMMISSIONER LEWIS:** No, great. I mean, that's great to hear and I'm really
15 excited about your leadership and the fortitude of the work that you did before
16 asking for an interim increase. I know I've become a little bit of a stickler around
17 here, but -- around those, but I truly appreciate that you came in and said hey, look,
18 I looked internally, we are looking at things to ensure that we protect our members,
19 but we just need to be financially secure. And I look forward to continue working
20 with you. And then I'll come to my old stomping grounds during football season
21 since I made a bad bet against McNeese in March Madness, I'm going to make a
22 good bet for McNeese Cowboys with your brother's return during the Southland
23 Conference this year. So thank you, sir.

1 **MR. VIATOR:** With Matt back, I can get us a sideline pass.

2 **COMMISSIONER LEWIS:** Oh, okay.

3 **CHAIRMAN FRANCIS:** And your district goes -- drops down to north of Lake
4 Charles there in Moss Bluff, right?

5 **MR. VIATOR:** Yes, sir. That's where I live, in Moss Bluff, and I'm a member.
6 So we -- the western half of Moss Bluff, the outskirts of Westlake, north of Sulfur,
7 Vinton.

8 **CHAIRMAN FRANCIS:** Okay. Is your church in the footprint?

9 **MR. VIATOR:** No, sir. It's on the east side of Moss Bluff.

10 **CHAIRMAN FRANCIS:** Okay. That'd be Entergy, there.

11 **MR. VIATOR:** Yes, sir. Yes, sir.

12 **CHAIRMAN FRANCIS:** Okay. All right. All right. Any other discussion or
13 questions for these folks? [NONE HEARD] Well --

14 **MS. BOWMAN:** So we --

15 **CHAIRMAN FRANCIS:** -- keep up the good work. We got our eye on you. So
16 far, it's been looking good.

17 **MR. VIATOR:** Please do. Thank you.

18 **MS. BOWMAN:** So we had a motion by the Chair, but can we clarify who --

19 **VICE CHAIRMAN SKRMETTA:** Second.

20 **CHAIRMAN FRANCIS:** Oh, that's right.

21 **MS. BOWMAN:** Seconded by Commissioner Skrmetta.

22 **CHAIRMAN FRANCIS:** There was a motion for 57.

1 **MS. BOWMAN:** I just wasn't sure who seconded the motion to accept the interim
2 rates.

3 **VICE CHAIRMAN SKRMETTA:** [CROSSTALK] if you need it.

4 **MS. BOWMAN:** I got it. Thank you.

5 **CHAIRMAN FRANCIS:** All right. So we're through with that one?

6 **MS. BOWMAN:** Yes, sir.

7 **CHAIRMAN FRANCIS:** Okay. Number 12 is in the books. All right.

8 **MS. BOWMAN:** Exhibit Number 13 is Docket Number U-37502. This is
9 SWEPCO's application for extension of its formula rate plan and service quality
10 improvement program, and request for interim increase in vegetation management.
11 It's a discussion and possible vote on an interim increase for vegetation
12 management pursuant to the Commission's Rules of Practice and Procedure. It
13 needs two votes. This was Exhibit 23 at the March B&E and this is at request of
14 Commissioner Campbell. On February 10, 2025, SWEPCO filed its application
15 which had several -- excuse me, had one intervenor which was the Alliance for
16 Affordable Energy. SWEPCO is requesting the authority to implement an interim
17 increase through its fuel adjustment clause to generate an additional \$18 million to
18 fund its interim vegetation management plan. SWEPCO has indicated in their
19 application that should this funding increase be approved, the monthly bill for a
20 residential customer using 1,000 kilowatts per hour would increase \$3.10 for a 12-
21 month period. At this time, SWEPCO has not had -- excuse me, Staff has not had
22 an opportunity to fully review the application. Staff recommends that the
23 Commission exercise its original and primary jurisdiction under Rule 57. While

1 Staff makes no formal recommendation regarding the interim increase, Staff would
2 recommend that should the interim increase be approved, SWEPCO should be
3 required to file applicable bonding requirements with the Commission and be
4 required to file an updated tariff indicating the interim rate and its terms with the
5 Utilities Division within 30 days of the order; and SWEPCO cannot begin charging
6 the interim rate until proof of the applicable bond requirements and updated tariff
7 have been provided to and approved by Staff.

8 **CHAIRMAN FRANCIS:** Okay. Commissioner Campbell, you want to do 57?

9 **COMMISSIONER CAMPBELL:** Yeah. This is -- we really have problems up
10 in our area keeping electricity on because of the growth of trees. This little patch,
11 if you will, it's a \$18 million-dollar patch that we want to get to try to solve some
12 of our problem. We've had an extra amount of outages and this will help us get it
13 started. Everybody's for it. It's going to be bonded and people are going to be able
14 to get their money back if this doesn't work, but it's going to work and we're trying
15 to get ahead of it. Right now, we've had whirls of rain in north Louisiana and trees
16 are growing like mad, so we're trying to get ahead of them. This will help us, like
17 I say, put a little patch on a real problem, so I'm all for it. I'd like to make a motion
18 we bring it up under Rule 57.

19 **VICE CHAIRMAN SKRMETTA:** Second.

20 **CHAIRMAN FRANCIS:** Seconded by Commissioner Skrmetta. And any
21 objection to that? [NONE HEARD] Hearing none, we're under 57 and --

22 **COMMISSIONER CAMPBELL:** Make a motion that we accept.

23 **CHAIRMAN FRANCIS:** Okay. Motion by Commissioner Campbell to --

1 **VICE CHAIRMAN SKRMETTA:** Second.

2 **CHAIRMAN FRANCIS:** And seconded by Commissioner Skrmetta. And
3 discussion by -- some questions by Mr. Lewis -- Commissioner Lewis.

4 **COMMISSIONER LEWIS:** Thank you. And, Lane, can you also please come
5 to the table because I'm going to have some questions for you? First of all, thank
6 you, Melissa and Bobby. I'm all for prudent maintenance of utility, transmission,
7 and distribution systems, but I'll be honest, I'm struggling with this one. And I am
8 because I'm trying to figure out why we should fund it this way and this way now.
9 And I'm looking at the pending docket and there's some inconsistencies that makes
10 it very hard for me to accept this. I'm going to start off with this request proposes
11 a mechanism where the program's performance is checked each year by your SAIFI
12 and your SAIDI compliances; is that correct?

13 **MS. GAGE:** Yes, sir.

14 **COMMISSIONER LEWIS:** But when we look back to the previous docket, I
15 mean, we're finding some significant inconsistencies with how you handle your
16 SAIFI and your SAIDI numbers. And I would like Staff, Mr. Sisung or Arvind, to
17 explain what were those inconsistencies that you have discovered in this other
18 proceeding?

19 **MR. LANE SISUNG:** Yeah, certainly. We were commissioned to do an
20 investigative report into the SAIDI/SAIFI reliability and vegetation management
21 for SWEPCO. As part of that investigation, we went through the history of what
22 they have. It's called the SQIP, the Service Quality Improvement Plan. We went
23 through the history of that, how it operates, how it was supposed to be funded, how

1 it was supposed to be bid, and we came up with several findings and several Staff
2 recommendations. Specifically, with the one that you're referring to, what we
3 found was that through the history of the SQIP, there's also a parallel reporting
4 requirement on every utility to annually report their SAIDI and SAIFI numbers. So
5 we were getting SAIDI and SAIFI numbers reported in the SQIP and we were
6 getting SAIDI and SAIFI numbers reported in the annual report. Throughout this
7 entire history, those numbers didn't always match, but more importantly what we
8 discovered was throughout time, the outages that were included in the calculation,
9 the types of outages were being changed. They were eliminating types of outages
10 that were being included throughout the period. So they started eliminating some
11 types of outages in 2016 and I think some in 2018 and some in 2021. And so it was
12 very hard for us to get a consistent gauge of, you know, how they were actually
13 performing in SAIDI/SAIFI because we weren't looking at the same numbers. So
14 we went back and we got all the raw data and we recalculated the SAIDI/SAIFI
15 throughout the entire period for both the Valley district and the Legacy district.
16 Specific finding with regard to that is, pursuant to their last rate case settlement, if
17 they failed one of those metrics, then they had to owe 250,000 per year back through
18 the FAC. Our recalculation showed that they failed the SAIDI metric in all three
19 years, so our finding is that we believe 750,000 should go back. That's in a separate
20 docket that's been converted to a U docket, interventions are available, people can
21 get in, and we'll get to our resolution through there.

22 **COMMISSIONER LEWIS:** And no, and thank you. And the reason I -- and I'm
23 not trying to conflate the dockets, but the reason I asked that question is because

1 based off of the, I guess as we have always defined it here, the skin in the game
2 argumentation is based off of SAIFI and SAIDI. Yeah. But the audit report is
3 finding SWEPCO has been inconsistent in the manner in which it determines its
4 SAIFI and SAIDI metrics. I'm struggling to see how that I can use that as a real
5 measurement of the success of an interim rate and so I would love SWEPCO to
6 respond to that. I mean, if I have a investigation one docket saying you have
7 changed and not used SAIFI/SAIDI accordingly, and then now we're saying, well,
8 we're putting in some safeguards because if we fail SAIFI/SAIDI, we will repay
9 this money back. But if I can't trust you on your SAIFI/SAIDI numbers, how can
10 I verify the repayment?

11 **MR. GILLIAM:** I can give you -- and, Melissa, please jump in, but a couple of
12 historical facts so we have this straight, it gets confusing. It's all -- we have
13 SWEPCO Legacy and we have Valley. And Valley was initially acquired in 2010,
14 but Valley was not subject to the SQIP. The reason why is you could look out the
15 window here and see why. It was not maintained for lots of reasons. Trees for one.
16 Poles, they were using untreated poles. They really didn't have veg program at all.
17 So everybody recognized it was not ready and needed a lot of work. So it's not
18 even a part of SQIP until 2023, but it is now. It is now. So you're --

19 **COMMISSIONER LEWIS:** And can I ask you a question on that, Bobby? I
20 mean, but in the investigation from 2016 to 2020, SWEPCO over collected at least
21 -- almost \$4 million via the FAC for the Valley district vegetation work that can't
22 be sustainable with contract payment data. So, I mean, while I appreciate that,

1 there's still evidence that you -- when you even collected money for vegetation
2 management for the Valley district, there's no data to back up what you did.

3 **MR. GILLIAM:** Well, this is an interim -- right now, an interim report. We're
4 working closely with Lane and his team as well and are still providing and
5 collecting and providing additional numbers. And we've done that again recently,
6 so that docket is still underway. We agree with that. We're going to move forward
7 and cooperate with Staff on that docket, but there are some different issues -- there
8 are some different issues that arise to the timing. And also, I will also say different
9 orders apply. There's different language in orders that our people are trying to
10 comply with, and the SWEPCO SAIDI numbers -- SAIDI/SAIFI, SWEPCO
11 Legacy are different than the Valley SAIDI/SAIFI numbers by quite a substantial
12 difference, I understand. So we're working on all of that to meet the needs and
13 improve, but there are different rules that apply including in a January '23 order.
14 So our people apply that in calculating SAIDI/SAIFI. So there is a basis for these
15 applications and interpretations, but we are working with Staff to try to get all this
16 resolved.

17 **MS. GAGE:** And, Commissioner Lewis, if I may, the \$4 million that you're
18 referencing that was in Mr. Sisung's report, we understand there's a disconnect
19 between the dollars that we showed him in a discovery response that went through
20 our fuel charge associated with the \$8 million per year in the Valley, and then the
21 data we provided him that was specific to outside services contractors.

22 **COMMISSIONER CAMPBELL:** Let me say something.

23 **MS. GAGE:** Yes.

1 **CHAIRMAN FRANCIS:** Hold up. [CROSSTALK]. Go ahead.

2 **COMMISSIONER CAMPBELL:** Go ahead.

3 **MS. GAGE:** Okay. But since he issued that report, we have been able to provide

4 him some additional information where he can track exactly what went through the

5 FAC and demonstrate that those were for outside services and there were -- I will

6 tell you, there were I believe maybe three years where we didn't spend the full \$8

7 million a year that the Commission had authorized. And in each of those years, we

8 credited customers for the fuel over under-recovery to ensure that they did not pay

9 a dime more than we spent on those outside services. He has not had time to review

10 that, I understand he's really busy and we provided it to him late, but that's the

11 answer on the \$4 million.

12 **COMMISSIONER LEWIS:** Thank you. And, Lane, any --

13 **MR. SISUNG:** No, that accurate. They provided it to me towards the end of last

14 week and we were getting the Meta testimony put together. I haven't even opened

15 the file.

16 **COMMISSIONER CAMPBELL:** Let me see if I can shine a little light --

17 **CHAIRMAN FRANCIS:** Hold up. You through?

18 **COMMISSIONER LEWIS:** I just have one more question for --

19 **CHAIRMAN FRANCIS:** [CROSSTALK] one more question.

20 **COMMISSIONER LEWIS:** One more question. I don't fundamentally doubt

21 that a budget increase is warranted or certainly I don't want to -- I want to see

22 preventative measures being taken to prevent higher cost recoveries. As you know,

23 we opened a proceeding that I pushed for on SAIFI/SAIDI and reliability. This is

1 an extremely important issue to me and I would like to see the budget of this \$18
2 million, especially since in an interim, reviewed in the full context of the other
3 seven programs and strategies that you have utilized to address reliability. I'm not
4 against reliability, I'm just not 100% confident vegetation management is the only
5 metric especially when we're looking at improving reliability according to the
6 SAIFI and SAIDI score. So while I know our Staff hasn't fully reviewed this
7 proposal and there's still conversations going on with the new report, I just think
8 there's -- personally, there just should be more time assessed of that report and what
9 it suggests about the program holistically for reliability improvements. And so that
10 is why I am not confident in this 18 million at this moment, not that it won't be, but
11 I think there's more work to do to ensure that vegetation management is the true
12 source of the reliability issues and that some of these other programs that you are
13 proposing may have more merit for more impact. And so that's where my concern
14 is coming from. I still want to work with you all and I look forward to the other
15 pending docket and case and the current work on the SQIP. But that's -- I just
16 wanted to kind of contextualize where I was coming from with that.

17 **MS. GAGE:** Yes. Certainly. And I'll tell you, while vegetation is the leading
18 cause of our outages, there are other issues, as you're noting. And we are doing a
19 lot of other measures that are already underway and we will continue to do like our
20 pole replacement program. We're putting DACR, out on our circuits. Our team is
21 doing a lot of different things to try to improve reliability. But this vegetation is
22 just one piece that has remained static for a decade now and we need this
23 incremental funding.

1 **COMMISSIONER LEWIS:** Thank you.

2 **CHAIRMAN FRANCIS:** Commissioner Campbell.

3 **COMMISSIONER CAMPBELL:** Just for the record, I've been very critical of

4 SWEPCO. Very critical. But they've been very open when working with Lane

5 Sisung. They agreed. I'm the one that put them under a special investigation that

6 they're doing right now. They asked for \$18 million for a little band-aid, but it's a

7 big band-aid, but it's not as much as the total package is going to be. So I support

8 this because I think they're doing their best. And Lane's not giving them anything,

9 he's holding a light on them and I appreciate that. We want SWEPCO to do a better

10 job and they're trying to do a better job, but they need \$18 million here to start it.

11 It's going to be bonded. If it doesn't work, people get their money back. So, I

12 mean, it's a lot of safety involved, so I would make a motion that -- under Rule 57.

13 I think we already got that.

14 **MS. BOWMAN:** We do. Yes, sir.

15 **VICE CHAIRMAN SKRMETTA:** Yes, sir.

16 **CHAIRMAN FRANCIS:** Yeah. We're under the regular rule now.

17 **COMMISSIONER CAMPBELL:** And then go ahead accept the \$18 million for

18 interim rate relief.

19 **VICE CHAIRMAN SKRMETTA:** Second.

20 **COMMISSIONER CAMPBELL:** Or work.

21 **CHAIRMAN FRANCIS:** We got -- okay. A second. We're still on discussion.

22 Let me ask you, you said something about you only spent like \$4 million; is that --

23 am I correct there?

1 **MS. GAGE:** No. It's actually -- it's an amount far less than that, but there was a
2 mismatch between our numbers that we presented to Mr. Sisung that came out of
3 one system, that was our accounts payable system, and actually the dollars that were
4 booked to that work order and went through fuel. But I will tell you, there were
5 three years that -- I'm going to ballpark it, over the course of three years, perhaps a
6 million dollars wasn't spent for various reasons. There may have been we had a
7 plan to spend the 8 million and a storm came through and those crews had to go
8 work on something else and so we just didn't quite get to the 8 million. In each of
9 those years, you know, it was an amount, you know, a few hundred thousand
10 dollars.

11 **CHAIRMAN FRANCIS:** All right. Well, that's one thing I was curious about.
12 So you could move vegetation money -- vegetation management money over to
13 storm recovery?

14 **MS. GAGE:** We aren't moving those dollars, essentially just those crews would
15 be working on the storm and that gets booked to a different work order. So if they
16 weren't working the veg management plan that was specifically for that \$8 million
17 that was to go through fuel, then we wouldn't book it there. And I'll tell you and
18 there are some years, in the years that it wasn't under, we spent over \$8 million, but
19 we didn't surcharge customers for those dollars. The company just had to eat those
20 amounts over 8 million.

21 **CHAIRMAN FRANCIS:** Storm damage qualifies for vegetation control then,
22 right?

1 **MS. GAGE:** Depending on if it's part of our storm reserve or something else and
2 it would be just part of that storm work order rather than this specific vegetation
3 project in the Valley.

4 **CHAIRMAN FRANCIS:** So if you got a storm -- if you got vegetation control
5 budget, you got some storm damage, you're going to come up short on your
6 vegetation control; would that be right? And that's something I don't think we
7 should be doing, you know. So that's why I'd ask you, do you need a rider for
8 storm damage or -- you know, you don't have a storm recovery, but that's still
9 money out of your pocket. It's going to put you behind on your annual report, your
10 -- what do you call it? Your review.

11 **COMMISSIONER CAMPBELL:** We really don't know what's going to happen
12 until we get a report in. Mr. Sisung's doing an in-depth report right now. This is a
13 band-aid or an interim request, and we're waiting on the report to see if we can
14 make progress and we should be making progress. They're doing everything
15 they're told to do and Mr. Sisung is not sparing anything. He's asking a lot of hard
16 questions, which he should have, because we realized that we had a problem. But
17 this is just money to help us get started, get the trees back, until we can find out
18 exactly what our problem is. Isn't that right, Mr. Sisung?

19 **MR. SISUNG:** Yes, sir. There's a few things going on. So an initial copy of the
20 report's been issued. They haven't had a chance to respond. They've already
21 provided me with one response I haven't seen. So we have to get through that
22 whole process of their response to get to the final conclusion. Also, they have their
23 FRP renewal and SQIP renewal open which we'll be working with them to

1 determine how those programs will continue and if there will be a more permanent
2 solution. And a third thing that Commissioner Lewis mentioned earlier, which I
3 think is very important for this Commission, is there is a rulemaking open on the
4 SAIDI/SAIFI metrics, so that we can get a uniform practice that everyone agrees
5 to and how we're going to report and how we're going to hold utilities accountable
6 for reliability. So there's a lot going on.

7 **COMMISSIONER CAMPBELL:** That will [CROSSTALK] a lot of things up.

8 **MR. SISUNG:** Yeah, a lot of things are going on right now.

9 **COMMISSIONER CAMPBELL:** Yeah.

10 **CHAIRMAN FRANCIS:** Well, Lane, you and Arvind are working on this project
11 together, right?

12 **MR. SISUNG:** That is correct.

13 **CHAIRMAN FRANCIS:** We always say time is of essence. Any idea on the
14 timeline, when we're going to hit the bottom of this?

15 **MR. SISUNG:** We just got the procedural schedule done on the FRP, SQIP
16 renewal. I think the trial's in -- I don't remember.

17 **SECRETARY FREY:** January.

18 **MR. SISUNG:** January. Trial's in January. So that's why this interim relief is
19 going to come in before that. And on the rulemaking, we've issued out first set of
20 data responses. We're going to have to do the same thing, we're going to have to
21 get a lot of data back and do a lot of the time crunching. So I would say throughout
22 this year, we'll be working on all that.

1 **CHAIRMAN FRANCIS:** Sounds like SWEPCO is going to be the poster child
2 for management of vegetation.

3 **VICE CHAIRMAN SKRMETTA:** Clarity.

4 **CHAIRMAN FRANCIS:** Clarity.

5 **MR. GILLIAM:** Yeah. And one point, in addition to -- you're all correct. The
6 veg, we're looking at hardening and resilience and that's all a part of the overall
7 continuing package.

8 **CHAIRMAN FRANCIS:** Are y'all -- so y'all will be challenging Cleco and
9 Entergy on their reports and how well they're going to do? Well, we sure got your
10 eye on it and appreciate y'all. So we have a motion and a second --

11 **MS. BOWMAN:** Yes, sir. There --

12 **CHAIRMAN FRANCIS:** -- and a lot of discussion.

13 **MS. BOWMAN:** There is already a motion and a second.

14 **CHAIRMAN FRANCIS:** What's that?

15 **MS. BOWMAN:** There is already a motion and a second.

16 **CHAIRMAN FRANCIS:** Yes. That's what I said. I'm sorry, I wasn't clear. We
17 do have a motion and a second.

18 **COMMISSIONER LEWIS:** And I have an objection, Mr. Chair.

19 **CHAIRMAN FRANCIS:** Any discussion? Is there any objection? Anybody?

20 **COMMISSIONER LEWIS:** No, I have an objection, I don't have discussion.

21 **VICE CHAIRMAN SKRMETTA:** Roll call vote.

22 **CHAIRMAN FRANCIS:** Oh, you -- okay. Roll call vote. Commissioner
23 Campbell, how do you vote?

1 **COMMISSIONER CAMPBELL:** Yes.

2 **CHAIRMAN FRANCIS:** Commissioner Skrmetta, how do you vote?

3 **VICE CHAIRMAN SKRMETTA:** Yes.

4 **CHAIRMAN FRANCIS:** Commissioner Coussan, how do you vote?

5 **COMMISSIONER COUSSAN:** Yes.

6 **CHAIRMAN FRANCIS:** The Chair is yes. Commissioner Lewis?

7 **COMMISSIONER LEWIS:** No.

8 **CHAIRMAN FRANCIS:** Okay. Four to one. All right. So that's -- done with

9 that one. What are we on?

10 **COMMISSIONER LEWIS:** Fourteen.

11 **CHAIRMAN FRANCIS:** Fourteen.

12 **MR. GILLIAM:** Thank you.

13 **MS. BOWMAN:** Yes, sir. So Exhibits 14 through 17 are very similar to one

14 another. The first is Exhibit 14, being Docket Number U-37537. This is Concordia

15 and GridLiance's application for qualification of certain assets as transmission

16 facilities, approval of the transfer of Concordia's transmission facilities to

17 GridLiance, and the Commission's determination of GridLiance as an independent

18 transmission company subject to the Commission's jurisdiction. This is a

19 discussion and possible vote to retain Stone Pigman via solicitation. At the

20 December '14 Business and Executive Session, and renewed at the February '21

21 and October '24 B&Es, Stone Pigman has been retained by the Commission to

22 actively participate and provide oversight to the markets, planning, and other

23 activities within MISO, OMS, and ERSC. Stone Pigman has provided consulting

1 services in numerous stakeholder forums for MISO, as well as litigation matters at
2 the FERC. Concordia filed this application, and based on Stone Pigman's
3 assistance of MISO matters, it was Staff's opinion that Concordia's application is
4 substantially related to those matters that Stone Pigman has assisted with in the
5 past. As such, Staff solicited Stone Pigman for a proposal to assist in the review of
6 Concordia and GridLiance's application. And based on that solicitation, Stone
7 Pigman gave their ongoing -- based on that solicitation, Stone Pigman provided a
8 proposal of 49,000 in fees and 2,500 in expenses. So Staff recommends that the
9 Commission retain Stone Pigman for 49,000 in fees, 2,500 in expenses, for a total
10 budget not to exceed of 51,500.

11 **COMMISSIONER LEWIS:** Motion to accept --

12 **COMMISSIONER CAMPBELL:** I'll make a motion that we retain Stone
13 Pigman for a fee of \$49,000.

14 **COMMISSIONER LEWIS:** I'll second.

15 **CHAIRMAN FRANCIS:** Got a motion by Commissioner Campbell, seconded
16 by Commissioner Lewis. Is there any objection, discussions? [NONE HEARD]
17 Hearing none, it's approved.

18 **MS. BOWMAN:** Exhibit 15 is the same docket. Docket Number U-37537. This
19 is discussion and possible vote to retain United Professionals Company. Given the
20 same services that Stone Pigman is providing as outside counsel, UPC is providing
21 the same services as outside consultant related to MISO, and OMS, and ERSC
22 matters. Therefore, Staff solicited UPC, who provided a proposal of 47,500 in fees

1 and 2,000 in expenses. And Staff recommends that the Commission retain UPC
2 for 47,500 in fees and 2,000 in expenses for a total budget not to exceed of 49,500.

3 **COMMISSIONER CAMPBELL:** I'll make a motion that we accept the --

4 **COMMISSIONER COUSSAN:** Second.

5 **CHAIRMAN FRANCIS:** Make a motion we accept --

6 **COMMISSIONER CAMPBELL:** -- the motion.

7 **CHAIRMAN FRANCIS:** -- the Staff's recommendation by --

8 **COMMISSIONER CAMPBELL:** Yeah.

9 **CHAIRMAN FRANCIS:** -- Commissioner Campbell, second by Commissioner
10 Coussan. Any discussion or objection? [NONE HEARD] Hearing none, 15
11 passed.

12 **MS. BOWMAN:** Exhibit Number 16 is Docket Number U-37538. This is
13 Southwest Louisiana Electric Membership Corporation and GridLiance's joint
14 application for qualification of SLEMCO's assets as transmission facilities,
15 approval of the transfer of those assets to GridLiance, and Commission
16 determination that GridLiance is an independent transmission company subject to
17 the Commission's jurisdiction. It's a discussion and possible vote to retain Stone
18 Pigman via solicitation under the same guise that we just discussed. Stone Pigman
19 provided a proposal of 49,000 in fees and 2,500 in expenses, and Staff recommends
20 that the Commission retain Stone Pigman for 49,000 in fees, 2,500 in expenses, for
21 a total budget not to exceed of 51,500.

22 **CHAIRMAN FRANCIS:** Make the motion to accept Staff recommendation.

23 **COMMISSIONER COUSSAN:** I'll second.

1 **CHAIRMAN FRANCIS:** Seconded by Commissioner Coussan. Is there any
2 discussion or objection? [NONE HEARD] Hearing none, 16 is in the books.

3 **MS. BOWMAN:** Okay. Moving on to Exhibit Number 17. It's the same docket,
4 U-37538. This is a solicitation to United Professionals Company to assist the
5 Commission Staff in review of SLEMCO's and GridLiance's request to transfer
6 certain transmission assets. And as based on Staff solicitation, UPC provided a
7 proposal of 47,500 in fees and 2,000 in expenses, and Staff recommends that the
8 Commission retain UPC for 47,500 in fees and 2,000 in expenses, for a total budget
9 not to exceed of 49,500.

10 **CHAIRMAN FRANCIS:** I'll make a motion that we accept the Staff
11 recommendation.

12 **COMMISSIONER COUSSAN:** I'll second.

13 **CHAIRMAN FRANCIS:** Seconded by Commissioner Coussan. Any objection?
14 Any discussion? [NONE HEARD] Hearing none, it's passed.

15 **MS. BOWMAN:** Next item is Exhibit Number 18, which is Docket Number X-
16 35 --

17 **COMMISSIONER CAMPBELL:** I can't hear you.

18 **MS. BOWMAN:** Okay. I'll talk louder.

19 **COMMISSIONER CAMPBELL:** Can you speak closer -- yeah.

20 **MS. BOWMAN:** Is that better?

21 **COMMISSIONER CAMPBELL:** A lot better.

22 **MS. BOWMAN:** Docket Number X-35764. This is the Commission
23 cybersecurity monitoring for Commission-jurisdictional utilities. It's a discussion

1 and possible vote on a budget renewal. On October 2, 2020, the Commission
2 opened this docket pursuant to a directive for continued coordination and
3 monitoring in the area of cybersecurity threats to jurisdictional utilities' assets and
4 operations. There was no opposition to that directive. McQ Group was hired at a
5 subsequent B&E, and the Commission stated at the end of a 24-month period, the
6 importance and continued need for monitoring the area of cybersecurity would be
7 reassessed. At February's 2023 B&E, Commissioner Skrmetta stated that the
8 cybersecurity remains a concern and is more prevalent in our day-to-day activities
9 and there -- that is a continued need for monitoring. Commissioner Skrmetta asked
10 that McQ Group submit a budget to Staff on a biannual basis for the continued
11 monitoring of those issues, until such time that the Commission determines the
12 monitoring is no longer needed. Consistent with that request, and given the
13 Commission's directive last month, McQ Group submitted a budget for two years
14 of cybersecurity monitoring, which was approved at the March 2023 B&E, and
15 expired in March of 2025. At Staff's request, McQ Group submitted a budget for
16 an additional 2 years for fees totaling \$158,500 and expenses of \$3,300, for a total
17 budget not to exceed of \$161,800. At the end of the 24 months, the importance and
18 continued need for monitoring the area of cybersecurity will be reassessed. Staff
19 recommends that the Commission renew McQ Group's budget for continued
20 cybersecurity monitoring in the amount of 158,500 in fees and expenses of \$3,300,
21 for a total not to exceed budget of 161,800.

22 **CHAIRMAN FRANCIS:** Commissioner Coussan would like to have a discussion
23 with the principal here.

1 **COMMISSIONER CAMPBELL:** I got a question.

2 **VICE CHAIRMAN SKRMETTA:** And I'm going to step in here for a minute

3 and basically say that this is moving this forward for a couple of reasons. One is,

4 the budget's been, I believe, depleted completely on cyber. And this is a renewal

5 in the budget. The other element is we're moving into a whole new task on issues

6 associated with -- matters associated with Bitcoin data and also working with the

7 federal government on cyber. So this is a continuing movement towards our

8 working on cyber. So I think it's super important that we keep moving on this and

9 we can't lose sight of the critical aspect of cybersecurity in what we do. In fact, we

10 probably need to move forward also into issues associated with water companies

11 because of their susceptibility to attack. So anyway, I know that they have

12 questions, so -- but I ask for support on this matter.

13 **CHAIRMAN FRANCIS:** Mr. McQuaig, you here? McQuaig?

14 **VICE CHAIRMAN SKRMETTA:** There he is.

15 **COMMISSIONER CAMPBELL:** He was here.

16 **VICE CHAIRMAN SKRMETTA:** He's here.

17 **CHAIRMAN FRANCIS:** Come up to the chair, please. And I think --

18 **VICE CHAIRMAN SKRMETTA:** So I'd move to -- I move to approve the

19 budget.

20 **CHAIRMAN FRANCIS:** I think Commissioner Coussan had the first bite at the

21 apple here.

22 **COMMISSIONER COUSSAN:** Yes, sir.

1 **COMMISSIONER CAMPBELL:** Mr. McQuaig, have you -- you filed reports,
2 what do the reports say? You did reports on this?

3 **MR. SCOTT MCQUAIG:** Reports on this docket? Oh, absolutely.

4 **COMMISSIONER CAMPBELL:** Yeah. Well, what do they say, basically?
5 You've got copies of them or what?

6 **MR. MCQUAIG:** Well, I don't have copies with me. They're reports to Staff,
7 reports to Commissioners when they request reports, and frankly, they involve
8 specific matters that sometimes can't be discussed in a public forum. They're best
9 reported individually and confidentially.

10 **COMMISSIONER CAMPBELL:** You send it to every Commissioner?

11 **MR. MCQUAIG:** No, sir. I report --

12 **COMMISSIONER CAMPBELL:** Who'd you send to? I don't think I got one.

13 **MR. MCQUAIG:** I report to Staff, I report to Commissioners when they request
14 reports, and I ask Commissioners when I meet with them or deal with them if they
15 have any questions and if they would like reports.

16 **COMMISSIONER CAMPBELL:** Well, I hadn't seen you.

17 **MR. MCQUAIG:** Okay. Well, [CROSSTALK] correct there, Commissioner.

18 **COMMISSIONER CAMPBELL:** So it would be impossible for me to ask
19 because this is the first time I've seen you in a long time.

20 **MR. MCQUAIG:** Well, I see you at the meetings all the time, Commissioner.

21 **COMMISSIONER CAMPBELL:** Do what?

22 **MR. MCQUAIG:** I said I see you at meetings all the time.

1 **COMMISSIONER CAMPBELL:** No, no, no. But did you go by their offices
2 and met with them, the various Commissioners?

3 **MR. MCQUAIG:** I have.

4 **COMMISSIONER CAMPBELL:** Yeah. Well, you hadn't come by my office.

5 **MR. MCQUAIG:** No, sir. I haven't been up to your office.

6 **COMMISSIONER CAMPBELL:** Is there any reason --

7 **MR. MCQUAIG:** In fact, you and I discussed that. I did reach out to you and ask
8 you if you'd like to have a telephone discussion or telephone conference set and we
9 didn't do that.

10 **COMMISSIONER CAMPBELL:** Well, I'm just wondering how much money -
11 - how much money do we spend a year on this, 161,000, 158,000?

12 **VICE CHAIRMAN SKRMETTA:** It's a two-year contract.

13 **MR. MCQUAIG:** That's a two-year contract.

14 **COMMISSIONER CAMPBELL:** It's 158,000 for two years?

15 **MR. MCQUAIG:** That's a two-year contract, Commissioner.

16 **COMMISSIONER CAMPBELL:** Okay.

17 **MR. MCQUAIG:** And that's a proposed budget based upon the expansion of
18 scope of this docket. Frankly, it's in line with the last two-year budget despite the
19 expansion of scope of the docket because we don't know what's yet to come.

20 **COMMISSIONER CAMPBELL:** Well, I'd like to visit with you on it when you
21 have a chance.

22 **MR. MCQUAIG:** Absolutely, Commissioner. I've always enjoyed meeting with
23 you.

1 **COMMISSIONER CAMPBELL:** All right.

2 **CHAIRMAN FRANCIS:** Okay.

3 **COMMISSIONER CAMPBELL:** Did you contact Mr. Shyne about this? My
4 assistant?

5 **MR. MCQUAIG:** No, sir. I actually emailed you directly about a telephone
6 conference once we realized it was going to be set on the agenda for this meeting.

7 **COMMISSIONER CAMPBELL:** I've been through this deal with emails.
8 That's the same thing that the people from Entergy told me. But, you know, they
9 didn't -- they forgot to do -- forgot to call me. They say we emailed you and they
10 called me at 15 minutes to 12 and I said when is the meeting? It's at 12 and it was
11 a little hard for me to get to the meeting. It was a pretty big meeting. It was
12 introduction to the Meta situation, but they forgot to call me. Next time, give me a
13 call, would you?

14 **MR. MCQUAIG:** Absolutely, Foster. I've always enjoyed meeting
15 [CROSSTALK] a lot over the past.

16 **COMMISSIONER CAMPBELL:** Y'all remember that; don't you? Shake your
17 head like this. Okay.

18 **CHAIRMAN FRANCIS:** Okay. I think Commissioner Coussan's in line. By the
19 way, Kathryn, I did second that motion.

20 **MS. BOWMAN:** Oh, okay. Thank you.

21 **COMMISSIONER COUSSAN:** Thank you, Mr. Chairman. Good morning -- or
22 good afternoon now. But I've heard you talk a couple times about the inability
23 because of cyber risk that we can't get a written report, you know. And I did ask

1 you, and you did come to meet with me in Lafayette and I said, hey, what are the
2 deliverables? That's what I ask all the consultants. What are the deliverables?

3 **MR. MCQUAIG:** That's correct.

4 **COMMISSIONER COUSSAN:** And you mentioned the same thing. I think
5 that's kind of nonsense. I mean, that's just my opinion. They have a department
6 at LSU. You're wearing your LSU shirt today. Are you familiar with the LSU
7 Cybersecurity Department?

8 **MR. MCQUAIG:** I am, sir.

9 **COMMISSIONER COUSSAN:** LSU is designated as a National Center of
10 Academic Excellence in Cyber Operations by the National Security Agency. So
11 they're teaching courses including -- well, you have degrees with cybersecurity in
12 concentration with computer science and PhDs available. They have an LSU online
13 cyber bootcamp. I don't know if I'm going to be able to take a cyber bootcamp,
14 but you could give me a cyber bootcamp because that --

15 **MR. MCQUAIG:** I certainly --

16 **COMMISSIONER COUSSAN:** But that's what I want, and that's a deliverable.

17 **MR. MCQUAIG:** Yeah, certainly.

18 **COMMISSIONER COUSSAN:** And so I'm not just asking, if we're going to
19 even consider this today --

20 **MR. MCQUAIG:** Sure.

21 **COMMISSIONER COUSSAN:** -- I believe it is a charge on you to give us
22 written deliverables about the status of cybersecurity. You can do that. If they can
23 do that in a course to a bunch of college students without breaching national

1 security issues in agreement with the National Security Agency, I have zero
2 understanding of how we can't do that to the Public Service Commission that gets
3 disclosed some of the most sensitive financial and economic information that the
4 state of Louisiana has to offer, without signing NDAs, because it is understood that
5 it is private information and we're going to, you know, we're not going to
6 jeopardized our regulated utilities for disclosing anything.

7 **MR. MCQUAIG:** Certainly.

8 **COMMISSIONER COUSSAN:** So, you know, I am at a loss that we can't get
9 deliverables to us underneath something that is vitally important. And I do agree
10 with our Commissioner Skrmetta, and I wasn't here when this engagement
11 originally started, and I would've done it back then, that we need not just education,
12 but we need action in the Public Service Commission relative to cybersecurity. So
13 what is your commitment about a deliverable, about education, about action, under
14 the Public Service Commission's regulatory framework relative to cybersecurity
15 that we can turn around and assist our regulated utilities with to protect the state of
16 Louisiana and the United States of America from the standpoint of the Public
17 Service Commission from cybersecurity acts? Because it's really -- it seems like
18 it's lacking right now.

19 **MR. MCQUAIG:** Commissioner, I will be happy to answer that question, I'm
20 happy that you answered it. I may have miscommunicated when you and I
21 discussed when we first met with regard to what we can and should and perhaps
22 should not put in writing. I've communicated and reported directly to Lauren, to
23 whom I report on Staff, with regard to cybersecurity matters that are a matter of

1 public -- that have been released to the public and so forth. It's simply a matter of
2 good practice to not communicate issues that have not been made matters of public
3 by way of emails that are subject to Freedom of Information Act request and so
4 forth. So you may remember when we met, I asked you and intended to ask a
5 question in this manner to what extent do you want me to report to you? Do you
6 want me to bother you? Do you want to get your feet under you for a bit and so
7 forth? It was my understanding that you were going to wait in that regard rather
8 than me just start pestering you with reports. So I'm more than happy to share
9 reporting. I am more than happy to communicate what we do on the cybersecurity
10 end. Sometimes that's quite a lonely path that we follow in that regard. Frankly,
11 often when we ask to communicate cyber risks, the contents of cyber alerts and
12 cyber directives to folks, we get glassy eyes, we get stares. And we're told, for one
13 reason or another, not particularly interested, or you handle it, or report to who you
14 report to, etcetera. So we're not only ready, willing, and able to do that, but I'll
15 commit to you that I'll report to you probably to the extent that you might ask me
16 to not report to you so much. So I have no problem doing that at all. I have no
17 problem meeting with you personally and bringing you up to date. I thought I had
18 made myself clear in that regard, and if I didn't, I was remiss.

19 **COMMISSIONER COUSSAN:** Well, LSU, you know -- and I've had
20 communications with LSU and they're more than willing to come and provide a
21 ton of information to the Public Service Commission, possibly for free. And maybe
22 that means they would give it to you directly, you know, and then I would have to
23 get that information from you. But I'll probably go directly to LSU. But I guess

1 my question is you've been under contract for how long now? One year, two year,
2 is it six months?

3 **MR. MCQUAIG:** Oh, it's at least a couple years.

4 **COMMISSIONER COUSSAN:** Okay. And --

5 **MR. MCQUAIG:** Before that it was more task oriented because we did more
6 specific reviews of utilities and that sort of thing. We still do that by the way, but.

7 **COMMISSIONER COUSSAN:** I think from the standpoint of a contract with us,
8 and I -- you know, and it's not a matter of you just randomly reaching out until I
9 tell you not to. It's a matter of a methodology, a practice, a professionalism of
10 reporting that I'm not sure exists under this docket that we do need for the
11 protection of our vital infrastructure in the state of Louisiana. I mean, that's the
12 bottom line. You know, I understand that you told me you go to conferences and
13 that sort of thing and you do learn certain things at those conferences. Do you
14 communicate to the utilities at all?

15 **MR. MCQUAIG:** We do. We do annual -- basically annual reviews of the
16 utilities. We --

17 **COMMISSIONER COUSSAN:** No, do you -- I know you do annual reviews, but
18 do you communicate, as a practice, routinely with the utilities? And I'm talking all
19 of the utilities: Gas, electric, water, and our -- you know; from the major players
20 to the minor players; from the co-ops to the, you know, investor owned. How do
21 you communicate with them to both receive information from what they're doing,
22 what they perceive as their risks versus what you're bringing in as our expert on
23 the issue? What are you doing with the utilities?

1 **MR. MCQUAIG:** Well, for example, water is on the forefront of cyber risk
2 presently for a number of specific reasons and based on a number of occurrences
3 that have happened in the country. Some of which have been reported, some of
4 which have not. So we're in the process of preparing -- I hate to use the word audit
5 because people cringe when we use that, but a review by letter and by
6 correspondence that we've already started preparing and working with Lauren on
7 and have met with Lauren with respect to this correspondence to see what cyber
8 offenses they have, what protocols they have in place. Because as we know, some
9 water companies don't even have computers. Some are quite sophisticated. And
10 there are resources available that we can help shepherd to them to make sure that
11 some of the things that have happened in other areas of the country, don't happen.
12 So that's something that's in the works as we speak.

13 **COMMISSIONER COUSSAN:** So, you know, Staff, do we have like a -- when
14 this contract was originally signed, and I haven't seen the contract, but does it list
15 the things that we're supposed to be receiving? And, you know, how can we amend
16 that to ensure that we're getting the most up-to-date reliable, accurate, you know,
17 data delivered to us about cybersecurity? I'm not talking about specific risks, but
18 I'm talking about a primer. I mean, we're up here, you know -- we just need a
19 primer of what's going on. And so --

20 **VICE CHAIRMAN SKRMETTA:** You can [CROSSTALK].

21 **COMMISSIONER COUSSAN:** I'm not done yet. But I'm also asking what the
22 contract says that we're required to get.

23 **MS. BOWMAN:** Ms. Evans.

1 **MS. LAUREN EVANS:** Lauren --

2 **COMMISSIONER COUSSAN:** Kathryn, Lauren. Kathryn, Lauren. Do you

3 have --

4 **MS. EVANS:** Lauren Evans on behalf of Staff. Commissioner, when this first

5 started, it was more focused on monitoring just general principles because we kind

6 of needed a stepping stone to start. And Mr. McQuaig and I did meet with all of

7 the IOUs, several water companies, the gas companies, to kind of get a sense of

8 where they were, what they had in place, stuff like that. Over the years, you know,

9 Mr. McQuaig does send me like a monthly update on things that he's been working

10 on and who he's been meeting with. If you want to create a more structured plan

11 on what we return to the Commissioners, I think that would be a great idea. We

12 just haven't had that much direction on what was wanted from Commissioners. But

13 I know that I am more than happy to do that and I'm positive that Mr. McQuaig is

14 as well.

15 **COMMISSIONER COUSSAN:** So -- go ahead.

16 **VICE CHAIRMAN SKRMETTA:** Yeah. A couple things. First up --

17 **MS. BOWMAN:** And, Commissioner, your --

18 **VICE CHAIRMAN SKRMETTA:** I'm sorry. Okay.

19 **MS. BOWMAN:** Thank you.

20 **VICE CHAIRMAN SKRMETTA:** Well, I'm just -- I'm not -- I'm just being a

21 little soft-spoken. Sorry, I have to put it closer. The way this all began, just as a

22 refresher on this, about, I would say, six or seven years ago at a NARUC meeting,

23 the FBI brought us in and I'm just going to speak as narrow on this as possible.

1 FBI met with a select group of Commissioners at NARUC, invited us over to FBI
2 headquarters, brought us into a skiff and explained to us sort of the interpretation
3 of how they were going to apply InfraGard. But also pointed out that the FBI's
4 jurisdiction ends at the state line. And that they maintain cybersecurity issues over
5 -- through InfraGard and associated with pipelines, and I'm not going to get into
6 any details about that, and also issues to transmission. But they don't monitor
7 issues associated with water, issues associated with powerplants. And they said
8 that relies on what are states and state commissions going to do. And we began this
9 task of trying to work with the National Guard for the development of a fusion
10 center, which the original aspect of the fusion center, in working with one of the
11 previous adjutant generals, it went off on a little bit of a tangent. But we're working
12 now with the new Adjutant General Friloux on how we're going to interplay the
13 cyber staffs of the various utilities and interplay them with the State National Guard
14 fusion center is one of what Mr. McQuaig is working on. But I think one of the
15 things we can do and I think should satisfy Commissioner Coussan is as we all have
16 our Executive Assistants are signed into NDAs for the purposes of Executive
17 Session, that the Executive Assistants can be read in through Lauren in a direct path
18 of receiving the reports. And then if the Commissioners wish to have, you know,
19 reports directly from you, they can do that. But I think there is a giant difference
20 from what LSU provides, which is in an educational context, to a actual element in
21 the field of activity of what's really going on in the world of cyber and cyber attack,
22 cyber defense. So as a primer, I don't think it's a problem to get something that's
23 very basic together. And when I say basic, it's going to be extremely basic. We

1 can get that in one day from LSU. But the continuing issue of cyberactivity and
2 how it is happening is a much more complex construct of interactivity between how
3 we work with us, the National Guard, the FBI, and other agencies on pulling
4 together data and facts and how the Staff interacts with the utilities. And some of
5 them have their own cyber divisions, like a lot of the electric utilities have their
6 own cyber divisions.

7 **COMMISSIONER COUSSAN:** That would be part of the report, you know, like
8 --

9 **VICE CHAIRMAN SKRMETTA:** Right. So they can -- right.

10 **COMMISSIONER COUSSAN:** I mean, like, can I get a report that tells me what
11 [CROSSTALK] --

12 **VICE CHAIRMAN SKRMETTA:** Yeah, no, no. Like I said -- like I said --

13 **COMMISSIONER COUSSAN:** That's not private data.

14 **VICE CHAIRMAN SKRMETTA:** No, no. No, well, actually --

15 **COMMISSIONER COUSSAN:** Some of it might be.

16 **VICE CHAIRMAN SKRMETTA:** -- on that part, what I would recommend on
17 anything that is interpretive to being sensitive that, Scott, you would go in person,
18 make the report and that I would try to retain custody if it's not requested to be
19 remaining in custody of the Commissioner.

20 **MR. MCQUAIG:** Sure.

21 **VICE CHAIRMAN SKRMETTA:** Because at this point, we try and protect data,
22 right? And if it's not -- need to be protected, then let go. But if it's something
23 that's hypersensitive, you know, explain to the Commissioners what it is and, you

1 know, protect it. But at that point, if Lauren wants to go with you or Lauren doesn't
2 need to go with you, it's up to you. But I do think that this is one of those -- it's the
3 squirreliest part of what's going on in the world of the Public Service Commission
4 only because it's the only one where we were fighting against an outside enemy. And
5 so like I said, this is something that develops every day into something new. And
6 like I said, we were just talking about water, water is the new forefront of cyber-
7 attack. And the -- like I said, the electric utilities have really worked hard on this,
8 but unfortunately, the danger of the water attacks are obviously water is the only
9 commodity of a utility that people ingest, so we have to be hypersensitive to this
10 type of stuff. But anyway, I think that what Commissioner Coussan is asking for
11 is something that's easily accommodated, but at the same time, we have
12 responsibility as a state under what the FBI has attached to us through InfraGard
13 etcetera to accommodate our own action on this. So I think what he's asking is not
14 impossible and I think you could accommodate the ask now without having to
15 modify the contract, just commit to doing it under oath.

16 **MR. MCQUAIG:** Certainly. And, Commissioner Coussan, I would welcome that
17 direction and welcome that effort, I assure you.

18 **COMMISSIONER COUSSAN:** Thank you.

19 **CHAIRMAN FRANCIS:** Commissioner Lewis.

20 **COMMISSIONER LEWIS:** Thank you. Scott, most of my questions have
21 already been answered, but I do have a question. When we extended your contract
22 in the March 2023 B&E, the request was 68,750. This request is 161,800 for a two-

1 year contract. Can you explain to me why there's about a -- almost \$100,000
2 increase?

3 **MR. MCQUAIG:** I'll be happy to, Commissioner Lewis. What happened then
4 was there were two -- basically two budgets. One was for -- with respect to the
5 cybersecurity docket specifically. The other was for cross-consulting on other
6 dockets. And what was happening is there were cybersecurity issues that were
7 coming up on other dockets and that was consulting that quite frankly, when the
8 budgeting had taken place, we were trying to do a projected budget for the
9 cybersecurity docket in and of itself with that projected scope of work, we were
10 being asked to do work over here on this docket that we didn't anticipate.

11 **COMMISSIONER LEWIS:** Gotcha.

12 **MR. MCQUAIG:** So there were two budgets, which combined, totaled
13 approximately what this budget is. This one is slightly larger, but when those two
14 budgets two years ago were combined, it approximately equaled this budget. Now,
15 what we did here, in consultation with Counsel and Staff, is one of those named
16 dockets is no longer open, one is. And quite frankly, I suggested that the easiest
17 thing to do would be to just -- if there's any cross-consulting needed on other
18 dockets, we would just take -- we would consider it as part of the main cybersecurity
19 docket and handle it in that manner. I would also suggest that some of the extension
20 or expansion of the scope of work that's anticipated in the cybersecurity docket, to
21 be blunt, was not taken into account with regard to this budget even though, from
22 what we understand, it may occupy quite a bit of time. So we tried to be quite
23 conservative with regard to the renewal in a couple of different ways.

1 **COMMISSIONER LEWIS:** Thank you. Staff, can you -- Lauren, can you walk
2 me through --

3 **MS. EVANS:** Sure. So --

4 **COMMISSIONER LEWIS:** -- some of that history as well on these dockets? I
5 remember that, but I'm --

6 **MR. MCQUAIG:** Yeah.

7 **MS. EVANS:** A little tweak. So this budget, Mr. McQuaig was right. When we
8 renewed his budget in 2023, there were two separate buckets. One bucket was for
9 the continued monitoring, what we're voting on today. The other bucket was for
10 other dockets. And part of what we agreed to is that every two years, he would
11 come in, we would reassess the need for continued monitoring and then he'd submit
12 a budget, so that's the basis of why we're here today. So the budget included today
13 also includes what the Commission -- not voted on, but allowed last month in the -
14 - there was a March directive to look into the potential effects data centers can have
15 on utility infrastructure, and if deemed necessary, directed to open a rulemaking.
16 So I think that the increase in the budget this year is to also include a potential
17 rulemaking which hasn't been included in past years.

18 **COMMISSIONER LEWIS:** So question. Well, since that's a different docket
19 proceeding, are we saying we did a direct solicitation? Or -- I'm trying to follow
20 that last piece where you said about the -- I know we opened a new docket just a
21 few months ago especially on AI, which I think is extremely important. So I'm
22 trying to see how we threw that in this one.

1 **MS. EVANS:** So in the directive, it says this should be done in connection with
2 our current cybersecurity monitoring docket. So when we said that there was a --
3 for us to look into this additional component and to potentially open a rulemaking,
4 it was in connection with this docket.

5 **COMMISSIONER LEWIS:** So we're just making the connection with the same
6 hire?

7 **MS. EVANS:** Correct. Because it may be that we don't need to open a rulemaking,
8 it's just giving Staff the authority to open one if we decide it's needed after our
9 initial review.

10 **COMMISSIONER LEWIS:** Right. But will this preclude our ability for a future
11 RFP? And the reason I'm asking that is because data centers are an extremely
12 important topic. They are growing, this is a topic that's being looked at across the
13 nation, I mean. And so I don't want to preclude ourselves from, if we are -- we
14 have a pending data center, I'm pretty sure we have more coming, about if we're
15 looking at a data center rulemaking on cybersecurity, do we still have the
16 opportunity for other counsel at that point? That's what I'm trying to make sure
17 because --

18 **MS. EVANS:** Absolutely.

19 **COMMISSIONER LEWIS:** -- I don't want to lock us in this position.

20 **MS. EVANS:** Absolutely. And to -- just a reminder, Mr. McQuaig is our
21 consultant, so we always have the opportunity to issue an RFP for counsel.

22 **COMMISSIONER LEWIS:** Also, consultant I mean.

1 **MS. EVANS:** But in the same vein, you know, if we want to look at anything in
2 particular regarding data centers, I don't think that the contract with him today
3 would preclude any further investigation, you know. It just depends on its link to
4 cybersecurity. And like I said, we have those two buckets and I don't want this --
5 I don't want this budget today to include other dockets. I think he would come --
6 you know, if we decide to open another docket and we would want to retain his
7 services for that docket, he would come in with a specific budget because I would
8 want all of that to be separate, so we don't lose guidance on what we originally set
9 forth.

10 **MS. BOWMAN:** And if I --

11 **COMMISSIONER LEWIS:** Gotcha.

12 **MS. BOWMAN:** Sorry.

13 **COMMISSIONER LEWIS:** No, please go ahead, Kathryn.

14 **MS. BOWMAN:** If I can just clarify one thing. Ms. Evans is absolutely right, but
15 just to clarify I guess a little bit. So what Mr. McQuaig is being hired for today is
16 his continued cybersecurity monitoring, but also based on the directive last month,
17 is to kind of start digging into is there a concern with data centers and should we
18 look at proposing rules and open a rulemaking. So it's that initial --

19 **COMMISSIONER LEWIS:** Gotcha.

20 **MS. BOWMAN:** -- should we do this, not open the rulemaking, Mr. McQuaig is
21 already hired. So she's right, we could absolutely move forward with a request for
22 proposal at a later date should we decide we need to go in the direction of an actual
23 -- a rulemaking and actual rules.

1 **COMMISSIONER LEWIS:** Gotcha. Thank you. And, Mr. McQuaig, just last
2 quick question that -- now that we've merged this bucket, have you exhausted that
3 budget in the second bucket that's now being added to the monitoring bucket?

4 **MR. MCQUAIG:** I'm sorry. I don't --

5 **COMMISSIONER LEWIS:** Let me rephrase that. So there was -- from my
6 understanding, appreciation that the monitoring budget has expired, has -- you've
7 run your course with what's allocated. There was a secondary budget for the other
8 docket's proceeding. We are now, under this contract, merging those two. But my
9 question is for the other monitoring, has that budget also been exhausted?

10 **MR. MCQUAIG:** I think there is some budget left in the former. Well, I can't --
11 I don't remember what came first, I'm sorry. I think there's some budget remaining
12 from the last two-year budget in monitoring. I don't know how much. I don't think
13 that it's -- I just don't know how much.

14 **COMMISSIONER LEWIS:** Okay.

15 **MS. EVANS:** This is super nuanced, but I want to make one clarification.

16 **MS. BOWMAN:** Please.

17 **MS. EVANS:** This docket, the budget that you're voting on today does not include
18 work in other dockets. What I'm saying is if we needed him for other dockets, he
19 would be allowed to submit a budget.

20 **MS. BOWMAN:** For Commission approval at a later time.

21 **MS. EVANS:** Because we'd know what that docket would entail. I mean, I --

22 **COMMISSIONER LEWIS:** But I thought that was the justification for the
23 increase?

1 **MS. BOWMAN:** No, no, no. So -- okay. So that's the --

2 **COMMISSIONER LEWIS:** Okay.

3 **MS. BOWMAN:** That's the nuance.

4 **COMMISSIONER LEWIS:** Okay. Please help me. I'm missing the point.

5 **MS. BOWMAN:** I know, I'm trying. The increase in the -- we're going to call it

6 the general budget, the monitoring budget --

7 **COMMISSIONER LEWIS:** Okay.

8 **MS. BOWMAN:** -- is to also help us determine should we move forward with a

9 rulemaking proceeding associated with cybersecurity.

10 **COMMISSIONER LEWIS:** With the docket from March. So that's the increase,

11 it's from the docket of March?

12 **MS. BOWMAN:** Correct. It is not an increase for, quote, additional dockets.

13 **COMMISSIONER LEWIS:** Gotcha. Okay.

14 **MS. BOWMAN:** That is -- we decided because we do not know what additional

15 dockets are needed at this time, we do -- it would be very difficult to put a proposed

16 budget together for you guys to vote on because we don't know the scope, we don't

17 know the issues except just the potential of cybersecurity. At the time, we did it in

18 the past. It was two specific dockets already opened that we knew the general scope

19 of, both being rulemaking dockets and both having a tangential relationship to

20 cybersecurity, being -- one was the electric vehicles and one was the resiliency

21 rulemaking.

22 **COMMISSIONER LEWIS:** Gotcha. Okay.

23 **MS. BOWMAN:** Does that help?

1 **COMMISSIONER LEWIS:** Yes. No, I -- you see where I -- I'm sorry, Mr.
2 McQuaig.

3 **MR. MCQUAIG:** And, Commissioner Lewis, just to make sure that we're clear,
4 what I was referring to with respect to additional consulting were the ad hoc
5 questions --

6 **COMMISSIONER LEWIS:** Gotcha. Yeah.

7 **MR. MCQUAIG:** -- that come from additional dockets. I've had Commissioners
8 call and say can you help me with this, what about that, with respect to a docket
9 that's not affiliated formally with this docket and we're happy to help with that.

10 **COMMISSIONER LEWIS:** No, thank you. I was just trying to follow all the
11 numbers.

12 **MR. MCQUAIG:** I understand.

13 **COMMISSIONER COUSSAN:** And one closing request, so within 60 days, do
14 you that think that we can get at least a plan in place of what this docket --

15 **MR. MCQUAIG:** Oh, yeah.

16 **COMMISSIONER COUSSAN:** -- that we're approving today looks like? Well,
17 I'm talking to Staff as well.

18 **MR. MCQUAIG:** Oh, I'm sorry. You were looking over here.

19 **COMMISSIONER COUSSAN:** Since you were kind of deferring to her as far as
20 what we're going to plan to do. I'd like to see something about a plan in place on -
21 - because, you know, I mean, you can do the quick math. This budget divided by
22 24, I mean, that's a -- if you're looking at it from a lawyer's time, you know, if I'm
23 putting \$6,000 worth of work a month into something, I'm working my tail off, I'm

1 working my tail off for a client. And so us being the client, I would like to see the
2 value and I'll also want to ensure that we're leveraging all of our resources just like
3 all of us have done, you know, on various issues, electric issues, water issues. You
4 know, we go and listen and, you know, present back to our clients and so on and so
5 forth on what we're learning before we even get into the details. And so I'd like to
6 make sure that we get that in place. So in short, I am going to support the motion
7 for this budget, but my expectations are a lot higher than what I'm seeing for the
8 last couple of years based upon what I'm learning. And this is one of the most
9 important issues that we're facing right now and it's one of the most important
10 things to the people of Louisiana, our constituents, as well. This isn't an abstract.
11 And so with that, you know, I'll entertain the motions that are being considered.

12 **CHAIRMAN FRANCIS:** One final quick question for Lauren -- Ms. Evans. So
13 it's an open approval for 160,000. Do you receive the bills, approve each bill that
14 --

15 **MS. EVANS:** I do.

16 **CHAIRMAN FRANCIS:** So if we're wondering how much money we're
17 spending and what it's been spent on, you have a record of that and you're in charge
18 -- responsibility for that? That's good, so in closing that, is there any objection to
19 approving this? [NONE HEARD] Hearing none, you're back on a payroll.

20 **VICE CHAIRMAN SKRMETTA:** Move to take a 10-minute break.

21 **CHAIRMAN FRANCIS:** Ten-minute break.

22 **[OFF THE RECORD]**

23 **[BACK ON THE RECORD]**

1 **CHAIRMAN FRANCIS:** Okay. I would call the meeting back to order.

2 **VICE CHAIRMAN SKRMETTA:** We have to get somebody -- oh, we got

3 enough.

4 **COMMISSIONER COUSSAN:** We've got three.

5 **VICE CHAIRMAN SKRMETTA:** Yeah. But the problem is on the next one, I

6 can't vote.

7 **COMMISSIONER COUSSAN:** The next one what?

8 **VICE CHAIRMAN SKRMETTA:** It's one I took a vote on. So I got to abstain.

9 **CHAIRMAN FRANCIS:** Well, we'll still have three. We got four of us. Okay.

10 So --

11 **VICE CHAIRMAN SKRMETTA:** Do we have to move to come back on the

12 record, Kathryn?

13 **SECRETARY FREY:** I don't --

14 **MS. BOWMAN:** I don't think so.

15 **VICE CHAIRMAN SKRMETTA:** Okay.

16 **SECRETARY FREY:** I don't think we took a motion to go off.

17 **MS. BOWMAN:** Yeah. I think we're good to roll. Exhibit Number 19 is

18 undocketed.

19 **COMMISSIONER CAMPBELL:** [INAUDIBLE].

20 **MS. BOWMAN:** I'm sorry. Yes, sir. I'm speaking into it. Exhibit Number 19 is

21 undocketed. It's reports, resolutions, discussions, and votes. We do have a report

22 from Louisiana Water Utilities operations of the French Settlement Water

23 Company assets and we have Mr. Aaron Accardo here.

1 **CHAIRMAN FRANCIS:** Do we have --

2 **VICE CHAIRMAN SKRMETTA:** They're there, they're coming up.

3 **CHAIRMAN FRANCIS:** Okay. Commissioner Skrmetta had requested a --

4 **VICE CHAIRMAN SKRMETTA:** Yeah. It'll be a quick report.

5 **CHAIRMAN FRANCIS:** A little quick report from the water [INAUDIBLE].

6 Okay.

7 **VICE CHAIRMAN SKRMETTA:** I actually have a couple of quick questions

8 for you. First off, when did y'all take possession of it? When did you take

9 possession of French Settlement Water?

10 **MR. AARON ACCARDO:** My management team --

11 **VICE CHAIRMAN SKRMETTA:** When did you take possession of French

12 Settlement Water? I got closer to the mic.

13 **MR. ACCARDO:** June -- excuse me, April 1, 2024.

14 **VICE CHAIRMAN SKRMETTA:** Okay. In the last year, what have you done

15 to do changes in the system? Because I'm getting some complaints that nothing's

16 really happened, but I want to know if anything really has changed.

17 **MR. ACCARDO:** Sure. In the interest of sparing the Commission time in me

18 reading the 25 plus or minus project list that was distributed to each of your offices

19 --

20 **VICE CHAIRMAN SKRMETTA:** Right.

21 **MR. ACCARDO:** -- late last week, I'll just summarize. I'll give a brief overview.

22 **VICE CHAIRMAN SKRMETTA:** Okay.

1 **MR. ACCARDO:** So when -- the first thing that happened was Southwest Water
2 Company and Corix merged on April 1, 2024 last year. The management team that
3 was managing French Settlement Water Company was from Texas. That moved to
4 me and our local team in Louisiana. So that's your number one improvement, just
5 having a local team that's got a --

6 **VICE CHAIRMAN SKRMETTA:** I'm talking about physical improvements to
7 fix the system.

8 **MR. ACCARDO:** Absolutely.

9 **VICE CHAIRMAN SKRMETTA:** Not management, etcetera. So kind of what
10 have you been up to?

11 **MR. ACCARDO:** So our first task was to really treat it like an acquisition, a
12 brand-new acquisition. So our team went in and assessed the infrastructure itself.
13 The main problems that we saw were inadequate wells, we've got wells that are
14 under-capacity, some that are offline. We've got pipe main that's at the end of its
15 useful service life, and we've got old A/C pipe in the ground, asbestos concrete
16 pipe in the ground, and very, very high iron and manganese issues. And so our
17 immediate focus was, you know, critical needs, wells. So we acquired two pieces
18 of property within the last year. Engineering is underway for both those wells and
19 we've got Griner well drilling that's online. Got about an 18-month wait time for
20 that deep of a well. That's kind of the long pole in the tent, if you will. In addition
21 to having those wells moving, we've undertaken a pretty progressive main
22 replacement program. We started with the asbestos concrete pipe for obvious

1 reasons. It's 50-plus years old and very, very fragile, and, you know, LDH is
2 monitoring that for any health issues.

3 **VICE CHAIRMAN SKRMETTA:** How much pipe have you replaced?

4 **MR. ACCARDO:** I think around two miles at this point. It's still underway.

5 **VICE CHAIRMAN SKRMETTA:** How much pipe do you have to replace? Do
6 you know how many miles?

7 **MR. ACCARDO:** In total or just asbestos concrete?

8 **VICE CHAIRMAN SKRMETTA:** Well, let's just say in total.

9 **MR. ACCARDO:** I'm not sure.

10 **VICE CHAIRMAN SKRMETTA:** I mean, of what you need to replace. Well,
11 how much of asbestos pipe do you need to replace?

12 **MR. ACCARDO:** I will tell you this, Commissioner, the main replacement
13 program will probably take us about 10 years in total --

14 **VICE CHAIRMAN SKRMETTA:** Okay.

15 **MR. ACCARDO:** -- I'm estimating, just in order to balance the rate impact and
16 cost of investment.

17 **VICE CHAIRMAN SKRMETTA:** So is it 10 miles, or is it 100 miles, is it 200
18 miles of asbestos pipe?

19 **MR. ACCARDO:** Oh, we'll be done with the asbestos pipe replacement program
20 by the end of this year.

21 **VICE CHAIRMAN SKRMETTA:** Okay. So that's probably less than 10 miles
22 then?

23 **MR. ACCARDO:** Yes.

1 **VICE CHAIRMAN SKRMETTA:** Okay. All right. So the rest of the system,
2 do you have to replace the rest of the system?

3 **MR. ACCARDO:** Eventually, yes. It's also at the end of it's --

4 **VICE CHAIRMAN SKRMETTA:** So that's not -- that's not a critical factor?

5 **MR. ACCARDO:** It is critical.

6 **VICE CHAIRMAN SKRMETTA:** Okay.

7 **MR. ACCARDO:** We've got -- we're moving from essentially lots and lots of
8 leaks in the old PVC pipe.

9 **VICE CHAIRMAN SKRMETTA:** All right. So what else have you
10 accomplished in the last year?

11 **MR. ACCARDO:** We had to immediately convert chlorine gas system to liquid
12 chlorine. That's just a -- really a big safety factor to get our employees and any
13 bystanders away from a potential leak because it can kill. And again, I can read
14 through the high-level list if you'd like. We've run down a first attempt to install
15 filtration, granular activated charcoal units there. Looks like that's not going to
16 work. We just simply don't have the footprint to implement a permitted
17 backwashing program to get those GAC units filtering out the iron and manganese.
18 So we're sequestering more, but the real fix, the real solution for that is going to be
19 to drill wells between 2,800 feet-3,200 feet.

20 **VICE CHAIRMAN SKRMETTA:** So the only people you can find to dig a well
21 are 18 months?

1 **MR. ACCARDO:** There are two well drillers in Louisiana that are, in my opinion,
2 qualified to do that, to go that deep. And then with the issuance of so much ARPA
3 funds in the environment right now, these well drillers are backed up.

4 **CHAIRMAN FRANCIS:** How deep you got to drill?

5 **MR. ACCARDO:** 2,800-3,200 feet to get past the iron and manganese issues that
6 most shallower wells are experiencing.

7 **VICE CHAIRMAN SKRMETTA:** And that's the iron and -- it's iron and
8 manganese?

9 **MR. ACCARDO:** Yes.

10 **VICE CHAIRMAN SKRMETTA:** So the greensand filters aren't available to
11 you for the iron?

12 **MR. ACCARDO:** It's not that they're not available. It's essentially if you've got
13 -- and I'll use this an example, if you've got a well that's pumping at a 100 gallons
14 per minute, it takes about 700 gallons per minute to implement a backwash. So
15 you've got to have a very sizable reservoir to hold all of that backwash and to permit
16 that backwash. We don't have the footprint or land available near the site, adjacent
17 to the site to implement something like that. That makes the GAC unit not a viable
18 option.

19 **VICE CHAIRMAN SKRMETTA:** So what does LDEQ say about your -- I'm
20 sorry, LDH say about your water quality?

21 **MR. ACCARDO:** We're not -- the iron and manganese is not a regulated -- it's a,
22 you know, secondary contaminant.

23 **VICE CHAIRMAN SKRMETTA:** Right.

1 **MR. ACCARDO:** It's not regulated, so it's an aesthetic issue. That's what's
2 driving the majority of the complaints, and if I can back up a moment, I can talk a
3 little bit more. Back when I took over management here, one of the first things I
4 did was meet with the -- who was then the Interim Mayor Jeremy AydeU. I believe
5 you've met with him before and spoken with him. Interestingly enough, the number
6 one issue that he and the customers were experiencing was not water quality issues.
7 They're very, very used to that. That's been going on for many, many years.

8 **VICE CHAIRMAN SKRMETTA:** Right. It's wastewater.

9 **MR. ACCARDO:** No, not -- we don't control wastewater.

10 **VICE CHAIRMAN SKRMETTA:** Well, you don't deal with the wastewater
11 there.

12 **MR. ACCARDO:** Correct.

13 **VICE CHAIRMAN SKRMETTA:** It's mostly septic there or is it -- is it septic
14 or is it another system?

15 **MR. ACCARDO:** There are a lot of septic or onsite wastewater.

16 **VICE CHAIRMAN SKRMETTA:** Is there any centralized wastewater system
17 there?

18 **MR. ACCARDO:** We have -- separate company, Utilities Inc. of Louisiana,
19 actually serves three subdivisions that overlap the French Settlement Water
20 Company, so you have some centralized sewer.

21 **VICE CHAIRMAN SKRMETTA:** So you do have some sewer system there?

22 **MR. ACCARDO:** In three subdivisions, very small overlap, about 80 customers.

23 **VICE CHAIRMAN SKRMETTA:** And what's the status of those systems?

1 **MR. ACCARDO:** The wastewater systems?

2 **VICE CHAIRMAN SKRMETTA:** Yeah.

3 **MR. ACCARDO:** They're in good shape, they're fine.

4 **VICE CHAIRMAN SKRMETTA:** Okay. No problems with LDEQ from there?

5 **MR. ACCARDO:** No, no, no.

6 **VICE CHAIRMAN SKRMETTA:** Or the customers?

7 **MR. ACCARDO:** No, not in those subdivisions on the wastewater side.

8 **VICE CHAIRMAN SKRMETTA:** You get mixed messages from folks, but

9 anyway, so I think the big issue is about these wells, so, you know. But you had a

10 year so far, so was the original timeframe 18 months or was it like 20, you know,

11 18 plus 12?

12 **MR. ACCARDO:** Well, originally, when we engaged Griner, that's the contractor

13 that we're using, I think we were looking at about a 12-month wait time. Now, we

14 had to acquire land, do our diligence on that to find the proper piece of land where

15 we could drill a well and interconnect it with the existing distribution system. That

16 took us -- we were actually pretty fortunate, took us three or four months to do that.

17 Once we did that, of course, we've got to engineer it. This entire time we're talking

18 with Griner. Griner's doing work for us currently, meaning we've been on their

19 waitlist for many of our systems, so they're doing work for us presently in different

20 systems not related to French Settlement Water, but that wait time, that 12-month

21 wait time, extended out to 18 months and even 24 months in some cases. Again,

22 it's mostly due to the demand for the influx of ARPA funds.

1 **VICE CHAIRMAN SKRMETTA:** Well, I'm just going to tell you that that's an
2 awful long time for people to wait for water and, you know, really, I think you
3 should start reaching out far and wide to find better opportunities for drillers.

4 **MR. ACCARDO:** And I have done that.

5 **VICE CHAIRMAN SKRMETTA:** I think this is --

6 **MR. ACCARDO:** I have done that.

7 **VICE CHAIRMAN SKRMETTA:** I think this is a little -- we're, I want to say,
8 getting close to dilatory, so I'd like to see if y'all can step into that and get something
9 better going.

10 **MR. ACCARDO:** I've reached out as far as California, just different references I
11 have within the industry and in the southeast region as well, and every well driller
12 is in the same boat really. And of course, they're staying local because they've got
13 enough work to keep them busy for a long time, again, ARPA funds. Trust me.

14 **VICE CHAIRMAN SKRMETTA:** Sounds like somebody's got an opportunity
15 to open a new business.

16 **MR. ACCARDO:** That's my opinion as well.

17 **VICE CHAIRMAN SKRMETTA:** Well, thank you very much. [CROSSTALK]
18 --

19 **CHAIRMAN FRANCIS:** What's the cost of a well? Oh, sorry. Go ahead.

20 **COMMISSIONER COUSSAN:** You didn't finish your statement about what was
21 the most important thing that the mayor had mentioned?

22 **MR. ACCARDO:** Absolutely. I'm glad you asked. It was not infrastructure
23 related, it was actually communication, customer service, which, you know, we talk

1 about improvements. I understand, Commissioner Skrmetta, you were interested
2 in infrastructure improvements, but the communication that was lacking was just
3 real-time communication about projects that are getting underway, but the impact
4 to the water quality may or may not be due to that project. And so we've
5 implemented a host of different communication methods, more robust
6 communication methods, everything from, you know, text, VoiceReach, Facebook,
7 using Facebook as a -- kind of a board for people to check, and then of course the
8 website. It's got all of our projects, start dates, end dates, on a street-level basis to
9 where customers can understand when they may be impacted by the projects.

10 **VICE CHAIRMAN SKRMETTA:** Well, right. Because I remember before
11 when you took it over, there was zero communication. Right.

12 **MR. ACCARDO:** It was very, very poor in my opinion.

13 **VICE CHAIRMAN SKRMETTA:** Close enough. Right. No, I understand, so
14 it was all uphill from there. So I appreciate that, but at the same time, it gave people
15 an opportunity to complain and find someone to complain to about it --

16 **MR. ACCARDO:** Absolutely.

17 **VICE CHAIRMAN SKRMETTA:** -- which is now we're at that point. So, you
18 know, we're getting more actually landed complaints about this.

19 **MR. ACCARDO:** And that's accurate, you know, anytime you're receptive, you
20 got an open-door policy, you're going to get more feedback, which is good. It keeps
21 us kind of honed in on where we need to be working.

22 **VICE CHAIRMAN SKRMETTA:** Well, I'd appreciate if y'all could find a way
23 to step your game up, that's all.

1 **MR. ACCARDO:** Absolutely.

2 **CHAIRMAN FRANCIS:** What's the cost to drill all those wells?

3 **MR. ACCARDO:** I'm sorry? The cost?

4 **CHAIRMAN FRANCIS:** What's the cost to drill a well?

5 **MR. ACCARDO:** So I'll give you a pre-ARPA cost and post-ARPA fund cost.

6 **CHAIRMAN FRANCIS:** I don't need that, just what's the cost?

7 **MR. ACCARDO:** 1.8.

8 **CHAIRMAN FRANCIS:** What's the GPM on a well like that?

9 **MR. ACCARDO:** We're looking at around 800 I believe. We've got a couple --

10 we got two of them going in French Settlement Water Company. I'll have to do

11 some homework and get you the exact figures, but --

12 **CHAIRMAN FRANCIS:** Okay. That's good. Thank you. Thank you for your

13 report.

14 **MS. KARA KANTROW:** Thank y'all.

15 **MR. ACCARDO:** Sure. Thank you.

16 **MS. BOWMAN:** So still on Exhibit Number 19, we have a discussion and possible

17 vote to ratify the vote taken by Vice Chairman Skrmetta acting as the Commission's

18 representative on the Board of Directors of Organization of MISO States. OMS

19 prepared comments for filing in FERC Docket Number ER25-1674, which is

20 MISO's expedited resource additional study filing. This is a proposed temporary

21 solution to a queue backlog caused by existing backlogged generator

22 interconnection process and the OMS comments supported the ERAS proposal.

23 Staff recommends that the Commission ratify Vice Chairman Skrmetta's vote taken

1 on March 31, 2025, as the Commission's representative on the board of directors
2 of the organization of MISO states.

3 **COMMISSIONER COUSSAN:** I'd like to have him testify.

4 **MS. BOWMAN:** Who would you like to testify?

5 **COMMISSIONER COUSSAN:** I'm just joking.

6 **VICE CHAIRMAN SKRMETTA:** Skrmetta abstains from the vote.

7 **COMMISSIONER COUSSAN:** You want to make a comment on it real quick?

8 **VICE CHAIRMAN SKRMETTA:** Nope, nope, no.

9 **COMMISSIONER COUSSAN:** Okay. I'll make a motion to accept Staff's
10 recommendation.

11 **CHAIRMAN FRANCIS:** I'll second that.

12 **VICE CHAIRMAN SKRMETTA:** Stuff is confusing as Chinese algebra.

13 **CHAIRMAN FRANCIS:** Seconded motion and so roll call vote here.
14 Commissioner Lewis, do you approve the vote?

15 **MS. BOWMAN:** Wait, do we have an opposition?

16 **COMMISSIONER LEWIS:** I don't think he objected.

17 **CHAIRMAN FRANCIS:** What?

18 **COMMISSIONER LEWIS:** He just has to abstain.

19 **VICE CHAIRMAN SKRMETTA:** I did. I said I abstain.

20 **COMMISSIONER LEWIS:** No, I don't think anybody objected.

21 **CHAIRMAN FRANCIS:** Oh, okay. So we don't need to roll call vote, so it's
22 passed. [INAUDIBLE]. Okay.

23 **SECRETARY FREY:** Who seconded?

1 **COMMISSIONER LEWIS:** I second.

2 **MS. BOWMAN:** Okay. And then we have one more intervention, it's a discussion
3 and possible vote to ratify the interventions of the Commission and RTO-related or
4 other FERC proceedings. So this is -- there were three interventions that Stone
5 Pigman and UPC with the consultation of the Executive Secretary and myself had,
6 and they -- Staff recommends that we ratify the interventions taken in FERC
7 Dockets EL25-44, RM25-3, and ER25-1674.

8 **VICE CHAIRMAN SKRMETTA:** Move to ratify.

9 **CHAIRMAN FRANCIS:** Move to ratify by Commissioner Skrmetta, the Chair
10 would second that.

11 **COMMISSIONER LEWIS:** Mr. Chairman, if I may, I just -- Dana, if it's
12 possible, I'm very interested in the IBRs docket and I've been following your
13 comments. And I know it's not a final proceeding, but I would love to stay in
14 counsel with you on this proceeding at FERC as it moves through. So another way
15 to say it, I just want to say I want to talk with you about it.

16 **CHAIRMAN FRANCIS:** Okay. That's good.

17 **MS. BOWMAN:** Then we also have one directive under Exhibit Number 19. It's
18 a directive to Staff to open a rulemaking regarding customer energy usage data and
19 then this is at the request of Commissioner Lewis.

20 **COMMISSIONER LEWIS:** Thank you. As we know, we've talked about this
21 with demand response, energy efficiency, and some of the programs that come out
22 of the IRA, the Inflation Reduction Act, the bipartisan infrastructure act, about
23 access to usage data. We know data can be used for various purposes in multi-

1 tenant homes, commercial properties, and being able to access this data opens the
2 door for grants and loans from the EPA and the DOE. But there have been barriers
3 that have limited the ability of building owners, energy service providers, and
4 customers themselves to identify these savings opportunities or participate in some
5 of these programs or initiatives to accurately benchmark the efficiency of their
6 energy usage. Last year, I authored a resolution in the environmental resources and
7 energy committee at NARUC that was approved by the board of directors along
8 with Commissioner Jehmal Hudson from the state of -- the commonwealth of
9 Virginia urging state commissions and jurisdictional utilities to assess and seek to
10 remedy these issues of data management. Also, for the past two years, we have
11 seen the Louisiana Legislature have legislation directed at utilities, or as this year,
12 directed at the Commission to address the same concern. So to review these gaps
13 and help all customers better control their usage, I believe that the Commission can
14 do more to allow for safe, accessible communication for these existing data, and so
15 I have the following directive to Staff.

16 **MS. BOWMAN:** Sure. And Commissioner Lewis' directive is direct Staff to open
17 a rulemaking to evaluate current utility practices related to customer energy usage
18 data across jurisdictional electric and utility -- gas utilities. This review should
19 include the types of usage data collected and maintained by utilities, current
20 procedures for customers and authorized third parties to access that data, utility
21 handling of aggregated data request for multi-metered properties, and whether rule
22 changes are needed to support consistent, secure, and standardized access to
23 customer data for the benefit of the grid and the end user. Further, Staff is

1 authorized to seek outside assistance if determined necessary to assist in this
2 rulemaking.

3 **COMMISSIONER LEWIS:** Thank you. I expect and I enter -- or proposing this
4 naught with any final policy proposal. The rulemaking may just be for utilities to
5 have a process and procedure. I'm not convinced that it has to be standard across
6 it, but I think this question has continued to come up from the Louisiana
7 Legislature, NARUC has talked about it, the White House, EPA, and the DOE as
8 well. And so I think it's imperative that the Commission get ahead of this question
9 and work with all utilities and property owners to find a solution to ensure they
10 have access to their data.

11 **CHAIRMAN FRANCIS:** I would like to add Commissioner Lewis' permission
12 to defer this directive to the Lafayette meeting, so I could understand it a little
13 deeper about exactly what we're trying to do with the Staff.

14 **COMMISSIONER CAMPBELL:** I'll second.

15 **CHAIRMAN FRANCIS:** Would that be okay?

16 **COMMISSIONER LEWIS:** Yeah, I'm fine with that.

17 **CHAIRMAN FRANCIS:** All right. So we'll just bring this up in Lafayette along
18 with the other stuff. We'll have a full day, and just help me see a little bit better
19 exactly what you want the Staff to do, please. All right. Thank you.

20 **COMMISSIONER COUSSAN:** I want to note that, just so that we have some
21 direction, I'd like to dig into privacy concerns. I know when these issues came up
22 at the legislature, privacy was one of the number one issues that sometimes killed

1 the bills. And so as we discuss this with our Staff over the next month, I'd like
2 some information on how that might be impacted.

3 **COMMISSIONER LEWIS:** And, Commissioner, I will tell you, the ERE
4 committee, along with myself and the White House and EPA, DOE, hosted a
5 webinar for all NARUC commissioners and utilities on this about maybe four or
6 five months ago.

7 **COMMISSIONER COUSSAN:** Which White House?

8 **COMMISSIONER LEWIS:** It wasn't election yet, but we're still engaging. We
9 actually had NARUC Second Vice Chair Commissioner Jehmal Hudson of the
10 commonwealth of Virginia and I had a conversation about this, and we are also
11 engaging this White House for another webinar for all NARUC members. So this
12 has been a very much ongoing conversation among our association and privacy has
13 been the number one concern from the ERE committee. So I would love to ensure
14 that we get you that former information, but also loop you in some of those
15 conversations that commissioners across the country have been having on this
16 topic.

17 **COMMISSIONER COUSSAN:** Thank you. To be continued.

18 **CHAIRMAN FRANCIS:** All right. So we move on.

19 **MS. BOWMAN:** Okay. So moving to exhibit --

20 **VICE CHAIRMAN SKRMETTA:** Before you move on, Kathryn.

21 **MS. BOWMAN:** Yes, sir.

1 **VICE CHAIRMAN SKRMETTA:** Before we -- because I know everybody's
2 going to be out of here like a light, I want to have the Staff look at October for a
3 meeting in my district.

4 **MS. BOWMAN:** Okay.

5 **VICE CHAIRMAN SKRMETTA:** Okay. We can talk later, but I just wanted to
6 put it on the calendar for a meeting in my district.

7 **COMMISSIONER COUSSAN:** French Settlement.

8 **VICE CHAIRMAN SKRMETTA:** No. We were thinking of something further
9 south that allows for a launching of a boat.

10 **CHAIRMAN FRANCIS:** Buras. Okay. Okay. Where we at? Number 20?

11 **MS. BOWMAN:** Yes, sir. Exhibit Number 20 is Docket Number U-37067. This
12 is the Commission's evaluation of SWEPCO's decision to retire Pirkey Power Plant
13 pursuant to Commission Order Number U-36385-A. It's a discussion and possible
14 vote on an uncontested stipulated settlement at the request of Commissioner
15 Campbell. On December 16, '23, this matter was opened pursuant to a notice of
16 proceeding by Staff. Following discovery and the filing of testimony, SWEPCO
17 and Staff executed an uncontested stipulated settlement which was filed into the
18 record on March 7, 2025. The major terms of the settlement are as follows: The
19 retirement of Pirkey was reasonable and prudent; then accordance with
20 Commission Order Number U-35441, SWEPCO will continue to recover the
21 appropriate cost of Pirkey through the Commission approved retirement rider at
22 SWEPCO's weighted average cost of capital; neither party to the settlement agrees
23 on the prudence or imprudence of SWEPCO's offering Pirkey into SPP market

1 from '19 to '23, however as a settlement position, SWEPCO shall credit through
2 its fuel adjustment clause \$2 million. Staff recommends that the Commission
3 approve the uncontested stipulated settlement filed into the record on March 7,
4 2025.

5 **VICE CHAIRMAN SKRMETTA:** I'll just put a motion on the floor to approve
6 if anyone wants to second.

7 **CHAIRMAN FRANCIS:** Yes, I'll second it.

8 **COMMISSIONER CAMPBELL:** Hold up. Go ahead. Go ahead and say
9 something.

10 **MS. GAGE:** I received your feedback, Commissioner Campbell, that I should say
11 less, so I will.

12 **COMMISSIONER CAMPBELL:** Who told you that?

13 **MS. GAGE:** A birdie.

14 **COMMISSIONER CAMPBELL:** Well, I want you to talk now; how about that?

15 **MS. GAGE:** Yes, sir.

16 **COMMISSIONER CAMPBELL:** Go ahead. Explain the situation.

17 **MS. GAGE:** Okay. So we -- back in 2020, the company did an analysis on the
18 Pirkey Plant whether or not it was prudent to continue running that plant and that
19 analysis demonstrated that closing the plant would actually save ratepayers between
20 \$740 million to \$1.2 billion just because it was no longer economic to continue
21 running the plant.

22 **COMMISSIONER CAMPBELL:** Where is the Pirkey Plant for people who
23 don't know?

1 **MS. GAGE:** The Pirkey Plant --

2 **COMMISSIONER CAMPBELL:** Besides the little birdie you were talking
3 about.

4 **MS. GAGE:** The Pirkey Plant is located in northeast Texas near Hallsville.

5 **COMMISSIONER CAMPBELL:** And how old is it?

6 **MS. GAGE:** It opened in 1985.

7 **COMMISSIONER CAMPBELL:** It's inefficient now?

8 **MS. GAGE:** It is no longer efficient given market prices and gas prices and all of
9 the forecasts that are --

10 **COMMISSIONER CAMPBELL:** Do you have any idea of what that plant cost
11 when you built it?

12 **MS. GAGE:** That is a good question. I know that the remaining value on it on a
13 Louisiana jurisdictional basis is about \$65 million, but I do not recall the original
14 cost.

15 **COMMISSIONER CAMPBELL:** Mr. Gilliam, you have anything to say about
16 this? That you're for it?

17 **MR. GILLIAM:** Yes, sir. It was a solid fuel plant over in east Texas, as Melissa
18 just said. And it was -- it has reached the end of its time and that's what the study
19 showed and we followed up with Staff to pursue that. And Staff looked at it
20 carefully and did their discovery and that includes Lane and his team and Jonathan
21 Bourg. And decided -- we reached an agreement this was the best way to proceed
22 for our ratepayers going forward.

23 **COMMISSIONER CAMPBELL:** This is uncontested, this settlement, correct?

1 **MS. GAGE:** Yes.

2 **MR. GILLIAM:** Correct. We have a complete settlement, yes.

3 **COMMISSIONER CAMPBELL:** All right. I make a motion that -- do you have

4 to bring this up under Rule 57 or not? No. You do?

5 **CHAIRMAN FRANCIS:** We already have a motion and a second, so we're ready

6 to go.

7 **COMMISSIONER CAMPBELL:** Okay. I would make a motion that we accept

8 the uncontested stipulated settlement.

9 **VICE CHAIRMAN SKRMETTA:** Second.

10 **CHAIRMAN FRANCIS:** Okay. Commissioner Lewis.

11 **COMMISSIONER LEWIS:** Thank you. Could you explain why you didn't look

12 at securitization of the stranded cost of this asset?

13 **MS. GAGE:** Certainly. Because the plant is allocated across our three

14 jurisdictions in Texas, Louisiana, and Arkansas, we would have to securitize in

15 each state individually and it is just not cost effective to do that.

16 **COMMISSIONER LEWIS:** Gotcha. That makes sense. And who -- can you tell

17 me about this transition task force and just like who participated in it and what have

18 been the results of those efforts?

19 **MS. GAGE:** Yeah. So we had a team at AEP that worked to make sure that all of

20 the employees at the plant and the community, you know, that we were working

21 with them through the closure of the plant to ensure that we were helping them

22 transition to other jobs within the company and helping the community as best we

1 could and I think we did have good results from that. We can provide your office
2 with a whole lot of other materials that we have from that whole process.

3 **COMMISSIONER LEWIS:** Great. I was just curious on how you constructed
4 that and did that, so thank you.

5 **CHAIRMAN FRANCIS:** Does the company plan to --

6 **MR. GILLIAM:** So that was -- that was provided and considered to Staff. Staff
7 put the whole package.

8 **CHAIRMAN FRANCIS:** Does the company plan to replace the plant with a new
9 modern plant at any time?

10 **MS. GAGE:** Yes, sir. We currently have an application pending in front of the
11 Commission to build a new --

12 **CHAIRMAN FRANCIS:** What fuel will it use?

13 **MS. GAGE:** Natural gas.

14 **CHAIRMAN FRANCIS:** Combined cycle natural gas?

15 **MS. GAGE:** This one will not be a combined cycle, it'll be a combustion turbine.

16 **CHAIRMAN FRANCIS:** What will be the megawatt output?

17 **MS. GAGE:** It's two 225 megawatt units for a total of 450 megawatts at that site.

18 **CHAIRMAN FRANCIS:** Why don't y'all have Brett at the table to get a little TV
19 time like the rest of y'all? He's here, you know.

20 **COMMISSIONER COUSSAN:** Make a motion to adjourn.

21 **CHAIRMAN FRANCIS:** All right. Okay.

22 **MR. GILLIAM:** And there's a -- there will be a second --

1 **COMMISSIONER CAMPBELL:** I got a question for you, where's the little
2 birdie at, man? Remind me about that, okay? We won't talk much more.

3 **MR. GILLIAM:** There will be a second plant over in east Texas too, so it's on a
4 pending docket in front of y'all now, the Hallsville docket, so we'll be back in front
5 of you talking about new facilities and plants.

6 **CHAIRMAN FRANCIS:** Okay. All right. Thank y'all for your report.

7 **MR. GILLIAM:** Okay.

8 **VICE CHAIRMAN SKRMETTA:** Do we have to approve the vote?

9 **COMMISSIONER COUSSAN:** No, she said are there any objections.

10 **CHAIRMAN FRANCIS:** Yeah, I didn't hear any objection. Any objection?

11 **COMMISSIONER CAMPBELL:** None.

12 **CHAIRMAN FRANCIS:** Hearing none, 20 is flying high, we approve it.

13 **MS. BOWMAN:** Exhibit Number 21 is Docket Number R-31106. This is the
14 Commission's rulemaking to study the possible development of financial
15 incentives for the promotion of energy efficiency by jurisdictional electric and gas
16 utilities. It's a discussion and possible vote to end the statewide energy efficiency
17 program authorized in Commission General Order dated April 24, 2024. Efforts
18 are underway to develop the statewide program including the retention of Aptim as
19 the Commission's administrator and recently Tetra Tech as a statewide EM&V
20 contractor. Over the last several months, discussions have been had regarding the
21 various ways to achieve energy efficiency. Chairman Francis' focus is provide the
22 most energy savings at the least reasonable cost, which in his opinion, is achieved
23 greatest through the Commission's public entity program. As such, Chairman

1 Francis moves that the Commission cease working towards a statewide energy
2 efficiency program including providing written termination of its retention of
3 Aptim and Tetra Tech, and the Chair further directs Staff to publish a set of energy
4 efficiency rules that pertain solely to a public entity program. The rules should
5 require participation by the electric and group one gas utilities, shall allow
6 industrials to opt out and consider other options. Staff shall publish these rules
7 within the next week to allow stakeholder feedback in time for a vote at the May
8 B&E.

9 **CHAIRMAN FRANCIS:** We have some people that [CROSSTALK]?

10 **VICE CHAIRMAN SKRMETTA:** So move to --

11 **MS. BOWMAN:** Yes, sir, there's four.

12 **VICE CHAIRMAN SKRMETTA:** I'll put a motion on the floor.

13 **CHAIRMAN FRANCIS:** Well, let's hold up until we -- let's get our discussion
14 going before we --

15 **MS. BOWMAN:** So we'll do the two --

16 **VICE CHAIRMAN SKRMETTA:** Hang on a second, Kathryn.

17 **MS. BOWMAN:** Yes, sir.

18 **VICE CHAIRMAN SKRMETTA:** I'm just going to put a motion on the floor so
19 we do the discussion.

20 **CHAIRMAN FRANCIS:** All right. Motion's on the floor. Okay.

21 **MS. BOWMAN:** So if Ms. Burke from the Alliance would come up and Mr.
22 Anderson from Power Coalition.

23 **VICE CHAIRMAN SKRMETTA:** It was his motion, I'll second.

1 **CHAIRMAN FRANCIS:** Yes, yeah.

2 **MS. BOWMAN:** Okay.

3 **CHAIRMAN FRANCIS:** I made the motion and he seconded it. Okay. Thank

4 you, Commissioner Skrmetta.

5 **COMMISSIONER COUSSAN:** What's the motion?

6 **VICE CHAIRMAN SKRMETTA:** She just read it.

7 **CHAIRMAN FRANCIS:** The one she just read.

8 **COMMISSIONER COUSSAN:** Oh, I see. All right.

9 **MS. BOWMAN:** Do you want me to re-read it?

10 **COMMISSIONER COUSSAN:** Yeah. Would you mind?

11 **MS. BOWMAN:** Absolutely.

12 **COMMISSIONER COUSSAN:** I thought you were just reading the docket.

13 **MS. BOWMAN:** Yeah. As Ms. Burke and Mr. Anderson come up, I'll re-read.

14 So the Chair moves that the Commission cease working towards a statewide energy

15 efficiency program including providing written termination of its retention of

16 Aptim and Tetra Tech. The Chair further directs Staff to publish a set of rules that

17 pertain solely to a public entity energy efficiency program. The rules should require

18 participation by the electric and group one gas utilities, shall allow industrials to

19 opt out and consider other options. Staff shall publish these rules within the next

20 week to allow stakeholder feedback in time for a vote at the May B&E.

21 **CHAIRMAN FRANCIS:** Ms. Logan, thank you for your patience here in the

22 long, long meeting.

23 **MS. LOGAN BURKE:** No trouble. I appreciate the opportunity.

1 **CHAIRMAN FRANCIS:** All right.

2 **MS. BURKE:** Logan Burke for the Alliance for Affordable Energy. In this

3 moment, residential utility bills are unaffordable for hundreds of thousands of

4 people in our state, and Entergy alone had over 150,000 disconnections last year.

5 So why would the Commission consider ending the only program residents and

6 businesses have to manage their bills and keep the lights on? You heard from the

7 Legislative Auditor that our households use over 46% more electricity per

8 household than the average American. Sure. It is hot and it is humid, but that is

9 not the driving factor. It's because we are decades behind on addressing energy

10 waste and so it doesn't matter how low the rate is if we're just throwing our money

11 out the cracks around our doors and windows. The Auditor also pointed out that

12 this Commission is taking steps to address high energy bills through this efficiency

13 program. The rational thing to do is to address the waste. The right thing to do is

14 to ensure people have the tools they need. So why would we stop this effort in its

15 tracks? We've been talking about this issue and delaying action for over a decade,

16 so when will acknowledge that what we've been doing isn't working? Right now,

17 federal LIHEAP funds are uncertain, as Commissioner Lewis pointed out at the

18 beginning of the meeting, and that was the only government program available to

19 help residents both pay their bills and invest in weatherization in their homes. So

20 is now really the time to reverse course on a mature energy efficiency program and

21 throw the work in the garbage can before this program can even be born? An energy

22 efficiency program is not a mandate that every person in the state must reduce their

23 energy use. In fact, the rule that you currently have in place isn't even a mandate

1 to utilities to run a program. It is a low-cost resource to allow people to reduce their
2 energy use if they want and offer help to people who couldn't otherwise weatherize
3 their homes so that every kilowatt-hour gets put to good use. And businesses in
4 Louisiana who are struggling as a result of the cost of businesses rising, utility bills
5 are some of the most manageable, marginal costs. If a company has the tools to do
6 so to manage those bills, and no business wants to throw money out the door,
7 efficiency programs can help businesses survive. Churches and other non-profits
8 are seeing this economic crunch and reducing their energy bills can allow them to
9 continue their mission. What is a more conservative value than eliminating waste
10 and giving people options? As for administrative costs, which I understand is your
11 concern, everything requires administration, whether you see those costs detailed
12 on a spreadsheet or not, every business pays for operations and admin. And nothing
13 actually runs at 1% overhead. And also, I agree, let's find ways to minimize
14 administrative costs. The great news is that a third-party administrator, thanks to
15 economies of scale and efficiencies in management, is the most cost-effective use
16 of every ratepayer dollar and it's expected to save money well below the cost of a
17 kilowatt-hour on the market or a new gas-fired power plant. A TPA will be more
18 cost effective than the public entities program and is projected to save roughly six
19 times the amount of energy at nearly half the price per kWh. If anything, having a
20 third-party administrator that this Commission oversees is the very best way to limit
21 those costs. So if bills are going to climb, as everybody in this room understands,
22 and other household costs get even more expensive, how does this Commission

1 plan to address that problem? I guarantee you the cheapest answer is going to be
2 energy efficiency and I appreciate the opportunity to speak with you.

3 **CHAIRMAN FRANCIS:** Thank you, ma'am. Yes, sir?

4 **COMMISSIONER CAMPBELL:** Who do you represent?

5 **MR. BILLY ANDERSON:** Billy Anderson.

6 **CHAIRMAN FRANCIS:** Hold up.

7 **VICE CHAIRMAN SKRMETTA:** Excuse me for one second.

8 **COMMISSIONER CAMPBELL:** Who do you represent?

9 **MS. BURKE:** The Alliance for Affordable Energy.

10 **COMMISSIONER CAMPBELL:** That's good. And who --

11 **MR. ANDERSON:** The Power Coalition for Equity and Justice. Power Coalition
12 for Equity and Justice.

13 **COMMISSIONER CAMPBELL:** Okay.

14 **MR. ANDERSON:** Yeah. Just to --

15 **COMMISSIONER CAMPBELL:** I take it y'all are against this?

16 **MR. ANDERSON:** Yes. Just to discuss briefly just about the cost. Last year, the
17 Power Coalition was able to relocate several hundred residents who had been
18 ousted by their apartment complex in Shreveport. And what we saw was that
19 there's a lot of people who are living basically paycheck to paycheck who can't
20 really afford to have any type of increase, who can really benefit from these
21 efficiency programs that are currently in place. What we want to do is make sure
22 that folks are aware that anytime a meeting like this happens, that they're able to
23 come to the Public Service Commission and speak about it. One of the things that

1 we saw was this was put on the docket very last minute, not letting a lot of people
2 to actually come give their opinion on this matter at hand. So I won't speak very
3 long about it today, we've been here for quite a while. But I just want to make sure
4 that the people of Louisiana are being heard in this matter and it won't go forward
5 without more public input.

6 **COMMISSIONER CAMPBELL:** You think it's worthwhile and helps a lot of
7 poor people?

8 **MR. ANDERSON:** Yes. People that live paycheck to paycheck that are struggling
9 with utilities.

10 **COMMISSIONER CAMPBELL:** And if you cut this out, they would be left out;
11 that's correct?

12 **MR. ANDERSON:** Yes, sir.

13 **COMMISSIONER CAMPBELL:** Okay. I got a motion.

14 **MS. BOWMAN:** Well, there's a --

15 **CHAIRMAN FRANCIS:** We still have some others to discuss.

16 **VICE CHAIRMAN SKRMETTA:** I think there's more people testifying.
17 There's two more at least.

18 **CHAIRMAN FRANCIS:** You have some more cards?

19 **MS. BOWMAN:** We do.

20 **COMMISSIONER LEWIS:** Well, can I ask questions to these two while they're
21 [CROSSTALK]?

22 **CHAIRMAN FRANCIS:** Oh, I'm sorry. I'm sorry. Go ahead.

1 **COMMISSIONER LEWIS:** No, thank you. Thank you, thank you both for your
2 thoughts. Logan, you talked about, I mean, as this directive states about
3 administrative cost in public entities. When we have looked at energy efficiency
4 programs across the nation, according to the ACEEE standard, what's the model of
5 the states in the top 10?

6 **MS. BURKE:** The very best models are those that reduce administrative costs by
7 having economies of scale that have a single statewide program. And so watching
8 what's happening in states that have already high utility rates are leaning toward
9 these kinds of statewide comprehensive programs. That is the best way to get the
10 best savings.

11 **COMMISSIONER LEWIS:** Right. And we haven't even seen the proposal that
12 our TPA administrator can propose; is that correct?

13 **MS. BURKE:** That's right. As I understand it, the third-party administrator is
14 expected to file that May 1. So, you know, if the Commission moves to make a
15 decision in May as we had expected, they would have all -- you will have all the
16 information that you need to look at three different policy proposals here.

17 **COMMISSIONER LEWIS:** So we hired an administrator, we hired a EM&V
18 contractor, and we have a proposal due to us on May 1 to look at these
19 administrative costs that we keep talking about, but we're not even going to go that
20 far. We're just going to end the program, say well, we're going to switch models
21 before we even see the data. Is that a fair assessment of what you think we're doing
22 here today?

1 **MS. BURKE:** That appears to be what is happening. I hope that is not what
2 happens.

3 **COMMISSIONER LEWIS:** Thank you.

4 **COMMISSIONER CAMPBELL:** You know, when we started this program --
5 not this particular program, when we had the commercial program, I'm proud to say
6 that our office did a good job, and I ask everybody to take bids. We bid out
7 everything. If it had to do with construction or lights or whatever, we used the top
8 three guys in town, whoever they were. And we followed through and we made
9 sure and it's worked perfectly. We have stopped a lot of problems, we've given
10 out lights for schools and things like that, and we go back and check it and we
11 hadn't seen any fraud that we heard about. But it's incumbent on the
12 Commissioners, if you give these jobs out or you give these projects out, you have
13 to check them and not just take people's word for it. You have to really check and
14 see is this thing producing. One thing, we had the HVAC system. We checked that
15 out and actually used more air conditioning after the guy done that -- did that, that
16 it was -- it was absolutely a failure. But anyway, I don't want to just -- there's so
17 many people in the state of Louisiana, we're the -- everybody uses this great
18 statistic, we're the poorest state in America. And it would be really ironic if you
19 took the poorest state in America and you cut out something to help them heat and
20 cool their homes. That's something I don't want to be a part of.

21 **CHAIRMAN FRANCIS:** Okay. Any other discussion for these two? [NONE
22 HEARD] And we have some other folks that have a card. Who's next?

1 **MS. BOWMAN:** So we have two individuals, but we also have a late entry of a
2 card for another -- for an actual utility. So I'm going to ask Mr. Kleehammer to
3 come up first and then we'll do the two individuals speaking on their own behalves
4 last.

5 **MR. MARK KLEEHAMMER:** Thank you. Mark Kleehammer on behalf of
6 Cleco Power. Just a couple comments. I wanted to comment on what Ms. Burke
7 mentioned, which was that you were halting a mature program before it was born.
8 When we have looked at the third-party administrator across the country, we have
9 found that the cost per kilowatt-hour savings on those third-party administrators are
10 significantly higher than the programs that are currently in place under the utility-
11 led programs in Louisiana. When you mentioned that you would be terminating
12 the third-party program, you mentioned that other options would be considered. I
13 would ask that you consider maintaining the utility-led programs. We have been
14 doing energy efficiency for 10 years. We've commented on this before that the
15 biggest misnomer about the utility-led Quick Start programs is that it's Quick Start.
16 We're in year 10 of these programs, and since we've started, for Cleco Power only,
17 our budget has increased by 119%, our kW savings have increased by 296%, our
18 kWh savings are up 146%. The benefits that we're showing through our TRC test,
19 or total resource cost test, have increased significantly. We're currently at 2.25, so
20 every dollar we spend has that much benefit. We've increased the number of
21 customers that we've touched and I think we've provided a very efficient program
22 for providing energy efficiency for our customers. Thank you.

1 **CHAIRMAN FRANCIS:** Commissioner Skrmetta, let me ask you one thing, right
2 ahead of -- jumped ahead of Commissioner Skrmetta. You had formerly worked at
3 Entergy, so you're familiar with two of the investor-owned and you're advocating
4 an in-house management from the IOUs. Why did -- why does Entergy outsource
5 theirs?

6 **MR. KLEEHAMMER:** I would have to let Entergy speak for that.

7 **CHAIRMAN FRANCIS:** Okay.

8 **MR. KLEEHAMMER:** Entergy always has. They had two separate
9 administrators.

10 **CHAIRMAN FRANCIS:** So we got Hammer and Hand back at the table. Okay.

11 **MR. KLEEHAMMER:** Cleco brought it in house a few years ago.

12 **CHAIRMAN FRANCIS:** We've seen you guys before.

13 **MR. KLEEHAMMER:** We thought that we could more specially tailor it to our
14 customers' needs.

15 **CHAIRMAN FRANCIS:** Okay. I got it. All right. Well, protect yourself there,
16 Larry.

17 **MR. LARRY HAND:** Good afternoon, Commissioners. Larry --

18 **VICE CHAIRMAN SKRMETTA:** Wait, hang on a minute.

19 **CHAIRMAN FRANCIS:** Okay. Yeah. I'm sorry.

20 **VICE CHAIRMAN SKRMETTA:** Hold on, hold on.

21 **CHAIRMAN FRANCIS:** So now it's turn for Skrmetta.

22 **VICE CHAIRMAN SKRMETTA:** It's just a quick question, and actually, since
23 it's you at the table, but this is for really all of the utilities who are going to

1 participate in this if they continue to participate in it. Also, if this moves on into
2 the co-ops, I think they should listen. But for the IOUs, what I'd like to know -- but
3 before we get to the meeting next month, and all three of you can come and talk to
4 me about it, and I think you should talk to all the Commissioners about it. I'd like
5 to know how many residential commercial meters are in your system and how many
6 residential and commercial customers with those meters participate in the program.
7 I'd like to know, you know, that factor I think is going to provide a lot of information
8 to the Commissioners about what this is. All right. And I think that, like I said,
9 you know, all issues, all comers are still on the table. This is effectively a notice to
10 cancel contracts of the third-party administrators. This is -- we still have the current
11 if you want to call it Quick Start, we still have that energy efficiency program going,
12 it is still going. There is nothing cancelled at this time. We are looking to how
13 we're going to deal with things in the future. So I don't think -- there shouldn't be
14 any disruption in the universe at this time, right? And we are going to have an
15 energy efficiency program, but we need to look at what we got to do, right? But I
16 would like that information before, and actually, it shouldn't take you that long. So
17 the sooner you get it to me, the better it would be. Thank you.

18 **MR. KLEEHAMMER:** And I can tell you, for Cleco Power, we have roughly
19 295,000 customers and we have about roughly 17,000 who participated in --

20 **VICE CHAIRMAN SKRMETTA:** What is that, again?

21 **MR. KLEEHAMMER:** Seventeen thousand out of 295.

22 **VICE CHAIRMAN SKRMETTA:** So give me a percentage on that. Come on,
23 you went to school.

1 **MR. KLEEHAMMER:** Oh, man. It's six.

2 **VICE CHAIRMAN SKRMETTA:** Six percent of your --

3 **MR. KLEEHAMMER:** Five percent.

4 **VICE CHAIRMAN SKRMETTA:** Well, 5% of your population of customers

5 participate in the energy efficiency program, right?

6 **MR. KLEEHAMMER:** Yeah.

7 **VICE CHAIRMAN SKRMETTA:** So 95% of your customers subsidize 5%?

8 Yeah. Okay. That's all I needed to know.

9 **CHAIRMAN FRANCIS:** Okay. Kathryn, just to make sure we're clear on this,

10 when we talked about -- and I'm glad that --

11 **COMMISSIONER CAMPBELL:** I got a question.

12 **CHAIRMAN FRANCIS:** -- Commissioner Skrmetta brought up the fact that it's

13 not ending today. I think this thing winds down through the end of the year; isn't

14 that true? What we have --

15 **MS. BOWMAN:** The current Quick Start programs --

16 **CHAIRMAN FRANCIS:** Right.

17 **MS. BOWMAN:** -- are through the end of 2024, yeah.

18 **CHAIRMAN FRANCIS:** Right. Okay.

19 **MS. BOWMAN:** 2025, excuse me.

20 **CHAIRMAN FRANCIS:** Just make sure, this is not a sudden stop, but it's a we're

21 working on it, so the question becomes operating cost. You do yours in house.

22 SWEPCO, if you're here, you want to talk about -- you have an in-house program,

23 too. Entergy outsources theirs and my whole focus here is what's the operating

1 cost for your energy efficiency program, okay? Real simple. I guess I'd call it a
2 redneck question, you know, I want answered, and we have to answer that. It's the
3 simple facts of dollars. Doesn't have anything to do with how many customers you
4 have. It's how many dollars we're going to spend, what does it cost to operate the
5 darn thing, so. Okay. Mr. Hand. All right.

6 **MR. HAND:** Good afternoon, Commissioner. Larry Hand on behalf of Entergy
7 Louisiana. A couple of things. One is on the decision to use a third-party
8 administrator, not statewide, but we use a third-party administrator and have for a
9 number of years. Cleco has decided to insource that with employees and they
10 developed a program and it's been running, getting more mature. It's just a
11 different way of doing it. We have -- I have one manager of energy efficiency. I
12 have one person whose job it is is to coordinate that. We rely on the outside
13 contractor. Aptim is who we use for our program. But when you look at the total
14 resource cost, the benefit of the measure, that includes both the incentive, the -- call
15 it a lightbulb, if you will, not the best example. But it also includes the time and
16 expense of the administrator to design and implement the programs. That total
17 resource cost tells you how beneficial it is or not. Comparable to Cleco, Entergy's,
18 you know, total resource ratio, the benefit is for every dollar spent, we have about
19 2.57 of benefit. That's for the Entergy Gulf State system. And likewise, for
20 Entergy Louisiana Legacy, we have 2.69 TRC ratio, for every dollar spent, there's
21 2.69 of benefit on the program. So clearly, they can be beneficial and we think,
22 you know, utility-led can be a very good complement to reach more customers.
23 From our perspective, we have about 1.1 million customers across the state between

1 the two companies. The number of -- that pay into the system. The number of
2 customers who have accessed the energy efficiency measures over the years ebbs
3 and flows a little bit, but it's been between 40,000 and 80,000 customers, so 4 to
4 8% depending on --

5 **VICE CHAIRMAN SKRMETTA:** Four to eight percent depending?

6 **MR. HAND:** Yeah, roughly, so.

7 **VICE CHAIRMAN SKRMETTA:** So 90% of the population --

8 **MR. HAND:** And I get there's --

9 **VICE CHAIRMAN SKRMETTA:** -- subsidizes 10%?

10 **MR. HAND:** But there's two primary benefits in my opinion from a lot of these
11 energy efficiency measures. The first one is obviously the recipient, the customer
12 who accesses an A/C tune up, they will have a lower electric usage, getting a direct
13 benefit. But where all 1.1 million customers of ours benefit is the avoided fuel to
14 generate that next kilowatt-hour. And that -- roughly for us, it's about 1.1 cents per
15 kilowatt-hour on a life cycle of some of these measures, so it is a valuable resource
16 I think from a fuel perspective benefiting all customers. But I understand the point
17 that the direct beneficiaries who access the measures, it's a small population of our
18 customer base.

19 **VICE CHAIRMAN SKRMETTA:** Do you allocate the value proposition back
20 to every customer on the fuel savings?

21 **MR. HAND:** In terms of how much of that fuel saving is realized per customer?

22 **VICE CHAIRMAN SKRMETTA:** Yeah.

23 **MR. HAND:** I cannot do that math in my head, but it is calculable.

1 **VICE CHAIRMAN SKRMETTA:** I've heard different. Well, you can figure it
2 out.

3 **MS. BOWMAN:** Commissioner.

4 **VICE CHAIRMAN SKRMETTA:** Call me another day.

5 **CHAIRMAN FRANCIS:** Well, you know, about a year ago, we hired Chris Justin
6 to help the Staff and work with all the Commissioners to crunch the numbers on
7 operating costs and just cut through -- drill down to the bottom line. And that's
8 where we, my Staff and Chris, a lot of hard work over the last year. The operating
9 cost was somewhere between 20 and almost 40% of the budget for -- to administer
10 the program, and that's on the private entity. But on the public entity side, we'd
11 show -- we all take care of each Commissioner, our operating cost is like 1% of the
12 money that we're allocated to spend on management. In other words -- and, I mean,
13 it's not going to be a perfect 1, it could be 2%, but I say 98% of the money is going
14 directly to reduce electricity cost and develop energy efficiency. And when you
15 look at the staggering numbers that you've been spending on staff to administer this
16 program, we got to -- we need to take another look at it. And that's why I'm
17 suggesting today that the goal is can you match that 1 or 2% that the public entity
18 is doing and do you understand who the public is being served? We're talking
19 about schools, we're talking about hospitals, we're talking about the courthouse
20 crowd, the police jury barns, all those things. They serve everyone of the
21 community, everyone is served by these services, so we're not leaving out anyone
22 in these services. And I think I'm going to challenge all the IOUs that are operating

1 their systems, you got to cut some costs, you got to get in line here and figure out
2 how can you do that.

3 **COMMISSIONER LEWIS:** Can I ask some questions?

4 **CHAIRMAN FRANCIS:** Commissioner Lewis.

5 **COMMISSIONER LEWIS:** Thank you. Thank you, Mr. Chairman. And I'm
6 going to come to some other questions, but I'm going to start on the point where the
7 Chairman just left off about this 1 to 2%. As you're understanding, that's for the
8 engineer to assist each District office; is that correct?

9 **VICE CHAIRMAN SKRMETTA:** Yeah.

10 **COMMISSIONER LEWIS:** But when we look into each application as your --
11 as Heather, I only work with Heather. Sorry, Mark, because I only have Entergy
12 territory. In the public entities program, I went through each application under and
13 when you dig into the contract agreements, which are the projects, the actual
14 administrative cost went up to 35% because they built in the administrative cost for
15 management of those projects within those contracts. And, Mr. Hand, correct me
16 if I'm wrong, Ms. LeBlanc reviews those and looks at those and have made
17 questions to our Staff and to us about some costs that she felt were not going directly
18 to people. Is that your impression of some of her discussions with us?

19 **MR. HAND:** That is part of her review process, but ultimately it is a, you know,
20 Commission-led program, so if she raises those questions, but when we get the
21 approval from the district office and also from the Executive Secretary, that is our
22 -- triggers our obligation to pay.

1 **COMMISSIONER LEWIS:** Right. So, I mean, I think we have to distinguish
2 between what actually is administrative cost because I think everybody is operating
3 on different definitions. If you have an engineer and you're saying 1 to 2%, but
4 true administrative cost would include Ms. LeBlanc's review, it would include Ms.
5 Bowman's review, it would include Mr. Mark's review, it would include our Staff
6 review. And so I think we have to be very honest with ourselves here to just pull
7 out one figure and say, okay, we're going to wave the flag of 1 to 2% and disregard
8 that even in these individual contracts -- in these individual contracts if we go back,
9 they are not all directly going towards benefits. They are going towards
10 management of the projects from the contractors, which have been questioned. Me
11 and Ms. LeBlanc have gone through that and so I want us to be very clear on the
12 record that this is -- public entities is not a 1 to 2% administrative cost. That is a
13 portion of administrative cost because we have not calculated in that 1 to 2% all the
14 Staff time of Mr. Marks, who works for the Commission, what his salary is, so we
15 need to include that figure. We have to include the figure of the staff time of all
16 those contractors because they are administrating the program. And so I think
17 we're going to have to set some definitions here because I believe we are fudging
18 the record in a way that doesn't show. Now, while everyone has an opportunity to
19 enter into a public building, I want to contradict this point that well, all your
20 customers are paying. Well, all the customers are paying for public buildings they
21 may not attend or they may not even live in that jurisdiction. And when we get to
22 why people haven't participated in the program, I think this goes back to the reason
23 why a statewide program makes sense because people then can talk to their

1 neighbors, they can talk to their friends. If they live in Shreveport or if they live in
2 Lake Charles, they can have the same program and not have to go through minutia.
3 If you're a contractor, you have one system. And so I think we have to really
4 redefine this debate and be true and make sure we're all working on the same
5 definitions because that is -- but the last question I have for you both, under this
6 directive, is it not -- it's my impression that the utility-led program also does not
7 exist. Is that your appreciation of the language that was read?

8 **MR. KLEEHAMMER:** I don't know. It said consider other options and what we
9 would ask is that one of the options to be considered is maintaining the utility-led
10 program because, again, we voluntarily have participated in energy efficiency for
11 10 years and we think by all metrics that are used, you know, throughout the
12 country, whether it's the TRC test Mr. Hand mentioned, whether it's the cost per
13 kilowatt-hour, or kilowatt savings, we think we've provided significant value to our
14 customers and we'd like to be able to maintain those programs without interruption.

15 **COMMISSIONER LEWIS:** Do you -- and the question for both of you. In the
16 current creation of the public entities program, is this something that your company
17 supports? If you had your way with public entities as it exists right now and that's
18 the rule we adopted, would that be a program that Cleco would say we think is a
19 great energy efficiency program?

20 **MR. KLEEHAMMER:** I think we have a great utility-led program.

21 **COMMISSIONER LEWIS:** That's not the question I asked, Mr. Kleehammer.
22 The public entities program --

1 **MR. KLEEHAMMER:** I'm not going to opine on the public entity program vis-
2 à-vis any other.

3 **COMMISSIONER LEWIS:** I'm asking about the public entities program. Is that,
4 as a utility, a energy efficiency program that you would support and recommend
5 nationwide?

6 **MR. KLEEHAMMER:** I think you'd have to look at various metrics and see how
7 it compares.

8 **COMMISSIONER LEWIS:** Ours, I mean, you've been participating in it in 10
9 years, right now. Do you like it?

10 **COMMISSIONER COUSSAN:** He's asked the question, he's already answered
11 it. Can we move on?

12 **CHAIRMAN FRANCIS:** Okay. I appreciate that.

13 **COMMISSIONER COUSSAN:** I'm sorry, but go ahead.

14 **CHAIRMAN FRANCIS:** All right.

15 **COMMISSIONER LEWIS:** I know, I mean, we've debated a lot of this stuff.
16 This is an important issue to me and I understand the night is late, but this is what
17 we get when we add an agenda item 48 hours before that is extremely important.
18 So, I mean, if that's the way we're going to start doing business around here, it's
19 going to be a different game because I have issues just like everyone else has issues
20 and I'm not going to be disrespected because I have questions.

21 **CHAIRMAN FRANCIS:** Okay.

22 **VICE CHAIRMAN SKRMETTA:** We've heard the same questions three times
23 from Mr. Kleehammer.

1 **CHAIRMAN FRANCIS:** Ms. Bowman, do we have more cards?

2 **COMMISSIONER LEWIS:** You talk all the time, Commissioner Skrmetta, so

3 let's not start that.

4 **VICE CHAIRMAN SKRMETTA:** I'm not talking to you, I'm talking to

5 Kleehammer. It's been repetitive.

6 **CHAIRMAN FRANCIS:** You guys are dismissed, we're through with you. Call

7 up the next -- the other two.

8 **VICE CHAIRMAN SKRMETTA:** Well, actually, [CROSSTALK].

9 **MR. KLEEHAMMER:** Thank you for your consideration.

10 **MS. BOWMAN:** Yeah. So we have Mr. Hiatt, I believe is how you pronounce

11 the last name, if you would come up.

12 **CHAIRMAN FRANCIS:** All right.

13 **MS. BOWMAN:** And, Ms. Francis, if you would, you can come as well. Mr.

14 Hiatt can start, if he's still here. Yeah.

15 **VICE CHAIRMAN SKRMETTA:** Mr. Hiatt first?

16 **CHAIRMAN FRANCIS:** Yeah.

17 **VICE CHAIRMAN SKRMETTA:** Yeah. There you go.

18 **MR. JAMES HIATT:** Thank y'all so much for the opportunity to drive up from

19 Lake Charles. My name is James Hiatt and I live in Lake Charles. I'm in your

20 district, I am a ratepayer, and I appreciate the opportunity. My grandfather actually

21 retired just up the road. He's buried with my grandmother in Aimwell Baptist

22 Church. He retired from a pipeline company, my dad retired from a refinery, I

23 worked for 10 years at a refinery. The reason I'm saying all of this is because we

1 know what has happened in this state and under regulatory -- the apparatus that is
2 supposed to regulate industry sometimes has their finger on the scale. And
3 unfortunately, I came up here last year at the same time because an agenda item
4 was added on a Monday to allow for a \$4.9 billion in grid hardening of some
5 Entergy project was added on a Monday, voted on a Wednesday, and went into
6 effect Friday. The same situation is happening today. Mr. Francis, you said that
7 for over a year now that your office has been looking into this. Why did you add it
8 to the agenda on Monday and why can you -- I just watched you defer four hours
9 of other things that were very complex. This is not as complex. Why can we not
10 defer this, the entire thing? Don't vote to end the program that you barely got
11 started, you know, that's -- my point is, and please don't take this disrespectfully, I
12 think that the only way, I mean, I don't know how many other just people are in
13 this room that aren't suits. But the role of the Public Service Commission is to look
14 out for the public interest and the public service and the guarantee -- to guarantee
15 that we have the utilities we need, the power we need, all of that, and in a fair and
16 equitable way. And this, the process, let alone not getting into the weeds about the
17 energy efficiency, who pays more and whatever, I don't think doing it on a -- adding
18 it to an agenda on a Monday -- I was going to down to Cameron today. I was going
19 to go down to Cameron with the oyster and do some fishing and then I saw this and
20 I -- I just cannot believe that you would want to do this in some kind of backwoods,
21 backroom deal. The good ol' boys' system is not the one that we want to have
22 operate. We want people to be informed, we want the public to know exactly --
23 people don't know what the PSC is anyway, right? And without going on and on

1 because it's been a long day already, I just ask you to defer, don't vote on this at
2 all, don't vote to end the thing you barely got started. Wait until you got more
3 people, more public participation, more understanding of exactly what's going on
4 and so it doesn't look like a Monday -- what happened last year where Entergy got
5 a -- who's arguing against grid hardening anyway? And stop it there.

6 **CHAIRMAN FRANCIS:** We'll take your suggestion under consideration. Thank
7 you.

8 **MR. HIATT:** Okay. Thank you.

9 **CHAIRMAN FRANCIS:** You know, I was elected to this office eight years ago
10 and I was just became knowledgeable about the energy efficiency program and I
11 was particularly interested in the public entity program and found out about a job
12 that had been awarded to a hospital in LaSalle parish. And so I didn't have anything
13 to do with about giving out the business or anything else, but it was a chance to
14 learn. So my Staff and I went up to the hospital to see what kind of a job they had
15 done and what they thought about the process. And I was able to get the CEO to
16 come and give us a brief description of what kind of impact did this hospital get
17 because of this energy efficiency program. And would you kind of give us a
18 background on what happened?

19 **MS. LANA FRANCIS:** I surely will.

20 **CHAIRMAN FRANCIS:** All right.

21 **MS. FRANCIS:** My name is Lana Francis and -- no relation.

22 **VICE CHAIRMAN SKRMETTA:** What?

1 **MS. FRANCIS:** There's a lot of Francises in LaSalle Parish. And I am the CEO.
2 I've been at the hospital nearly 45 years, so I feel like I've grown up there. And so
3 our hospital was built in 1969. We opened '69-'70, we opened in October of 1970.
4 And so our equipment is getting a little on the aging side to say the least, and we
5 had a problem with one of our main air handlers. And, you know, in Louisiana, air
6 handlers are way at the top of the list for air conditioning, well, heat too sometimes,
7 especially when you have patients involved. Our hospital is a 46-bed hospital, we
8 have a psych unit, and we are also attached to a 100-bed nursing home. So we
9 provide healthcare for our community and the surrounding parishes, like Catahoula
10 that doesn't have a hospital. So our air handler had issues and we got a price to get
11 it worked on, not replaced, and this is back in '17, 2017. And it was \$256,000 and
12 we just didn't have that much money. Lot of rural hospitals like ours operate on a
13 very, very tight budget. So we were just in a state, we didn't know what we were
14 going to do. And one of the contractors that had bid on the job asked if we had
15 every heard of a performance-based guarantee energy savings contract. Well, we
16 hadn't. So what happens is an energy savings company, or they call it an ESCO,
17 comes in and does an energy assessment to see where you might have possibilities
18 of saving energy. And they found out that we were paying on our utility spend was
19 about \$5.33 per square foot and it should've been about \$2.50 to \$3 per square foot.
20 So they recommended these changes for us to do and how the energy savings
21 program works is almost a no-brainer. They come in and tell you where you can
22 save and then you make a loan to buy whatever equipment that you need to, you
23 know, correct the problems. And then, you know, they give you an estimated

1 savings from that, that pays the note on your -- you know, the energy savings, you
2 pay the note. And if it doesn't pay the note, they guarantee they'll make up the
3 difference. So it was a win-win for us. We had to have the equipment, we can't go
4 without an HVAC. Plus, we had -- we did LED lighting all over the campus, we
5 did water management, we did that huge HVAC and then another one, and then we
6 did steam to hot water conversion on our boilers, which the boilers were original.
7 They were the old Cleaver-Brooks boilers. It was steam everywhere that they were
8 -- it was escaping. Very, very inefficient. To the point that the first month we were
9 on the program, the town who we buy gas from called to find out what was wrong
10 because our bill was so low that they must have read the thing wrong. So that's
11 how much we saved on that. We also did some meter consolidation and we also
12 did some patient room individual units, so you could control the temperatures per
13 room, and it ended up being a \$2.6 million project. So we've been on it for five
14 years now and we -- well, nearly six. We'll get another report in June. And they
15 have exceeded the energy savings by 25% the whole time. It's just been excellent.
16 We would not be open today if not for that and that is the honest truth. And the
17 Public Service Commission, actually we got a grant from y'all and we can't tell you
18 how much we appreciate it. You know, we're a large employer in the parish. The
19 hospital employs about 275 and the nursing home about 100. That's a lot of
20 families, that's a lot of kids in school, that's a lot of businesses. And, you know,
21 the hospital is just essential for the community. You know, when you don't have a
22 hospital, it doesn't take long for it to go down, your parish, because industry leaves
23 you. They won't come there, there's nowhere to take care of their injured people.

1 The school systems go down. It just, you know -- it just decimates your parish
2 when you don't have a healthcare center. So I can't say enough good about the
3 energy savings thing. It has just been a lifesaver for us.

4 **CHAIRMAN FRANCIS:** Is your service to all the public?

5 **MS. FRANCIS:** Oh, yes. Yes, because we're a hospital service district, so we are
6 --

7 **CHAIRMAN FRANCIS:** And how many employees are involved with your
8 operation?

9 **MS. FRANCIS:** Well, about 275 at the hospital and about 100 at the nursing home.

10 **CHAIRMAN FRANCIS:** Would you say that the Public Service Commission
11 public entity savings was worthwhile?

12 **MS. FRANCIS:** Oh, yes, definitely, definitely. We worked with Siemens. Now,
13 there's other companies that do it, but they were the ones that did ours and it was
14 turnkey. We didn't do anything. They came in, they arranged all the installation
15 and all that. And we worried about the nursing home, that our little residents
16 wouldn't be too excited about people coming in their rooms. They were thrilled to
17 death, made new buddies, and had somebody new to visit with them and go get
18 them coffee. So that went really well and it wasn't any trouble. The hospital
19 operations really weren't interrupted, but they did an excellent job. They had a man
20 onsite, you know, every day they worked and we knew exactly what they were
21 fixing to do next, what it would, you know, entail, what would be shut down, what
22 would be brought up. They worked, like, off -- at night to keep, you know, from
23 interrupting so much.

1 **CHAIRMAN FRANCIS:** Right.

2 **MS. FRANCIS:** I just couldn't say enough good about them and I've told many
3 other hospitals that I've spoke to. One as far Illinois that went with a program after
4 they talked to us. It was just exceptional and without y'all's help in it, you know,
5 we got to do more because y'all helped us.

6 **CHAIRMAN FRANCIS:** Okay. Good.

7 **MS. FRANCIS:** And it was great.

8 **CHAIRMAN FRANCIS:** Well, that's one way to share the word that we're there
9 to help people.

10 **MS. FRANCIS:** Yes.

11 **CHAIRMAN FRANCIS:** If they'll just let us know, we can come and investigate.
12 So any of the Commissioners have any questions for the lady?

13 **COMMISSIONER CAMPBELL:** I had the same experience. I really worked
14 with Brian up there and we've pretty much gave out all the money we've had. We
15 bid it out, gave it to public entities --

16 **MS. FRANCIS:** Yes, yes.

17 **COMMISSIONER CAMPBELL:** -- and high schools, elementary schools, you
18 name it.

19 **MS. FRANCIS:** It's been exceptional.

20 **COMMISSIONER CAMPBELL:** But the secret is checking on once you've let
21 somebody have the grant, make sure you have somebody going by there and
22 checking, making sure it's working.

23 **MS. FRANCIS:** Yes, it is.

1 **COMMISSIONER CAMPBELL:** Because a lot of people say, oh, it works great,
2 but you need to say, well, show me how it's working great.

3 **MS. FRANCIS:** Yeah. They sent us a report. I've got one if y'all want it, and
4 we're fixing to get another one because this one's June of last year, so we'll get
5 one, you know, June of '25. But it's just graph after graph and numbers. And, you
6 know, we supply the energy bills to them every month, so they can keep up with
7 all that. So y'all are welcome to this if you want it.

8 **COMMISSIONER LEWIS:** Thank you.

9 **COMMISSIONER CAMPBELL:** Mike, let me make a suggestion.

10 **CHAIRMAN FRANCIS:** All right. We got a --

11 **COMMISSIONER CAMPBELL:** If we could put off the private part until next
12 week -- the next month.

13 **CHAIRMAN FRANCIS:** Okay.

14 **COMMISSIONER CAMPBELL:** I don't feel comfortable cutting out consumers
15 -- private consumers and giving money to businesses, but there's got to be a way
16 that we can modify this in a way.

17 **CHAIRMAN FRANCIS:** Well, my suggestion -- and I'm hearing your
18 consideration of that. This is not private, this is public entity.

19 **MS. FRANCIS:** Public.

20 **CHAIRMAN FRANCIS:** My whole argument here is services that help the
21 public, schools, hospitals, the courthouse, law enforcement, everyone uses these
22 facilities. A hundred percent of the public is getting a value from public entities.
23 The operating cost is 1 to 2%. The program -- the other program that I have a

1 complaint against is we got 20 to 30% operating cost. That's money that ought to
2 be going to lower the electric bill and is not. Something's got to change and that's
3 going to be my vote and I'll be glad to put it off. It won't be executed --

4 **VICE CHAIRMAN SKRMETTA:** Well, what I'd like to do, Commissioners, I'd
5 like to have the vote to at least we can set the timeframe on the cancellation of the
6 third-party administrator contract, but in the meantime --

7 **CHAIRMAN FRANCIS:** Yes.

8 **VICE CHAIRMAN SKRMETTA:** -- over the month, we can work towards
9 whatever modifications of what we'd like to accomplish as far as the final
10 suggestion. We still have the current energy efficiency program is going to last
11 through the end of the year, so we've got time for modifying this. So I'd like to go
12 ahead and call for a roll call vote.

13 **CHAIRMAN FRANCIS:** I would agree with that.

14 **COMMISSIONER LEWIS:** I'm confused what the vote is.

15 **COMMISSIONER COUSSAN:** That's a substitute motion for a revision of the
16 program to -- why don't you do it as a substitute motion?

17 **VICE CHAIRMAN SKRMETTA:** Well, I don't want to do a substitute. I think
18 --

19 **COMMISSIONER COUSSAN:** Well, he has a motion pending.

20 **VICE CHAIRMAN SKRMETTA:** Well, he can modify it as we go down the --

21 **COMMISSIONER COUSSAN:** I think the wording is a little confusing.

22 **VICE CHAIRMAN SKRMETTA:** Well, I want to go ahead and vote on this and
23 that as we get towards the -- just to -- what all this is doing is it's setting the

1 cancellation period for the third-party administrator of the new form of energy
2 efficiency. We still have the current program through the end of the year, and if we
3 have to modify this, we can modify it later, even if we have to go further than the
4 May meeting.

5 **CHAIRMAN FRANCIS:** Well, it's my motion, I'd like to have some counsel
6 from Colby and Ms. Bowman.

7 **VICE CHAIRMAN SKRMETTA:** You might want to ask Brandon.

8 **CHAIRMAN FRANCIS:** Well, we can -- okay. We got a -- y'all have a three-
9 way. Have a three-way over there. If you could clean this up where everybody
10 understands it and still satisfy Commissioner Skrmetta.

11 **VICE CHAIRMAN SKRMETTA:** Because my concerns are to begin the clock
12 on the cancellation of the contract and still have the flexibility for Commissioner
13 Francis on where we are. But also to be able to modify if we need to meet the
14 concerns of Commissioner Campbell and, you know, if we want to modify the
15 elements of this motion as we move forward to May.

16 **SECRETARY FREY:** So I guess the question I have for clarification in looking
17 at the motion is when you say start the clock on the cancellation --

18 **VICE CHAIRMAN SKRMETTA:** Well, the issue is -- well, let me put it this
19 way. If the issue on this motion is to establish the notification to cancel the contract,
20 right? Which is my understanding of the purpose of this.

21 **SECRETARY FREY:** That's right. That's the way it reads. So it says --

22 **VICE CHAIRMAN SKRMETTA:** Okay. So if you want -- and what
23 Commissioner Coussan is saying is that if he wants me to make a substitute motion,

1 is to restate the entirety of this motion, but also maintain the flexibility of modifying
2 the potential changes necessary to this, you know, as we move forward. I mean, do
3 we want to do it that way or does this allow itself to be sufficient in its current form
4 to where if Commissioner Francis wants to modify as we move forward with the
5 plan?

6 **SECRETARY FREY:** So I think -- I'll take a shot at this.

7 **VICE CHAIRMAN SKRMETTA:** Go ahead.

8 **SECRETARY FREY:** I think what you're saying addresses the second part of the
9 motion.

10 **VICE CHAIRMAN SKRMETTA:** Right.

11 **SECRETARY FREY:** So there's essentially two parts. There's one that says
12 written termination of its retention of Aptim and Tetra Tech, so that's I don't -- I
13 think, it's starting the clock. It's saying right now, we're terminating it.

14 **VICE CHAIRMAN SKRMETTA:** Okay.

15 **SECRETARY FREY:** The second part is to publish this set of rules pertaining
16 solely to the public entity. I think we're saying and other options is what I'm
17 hearing, modifying that second part.

18 **VICE CHAIRMAN SKRMETTA:** Right. Is there -- if we put and other options,
19 does that allow for the flexibility?

20 **MS. BOWMAN:** Well, I think my next question is what other options does the
21 Commission want on the table to consider and --

1 **VICE CHAIRMAN SKRMETTA:** Well, I'm saying does other options provide
2 the flexibility for discussion during the next month? I mean, other options is pretty
3 broad.

4 **MS. BOWMAN:** Correct. But other options could include --

5 **VICE CHAIRMAN SKRMETTA:** It could include maintaining the system as it
6 is, it could include under the -- like the Quick Start program as it is, it could include
7 --

8 **MS. BOWMAN:** So utility-led?

9 **VICE CHAIRMAN SKRMETTA:** It could include utility-led. It includes the
10 flexibility to consider the other options, right?

11 **MS. BOWMAN:** But is a state -- is a third-party administrator option now off the
12 -- I guess, that's my question because there's --

13 **VICE CHAIRMAN SKRMETTA:** Well -- but, I mean --

14 **MS. BOWMAN:** -- there's multiple options of how to do energy efficiency.

15 **VICE CHAIRMAN SKRMETTA:** Right.

16 **MS. BOWMAN:** So I'm trying to figure out are all options on the table for May
17 or is it just --

18 **VICE CHAIRMAN SKRMETTA:** Well, let me put it this way. It sounds to me
19 like the motion as it is satisfies all my concerns. I think it does because it considers
20 other options, right?

21 **MS. BOWMAN:** So all options including a TPA option is on the table for May?

22 **VICE CHAIRMAN SKRMETTA:** It would have to be starting new because we
23 would -- if we're going to cancel the contract now. We're putting the timeframe

1 on it. Not to consider a third-party -- I mean, if they want it, it'd have to start over
2 because we're going to cancel the time -- we're exercising the cancellation clause
3 now, notification, right?

4 **SECRETARY FREY:** That's the way it reads now.

5 **VICE CHAIRMAN SKRMETTA:** Okay. Well, I don't want to change it.

6 **SECRETARY FREY:** Okay.

7 **MS. BOWMAN:** So then the option --

8 **VICE CHAIRMAN SKRMETTA:** But what I'm saying is the second option ---
9 the second element of the motion when it would list for other options leaves the
10 flexibility of us to determine what other options there are if any.

11 **COMMISSIONER CAMPBELL:** You going to leave it like is now on one side?

12 **VICE CHAIRMAN SKRMETTA:** No.

13 **COMMISSIONER CAMPBELL:** And then look at --

14 **VICE CHAIRMAN SKRMETTA:** Well, he's got other options, that's what it
15 says.

16 **SECRETARY FREY:** Yeah. So --

17 **MS. BOWMAN:** So I guess, here's -- what we discussed last month and what we
18 were moving towards, which I know is now being opened for discussion and
19 different, was to look at all options. The original motion that I read into the record
20 was to no longer look at a statewide third-party administrator option.

21 **VICE CHAIRMAN SKRMETTA:** Right.

22 **MS. BOWMAN:** But then you said you want to keep all options on the table, so I
23 just -- that's what I'm --

1 **VICE CHAIRMAN SKRMETTA:** Well, what is the -- what is the -- restate the
2 motion.

3 **MS. BOWMAN:** So the motion is that the Commission cease working towards a
4 statewide energy efficiency program including providing written termination of its
5 retention of Aptim and Tetra Tech. So that's --

6 **VICE CHAIRMAN SKRMETTA:** Okay. What's the rest of it?

7 **MS. BOWMAN:** The rest is a direction to Staff to publish a set of energy
8 efficiency rules that pertain solely to a public entity program.

9 **COMMISSIONER CAMPBELL:** Are you cutting out public entities?

10 **MS. BOWMAN:** No.

11 **VICE CHAIRMAN SKRMETTA:** No, no, no. She's actually stating that
12 moving towards a sole public entity program.

13 **COMMISSIONER CAMPBELL:** Let me ask you something. Why don't we
14 just put this off until next month and everybody come back with what they think is
15 right and let us look at it. This is a gobbly goop --

16 **VICE CHAIRMAN SKRMETTA:** No.

17 **COMMISSIONER CAMPBELL:** You don't know what you're doing.

18 **VICE CHAIRMAN SKRMETTA:** Well, hang on a second.

19 **COMMISSIONER LEWIS:** Yeah. Come on, let's just put it off.

20 **VICE CHAIRMAN SKRMETTA:** Let me ask you a question. What if we take
21 the first half of it to set the clock and then move to the second part next month?

22 **CHAIRMAN FRANCIS:** That's what you're asking, but you're going to have to
23 have two different [CROSSTALK].

1 **MS. BOWMAN:** I'm sorry, I didn't fully hear.

2 **VICE CHAIRMAN SKRMETTA:** Well, can we do this in the form of two votes?

3 **MS. BOWMAN:** Well, one is a directive.

4 **VICE CHAIRMAN SKRMETTA:** Just split the motion.

5 **COMMISSIONER COUSSAN:** You just have to make a substitute motion.

6 **VICE CHAIRMAN SKRMETTA:** No. I'll make a -- no, that's what I'm saying

7 is I'll offer a substitute motion --

8 **MS. BOWMAN:** Okay.

9 **VICE CHAIRMAN SKRMETTA:** -- to split those two paragraphs, okay? So

10 read one for me in the form -- the first motion. So substitute motion is to terminate

11 -- go ahead, the first one.

12 **MS. BOWMAN:** Well, so Colby is indicating, and I believe he's right, you don't

13 need a substitute motion. It's really just breaking up the motion and the directive.

14 So the motion on the table --

15 **VICE CHAIRMAN SKRMETTA:** Okay. What's the motion and what's the

16 directive?

17 **MS. BOWMAN:** So the motion on the table is that the Commission cease working

18 towards a statewide energy efficiency program including providing written

19 termination of its retention of Aptim and Tetra Tech. That is the motion.

20 **VICE CHAIRMAN SKRMETTA:** Okay. That's the motion. Okay. I think

21 that's where the confusion is and I'm going to move to approve that motion.

22 **SECRETARY FREY:** Wait, or second the motion.

23 **MS. BOWMAN:** Well, it was already a -- it was a motion.

1 **VICE CHAIRMAN SKRMETTA:** Well, I mean, I know, but if that's the motion.

2 **SECRETARY FREY:** Okay.

3 **MS. BOWMAN:** Yes.

4 **VICE CHAIRMAN SKRMETTA:** We were confused that it was all -- what you

5 also kept reading was part of the motion. Okay. So I want to make sure that we're

6 -- that's the motion?

7 **MS. BOWMAN:** That is the motion that's on the table by the Chair.

8 **VICE CHAIRMAN SKRMETTA:** Okay. Okay. Then the answer is I would

9 like to move to approve that motion.

10 **COMMISSIONER CAMPBELL:** I object.

11 **MS. BOWMAN:** Okay. There was already a motion on the table.

12 **VICE CHAIRMAN SKRMETTA:** Well, okay. But the problem is I think when

13 you read it out, it sounded like the rest of it was part of the original motion.

14 **SECRETARY FREY:** I think it was --

15 **MS. BOWMAN:** It was.

16 **SECRETARY FREY:** -- as a directive as part of the motion. So I would suggest

17 Commissioner Francis withdraws his motion as read, you make the motion you just

18 made, and then we go forward from there.

19 **VICE CHAIRMAN SKRMETTA:** It's up to Commissioner Francis if he wants

20 to do it.

21 **CHAIRMAN FRANCIS:** I will.

22 **SECRETARY FREY:** Okay.

23 **CHAIRMAN FRANCIS:** That's sounds good to me. I'll withdraw.

1 **VICE CHAIRMAN SKRMETTA:** Okay.

2 **CHAIRMAN FRANCIS:** And so let me -- I withdraw. Let me make sure I
3 understand before I agree to withdraw. What am I withdrawing to? What's the
4 option?

5 **COMMISSIONER COUSSAN:** Look, let me show you.

6 **MS. BOWMAN:** So you would be withdrawing everything I read which included
7 --

8 **VICE CHAIRMAN SKRMETTA:** The directive.

9 **MS. BOWMAN:** -- the motion and the directive. So you would be withdrawing
10 that.

11 **VICE CHAIRMAN SKRMETTA:** But you could restate the directive after.

12 **MS. BOWMAN:** And Commissioner Skrmetta would be offering up a motion
13 that's solely to cease the statewide program at this time and then we will discuss
14 your directive part in a minute.

15 **SECRETARY FREY:** Well, not to -- but just to be clear, not to cease --

16 **VICE CHAIRMAN SKRMETTA:** And then we'd do the directive as a separate
17 thing.

18 **SECRETARY FREY:** Okay. Yeah. You're right.

19 **VICE CHAIRMAN SKRMETTA:** Right. And we'd still have a directive after
20 that?

21 **MS. BOWMAN:** Yes.

22 **VICE CHAIRMAN SKRMETTA:** Correct. And then we can still have the
23 directive to move forward?

1 **MS. BOWMAN:** Yes.

2 **VICE CHAIRMAN SKRMETTA:** Even if we have to have a vote on it, right?

3 **MS. BOWMAN:** Well, assuming -- depends on if there's opposition and --

4 **VICE CHAIRMAN SKRMETTA:** Right. But I'm saying -- I get it.

5 **MS. BOWMAN:** Yeah.

6 **VICE CHAIRMAN SKRMETTA:** Okay. So I would, if he -- if Commissioner

7 --

8 **CHAIRMAN FRANCIS:** All right. In order for me to withdraw, let me

9 understand, the voting public, all those public that's interested in this was still aware

10 of what's at hand, and at the next meeting we're going to bring this to a close,

11 correct?

12 **VICE CHAIRMAN SKRMETTA:** Yes.

13 **CHAIRMAN FRANCIS:** Okay. We're going to vote to --

14 **COMMISSIONER LEWIS:** No.

15 **CHAIRMAN FRANCIS:** -- see if we can --

16 **MS. BOWMAN:** No.

17 **VICE CHAIRMAN SKRMETTA:** It still starts the clock

18 **COMMISSIONER LEWIS:** [CROSSTALK] said no.

19 **VICE CHAIRMAN SKRMETTA:** It's still the same.

20 **COMMISSIONER LEWIS:** No, it just ends the statewide contract.

21 **MS. BOWMAN:** It's not.

22 **SECRETARY FREY:** It ends the statewide contract.

23 **MS. BOWMAN:** Yeah.

1 **VICE CHAIRMAN SKRMETTA:** [CROSSTALK] they won a contract.

2 **MS. BOWMAN:** If you guys have a motion that we just discussed --

3 **VICE CHAIRMAN SKRMETTA:** Right.

4 **MS. BOWMAN:** -- and a second and that passes --

5 **VICE CHAIRMAN SKRMETTA:** Right.

6 **MS. BOWMAN:** -- that will stop work on the third-party administrator statewide

7 program.

8 **VICE CHAIRMAN SKRMETTA:** Right.

9 **COMMISSIONER LEWIS:** But would it change the fundamental general order?

10 So the -- the way I'm understanding this is that it would just stop Aptim and Tetra

11 Tech's contract, but would it also fundamentally stop the order of a third-party

12 program?

13 **MS. BOWMAN:** I read it as stopping the order because --

14 **VICE CHAIRMAN SKRMETTA:** Yeah. Yes.

15 **COMMISSIONER LEWIS:** Okay. That's what I wanted -- that's what I wanted

16 to be clear. That's not where the conversation was going.

17 **VICE CHAIRMAN SKRMETTA:** Yeah. It maintains Quick Start, but it stops

18 everything --

19 **COMMISSIONER LEWIS:** Well, Quick Start's [INAUDIBLE] until '26

20 anyway.

21 **VICE CHAIRMAN SKRMETTA:** Right. Exactly. So it maintains Quick Start,

22 stops everything else.

23 **CHAIRMAN FRANCIS:** Okay.

1 **MS. BOWMAN:** So technically, the order that Commissioner Lewis is asking that
2 everything is stopping includes Quick Start going through 2026.

3 **COMMISSIONER LEWIS:** That's what I'm saying. [CROSSTALK] confusing
4 here.

5 **MS. BOWMAN:** So that would need to be a clarification.

6 **COMMISSIONER LEWIS:** We would stop everything because the general order
7 included [CROSSTALK] until January 1, 2026.

8 **VICE CHAIRMAN SKRMETTA:** Well, then let's clarify this now. Well, let's
9 clarify it now.

10 **COMMISSIONER LEWIS:** Well, let's just postpone it so everybody can
11 participate.

12 **VICE CHAIRMAN SKRMETTA:** Hang on. No. Hang on a second. Let's
13 clarify it now.

14 **COMMISSIONER LEWIS:** This is ridiculous.

15 **VICE CHAIRMAN SKRMETTA:** So the motion as stated can also say, at the
16 end of the motion, says while maintaining Quick Start through 2026. Okay? And
17 it -- all right. Then that takes care of that.

18 **SECRETARY FREY:** Okay. I'll read it -- let me read it out because I think it --

19 **VICE CHAIRMAN SKRMETTA:** Read it out and see if that makes sense to
20 you.

21 **SECRETARY FREY:** Commissioner Skrmetta moves the Commission cease
22 working towards a statewide energy efficiency program including providing

1 written termination of its retention of Aptim and Tetra Tech while maintaining the
2 current Quick Start program through the end of calendar year 2026.

3 **VICE CHAIRMAN SKRMETTA:** Correct.

4 **MS. BOWMAN:** The end of calendar year 2025.

5 **VICE CHAIRMAN SKRMETTA:** Well, whatever is --

6 **SECRETARY FREY:** 2025, sorry.

7 **VICE CHAIRMAN SKRMETTA:** 2025.

8 **SECRETARY FREY:** Yes.

9 **VICE CHAIRMAN SKRMETTA:** Yeah. That's -- all right. I make that motion.

10 **CHAIRMAN FRANCIS:** And I withdraw my motions.

11 **VICE CHAIRMAN SKRMETTA:** And I need a second. And you want to
12 second mine.

13 **CHAIRMAN FRANCIS:** And I'll second his.

14 **VICE CHAIRMAN SKRMETTA:** Okay.

15 **COMMISSIONER LEWIS:** And I'll object.

16 **VICE CHAIRMAN SKRMETTA:** Okay. Roll call vote, please.

17 **CHAIRMAN FRANCIS:** So, Commissioner Coussan, how you vote?

18 **COMMISSIONER COUSSAN:** I vote -- can you repeat the motion? I'm just
19 joking.

20 **VICE CHAIRMAN SKRMETTA:** Keep going. We'll keep -- we can it going.

21 **COMMISSIONER COUSSAN:** I'll vote with the Chairman.

22 **CHAIRMAN FRANCIS:** Okay. Commissioner Campbell, you vote with the
23 Chairman?

1 **COMMISSIONER COUSSAN:** I vote yes.

2 **COMMISSIONER CAMPBELL:** I want to hear the motion. I really wish that

3 we -- this is just the way I feel. I really wish we would come back next week, start

4 again. You got this thing --

5 **VICE CHAIRMAN SKRMETTA:** I ain't coming back next week.

6 **COMMISSIONER CAMPBELL:** Well, onto our next month.

7 **VICE CHAIRMAN SKRMETTA:** Okay.

8 **COMMISSIONER CAMPBELL:** With whatever we got and get a clear look at

9 it. Four o'clock in the afternoon and everybody's arguing about this, that, and the

10 other. And I don't want to vote for something I don't fully understand. So I can't

11 vote for this at this particular time.

12 **MS. BOWMAN:** So that's a no.

13 **VICE CHAIRMAN SKRMETTA:** He's a no.

14 **MS. BOWMAN:** So Campbell's a no.

15 **VICE CHAIRMAN SKRMETTA:** Skrmetta is a yes.

16 **CHAIRMAN FRANCIS:** Skrmetta's a yes. Chairman's a yes. Commissioner

17 Coussan?

18 **MS. BOWMAN:** He already voted yes. Unless he's changing. All right.

19 **VICE CHAIRMAN SKRMETTA:** Well, Coussan voted yes.

20 **MS. BOWMAN:** Yeah. Okay. So the motion to cease the --

21 **COMMISSIONER LEWIS:** I didn't vote. You didn't call me name.

22 **MS. BOWMAN:** Well, you opposed. I'm sorry.

23 **COMMISSIONER LEWIS:** I already objected, I just didn't --

1 **MS. BOWMAN:** You objected so I assumed it was a no.

2 **COMMISSIONER LEWIS:** -- [CROSSTALK] take the vote.

3 **MS. BOWMAN:** That's fair. Commissioner Lewis?

4 **COMMISSIONER LEWIS:** Lewis votes no.

5 **VICE CHAIRMAN SKRMETTA:** No or abstain, pick one, so. And then, now

6 --

7 **CHAIRMAN FRANCIS:** What's Coussan's vote?

8 **VICE CHAIRMAN SKRMETTA:** Now, do the directive.

9 **COMMISSIONER COUSSAN:** Voted with you.

10 **CHAIRMAN FRANCIS:** Okay. Good. All right.

11 **VICE CHAIRMAN SKRMETTA:** Now, do the Commissioner's directive.

12 **MS. BOWMAN:** Okay. So the directive is that Staff is to publish a set of energy

13 efficiency rules that pertain solely to a public entity program. The rule should

14 require participation by the electric and group one gas utilities, shall allow

15 industrials to opt out and consider other options.

16 **VICE CHAIRMAN SKRMETTA:** No opposition from --

17 **COMMISSIONER LEWIS:** I object.

18 **VICE CHAIRMAN SKRMETTA:** Okay. Roll call vote.

19 **CHAIRMAN FRANCIS:** Okay. Commissioner Skrmetta, how you vote?

20 **VICE CHAIRMAN SKRMETTA:** Vote yes.

21 **CHAIRMAN FRANCIS:** Commissioner Campbell, how you vote?

22 **COMMISSIONER CAMPBELL:** No.

23 **CHAIRMAN FRANCIS:** Commissioner Coussan, how you vote?

1 **COMMISSIONER COUSSAN:** Can I qualify my vote? I'm voting that we keep
2 -- that we discuss this directive with the Staff over the next month instead of making
3 a directive right now. I think the directive itself has problems, so I think we can
4 come up with a directive for the next --
5 **VICE CHAIRMAN SKRMETTA:** I think the directive's got flexibility in it for
6 us to work through.
7 **COMMISSIONER COUSSAN:** I don't like the language, so I'm a no.
8 **CHAIRMAN FRANCIS:** Commissioner Coussan -- Commissioner Lewis?
9 **COMMISSIONER LEWIS:** No.
10 **VICE CHAIRMAN SKRMETTA:** We'll have to redo the directive with
11 Commissioner Coussan for next month.
12 **COMMISSIONER COUSSAN:** Thank you.
13 **SECRETARY FREY:** Yes. So the directive fails.
14 **CHAIRMAN FRANCIS:** Right.
15 **MS. BOWMAN:** So directive fails, but the --
16 **VICE CHAIRMAN SKRMETTA:** Motion to adjourn.
17 **CHAIRMAN FRANCIS:** Motion to adjourn. Is there a second?
18 **COMMISSIONER COUSSAN:** Second.
19 **CHAIRMAN FRANCIS:** Adjourned.

20

21 **(WHEREUPON THE MEETING WAS ADJOURNED)**


22


1 I certify that the foregoing pages 1 through 196 are true and correct to the best
2 of my knowledge of the Open Session of the Business and Executive Meeting
3 held on April 16, 2025 in Many, Louisiana.

4 *****

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