

**TRANSCRIPT OF THE LOUISIANA PUBLIC SERVICE COMMISSION BUSINESS AND EXECUTIVE OPEN SESSION HELD ON FEBRUARY 21, 2024 IN BATON ROUGE, LOUISIANA. PRESENT WERE: CHAIRMAN MIKE FRANCIS, VICE CHAIRMAN DAVANTE LEWIS, COMMISSIONER FOSTER CAMPBELL, COMMISSIONER ERIC SKRMETTA, AND COMMISSIONER CRAIG GREENE.**

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1 **TRANSCRIPT OF THE LOUISIANA PUBLIC SERVICE COMMISSION**  
2 **BUSINESS AND EXECUTIVE OPEN SESSION HELD ON FEBRUARY 21,**  
3 **2024 IN BATON ROUGE, LOUISIANA. PRESENT WERE: CHAIRMAN**  
4 **MIKE FRANCIS, VICE CHAIRMAN DAVANTE LEWIS,**  
5 **COMMISSIONER FOSTER CAMPBELL, COMMISSIONER ERIC**  
6 **SKRMETTA, AND COMMISSIONER CRAIG GREENE.**

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7 **CHAIRMAN MIKE FRANCIS:** Meeting to order. Would everybody rise. We  
8 need to talk to the Lord first and start this meeting off right. It's another great  
9 privilege to come and serve our country and our state. And I want to ask  
10 Commissioner Skrmetta to lead us in our opening prayer.

11 **[COMMISSIONER ERIC SKRMETTA LEADS IN PRAYER]**

12 **CHAIRMAN FRANCIS:** I'm going to call on Commissioner Lewis to lead us in  
13 the pledge, please.

14 **VICE CHAIRMAN DAVANTE LEWIS:** All right.

15 **[COMMISSIONER DAVANTE LEWIS LEADS IN THE PLEDGE]**

16 **CHAIRMAN FRANCIS:** All right. Y'all can have a seat and I'm going to call  
17 on Commissioner Lewis for the first announcement.

18 **VICE CHAIRMAN LEWIS:** Thank you. Thank you, Mr. Chairman. The first  
19 item that I would like to do, an announcement, is take up an un-agenda item  
20 resolution that I have submitted to the Staff. And I would ask the Staff to read the  
21 resolution into the record for me, please.

22 **MS. KATHRYN BOWMAN:** Since it's not on the agenda, I just want to confirm  
23 that there's no objections --

1 **COMMISSIONER ERIC SKRMETTA:** No objection.

2 **MS. BOWMAN:** Perfect. This is resolution 01-2024. It's a resolution to express  
3 the gratitude to Irma Muse Dixon for her services to the Louisiana Public Service  
4 Commission. It's to express the gratitude of the Commission to former Louisiana  
5 Commissioner Irma Muse Dixon for her lifetime of service to the Public Service  
6 Commission and the state of Louisiana. Whereas, the members of the Louisiana  
7 Public Service Commission commend the service and ongoing legacy of  
8 Commissioner Irma Muse Dixon. Whereas, Commissioner Dixon obtained her BA  
9 from Southern University, her Master's of Social Work from Tulane University,  
10 and then went on to be given a fellowship at Harvard University School of  
11 Government. And whereas, Commissioner Dixon, prior to her service at the  
12 Louisiana Public Service Commission was a social worker, and later served in the  
13 Louisiana House of Representatives. And whereas, Commissioner Dixon in 1992  
14 became the first black person and black woman elected to the Public Service  
15 Commission and served until 2004. And whereas, during Commissioner Dixon's  
16 term with the Commission, she was deeply actively involved in the promise of  
17 broadband unambiguity. She was an original member of the 706 Joint Conference  
18 NARUC telecommunications committee, chairing the federal legislative subgroup,  
19 and chairing the work group that compiled the history of the committee's  
20 resolutions. And whereas, Commissioner Dixon, following her tenure as the Public  
21 Service Commissioner, continues to serve her community as a staunch advocate.  
22 She has worked with the Total Community Action Agency, its Central City Health  
23 Clinic, the Urban League, and the Boys and Girls Club of New Orleans to name a

1 few. And now, therefore, be it resolved that the Louisiana Public Service  
2 Commission does hereby express its deepest gratitude to Commissioner Dixon for  
3 her service to the Louisiana Public Service Commission and the people of the state  
4 of Louisiana. Be it further resolved that a suitable copy of this resolution will be  
5 transmitted to Commissioner Dixon.

6 **VICE CHAIRMAN LEWIS:** Thank you. And, Mr. Chairman, I introduced this  
7 resolution. As we know February is Black History Month, and I think it's important  
8 to always recognize and commend those who laid the foundation and groundwork  
9 for the work that I am doing. I'm reminded of my great-grandmother who always  
10 told me to give people their flowers while they're alive because she said if you give  
11 me my flowers when I'm dead, I can't smell it near my casket or on my casket.  
12 And so I think it's important to give the flowers to Commissioner Emeritus Irma  
13 Muse Dixon, a pioneer, not only in Louisiana politics but in the utility space. I  
14 think I would not be here, in this seat, without the legacy of Irma Muse Dixon and  
15 her historic run in 1992 and the two terms that she served here on this Commission.  
16 And so today, I not only in Black History Month wanted to celebrate a pillar in our  
17 community, but someone who has served our state for over 40 years in  
18 commitment, service, dedication to the city of New Orleans, to the people of  
19 Louisiana, and to the United States of America. And so I would ask all of my  
20 colleagues to join me in passing this resolution today to honor former  
21 Commissioner Irma Muse Dixon.

22 **CHAIRMAN FRANCIS:** Thank you, Commissioner Lewis. I recognize  
23 Commissioner Campbell.

1 **COMMISSIONER FOSTER CAMPBELL:** I want to say something about Irma  
2 Dixon. I knew her well in the legislature, and she got elected to the Public Service  
3 Commissioner. She was always a friend, always calling and worrying about  
4 somebody that didn't have as much as we have. And I'm speaking for myself and  
5 the other people up here. She was always interested in helping people and I'm glad  
6 she's here today. She's deserving of every bit of the credit she gets. She's very  
7 kind woman, got along with everybody, and I remember when she was here, she  
8 got to be elected Chairman. And I was the one that made the motion to make her  
9 Chairman, and I'm glad, she did a fine job. And I'm glad to have her as a friend,  
10 but I'm glad to see that she's carrying on with her work about taking care of the  
11 least of these, that's who she's always been for is the least of these. So it's nice to  
12 see somebody who's got a good heart. And we're all -- I'm just speaking for me,  
13 not you, not Mr. Greene, maybe not Mr. Skrmetta. We're all getting older up here.  
14 Mr. Francis and I are getting older and it's nice to see fresh, young people that keep  
15 the least of these in mind. Ms. Dixon was a champion for the underprivileged and  
16 she always worried about them. And I appreciate that. She was very true and a  
17 very kind woman and I never knew anybody that really didn't like Irma Dixon. She  
18 got along with everybody. So, Irma, you deserve all the credit and I'm glad you're  
19 here today. And you sent us a good fellow here. He's a nice guy, and he will do  
20 good work. He has the same heart you do. He is interested in helping people who  
21 need help. So thank you.

22 **CHAIRMAN FRANCIS:** Okay. Commissioner Greene.

1 **COMMISSIONER CRAIG GREENE:** I want to echo that. Commissioner  
2 Dixon, thanks for all you did and thanks for your kind prayers for my father and  
3 my family. I appreciate all you've done in service and continue to do. I also want  
4 to say hi to my friend, Mr. Edmond Jordon. He's very familiar to the Commission  
5 and he's a state representative from my neck of the woods. If you want to raise  
6 your hand as well and say hi to everybody. Thanks for being here. Thanks for the  
7 work that you do as well, and I consider you a friend and colleague, so it's good to  
8 see you. Thank you.

9 **CHAIRMAN FRANCIS:** Commissioner Skrmetta.

10 **COMMISSIONER SKRMETTA:** Commissioner Dixon, did not have the  
11 pleasure to serve with you on the Commission, but unfortunately Commissioner  
12 Campbell doesn't understand that we're both New Orleanians. And we've known  
13 each other a long time and had the pleasure to work with each other in my office in  
14 Metairie when we had to work out issues to help you out with problems, so. And  
15 again, it's always a great pleasure to see you and it's a great pleasure to honor you  
16 today for your years of service. And always glad to see you and look forward to  
17 seeing you again whenever you need us. Thank you for being here.

18 **CHAIRMAN FRANCIS:** Ms. Irma, congratulations again for the chairmanship.  
19 You know, Commissioner Campbell and I are the two oldie goldies up here. I  
20 always remind him who's the senior; I'm six weeks older than Campbell. Okay.  
21 But I also pick at him, each one of our districts -- I also have the largest district.  
22 I've 79 square miles larger than his district, so I'll always remind him. But anyhow,  
23 God willing one day I'll be sitting out in that crowd if God allows me to, and to be

1 appreciated like you. We really appreciate you and what you've done and thank  
2 you for coming today. Hopefully we please you with the work we do for the people  
3 here today. Irma, I'll put you on the spot. You want to come up here and say a few  
4 words?

5 **COMMISSIONER SKRMETTA:** And also, you have a presentation. You need  
6 some photographs, too.

7 **MS. IRMA MUSE DIXON:** [INAUDIBLE]?

8 **CHAIRMAN FRANCIS:** Yes, ma'am.

9 **MS. DIXON:** Thank you so much. Good morning and thank you for having me.  
10 I do want to thank the Commission for taking time out of your busy schedule just  
11 to honor me. It was a lot of work, it was a lot of hard work, but we brought  
12 Louisiana through. And I appreciate -- I appreciate the work that you're doing  
13 today and I appreciate the support that I got when I was here. And I noticed Jay  
14 Blossman is in the audience. He was one of the people that I worked with and  
15 Edmond Jordan. And I'm so glad to see that Edmond's at the legislature. But thank  
16 you so much for this privilege, this honor. I never expected it, but thank you. I  
17 really appreciate it. And it was fun, Foster, working for the people of Louisiana  
18 and trying to level some playing fields and getting them everything that they  
19 needed. It was a lot of work, but it was fun. Thank you so much.

20 **CHAIRMAN FRANCIS:** Chair recognizes Edmond Jordan.

21 **MR. EDMOND JORDAN:** Thank you. Thank you.

22 **EXECUTIVE SECRETARY BRANDON FREY:** Edmond, just hit the button,  
23 the little --



1 **MR. JORDAN:** Good. I'm there. Turn it from red to green. Look, I'll be very  
2 brief, but I want to say this because I think the resolution was great and all  
3 encompassing. But I want to say it while she's here to give her her flowers, I will  
4 tell you that Vanessa LaFleur, who was also a state rep who was a former Staff  
5 attorney here, we both want to say that we would not be in the positions that we're  
6 in as state representatives if not for Irma Muse Dixon. This lady brought us in and  
7 not only did she bring us into the Commission and expose us to this world, but she  
8 mentored us. She didn't bring us in and then just throw us out in the water and said  
9 swim. She really mentored us, she guided us, and really gave us the bug to get into  
10 public service in an elective capacity. And so if it were not for her, I can say with  
11 confidence that I would not be in the position that I'm in today. So I want to just  
12 thank her while she's here and let everyone know that publicly. Thank you again.

13 **MS. DIXON:** I thank God and I thank you.

14 **COMMISSIONER SKRMETTA:** Don't go away, Commissioner Lewis wants  
15 to make a presentation to you.

16 **MS. DIXON:** Okay.

17 **COMMISSIONER SKRMETTA:** Kathryn, do you have a printed resolution that  
18 we can sign?

19 **SECRETARY FREY:** We don't have the signed one yet. We'll print it out on  
20 the nice paper and have it ready.

21 **CHAIRMAN FRANCIS:** Okay. We have --

22 **SECRETARY FREY:** While Commissioner Dixon is sitting down, I just want to  
23 say, you know, Commissioner Campbell's always saying not to use acronyms and

1    acronyms come from the telecom world. It's nice to have someone else in the  
2    audience who understands those acronyms because we fought those battles together  
3    and we had a lot of fun.

4    **CHAIRMAN FRANCIS:** Amen. Okay. Do we have some other announcements,  
5    Kathryn?

6    **MS. BOWMAN:** Yes, sir. If there's no others from the Commissioners, one  
7    housekeeping is Exhibit -- I'm sorry, Commissioner, do you --

8    **COMMISSIONER CAMPBELL:** I want to say something if I can get a chance.

9    **MS. BOWMAN:** Go ahead.

10    **COMMISSIONER CAMPBELL:** Okay. Listen, I sent everybody in here a press  
11    release that I put out this week and I hope you read it and I meant every word of it.  
12    The new governor turned down a lot of money, \$70 million, going to children that  
13    could have used it for summertime. And some of you might -- I don't understand  
14    the politics of it, I sort of do, but it's wrong-headed that you take it out on children  
15    that want something to eat in the summertime. Not only did I call the governor out,  
16    Governor Landry, I called out John Bel Edwards, too, because he didn't sign it. He  
17    could have got the money. Absolutely no reason he didn't do that. We haven't got  
18    so political that we're scared to make decisions because one party doesn't want to  
19    do this and one party doesn't want to do that. Louisiana, as you know, is one of the  
20    poorest states in America with the poorest children. Test scores are at the bottom  
21    a lot. You name it, all the bad characteristics, we're number one. All the good  
22    ones, we're at the bottom. So anyway, I hope you got that press release. I hope the  
23    governor reads it. I don't think it's too late for him to ask for the money now. But

1 I'm reminded, and Mr. Skrmetta will remember this, we had another governor, his  
2 name was Bobby Jindal.

3 **COMMISSIONER SKRMETTA:** Yeah, he hated us, too.

4 **COMMISSIONER CAMPBELL:** And Bobby Jindal vetoed \$80 million for high  
5 speed internet. We had a high speed internet grant and we needed high speed  
6 internet and we still -- this went over 23 rural parishes, some that I represented. He  
7 vetoed it. He sat here, he sent his people here and I asked him would he please talk  
8 to Mr. Jindal and ask him to reapply. No so, no so. Wouldn't do it. He also turned  
9 down a high-speed railroad from New Orleans to Baton Rouge, 300 million. These  
10 kind of shenanigans don't work. Whatever you're trying to prove, that doesn't  
11 make the difference. So I am disappointed that we didn't take the money to feed  
12 the children from Governor Landry and Governor John Bel Edwards. I think  
13 they're both wrong. And I'd like to see Governor Landry ask for that money or  
14 change his mind, fill out the papers that we need, and let's give it to children that  
15 need it in the summertime. There's nothing liberal or too conservative or whatever  
16 -- wherever you're coming from other than 15 other governors that wouldn't take  
17 it. I've said a hundred times up here, there is no wrong way to do the right thing.  
18 Feeding children with hungry bellies shouldn't be political. It should be a  
19 nonstarter, a no-brainer, absolutely, sign it that fast. So I just wanted to let y'all  
20 know that I sent it to all of y'all. A lot of the papers have taken it. And don't say  
21 that I'm jumping on Governor Landry. I don't think he's right, but I don't think  
22 John Bel Edwards was right either. Both of them need to rethink this. So that's  
23 what I got to say.

1    **CHAIRMAN FRANCIS:** Okay. Commissioner Lewis.

2    **VICE CHAIRMAN LEWIS:** Thank you, Mr. Chairman. I also wanted to make

3    an announcement about -- I know at the last meeting we talked about my chief of

4    staff, Charlotte Cravens, and her pregnancy. I do want to announce that following

5    that meeting last month, she gave birth to little Landry Quinton Bell. He was 3

6    pounds and 5 ounces. He will turn one month next week. He and mom are doing

7    very well. He is still currently in the hospital, but he has successfully grown to 5

8    pounds and today they will try to bottle feed him for the first time. So on behalf of

9    our office and to Charlotte, we want to thank you for all the prayers and wishes for

10   her through her challenging pregnancy and delivery. And then also just tell her that

11   we are still with her as she and Baby Landry continue this journey and hopefully

12   he will return home very soon. So I wanted to say that. But also while we are

13   celebrating Black History Month, I wanted to do a special congratulations and

14   extend well wishes to the new official FERC Chairman, my friend, Willie Phillips.

15   Willie Phillips is a son of the South, hailing from Fairhope, Alabama and has a

16   laundry list of qualifications and experience in regulatory law that prepared him for

17   this important challenge. He was a member of the DC Public Service Commission,

18   an active member in NARUC. And the President last week announced that he

19   would officially make Mr. Phillips the first black person to chair FERC. And so I

20   wanted to honor him in this historic moment, in this achievement that he has done,

21   as well as send him best wishes and embarks on his new journey as chairman of

22   FERC and hopefully look forward to working with him on the items that we have

23   before FERC. And, Mr. Chairman, the last thing that I would want to announce is

1 the United States Department of Energy, Housing and Urban Development and the  
2 EPA sent all of the utilities and us Commissioners a letter on January 18<sup>th</sup> talking  
3 about the importance of energy data from multi-property and multi-dwelling  
4 homes. This is important to respond to because these agencies have correctly  
5 identified that multi-family properties as a consumer group for which energy  
6 savings programs are hard to reach. I mean, as we know in the Inflation Reduction  
7 Act, there's \$6.6 billion in funding for multi-family properties to improve  
8 efficiencies and reduce costs into their homes. This includes HUD's Green  
9 Resilient Retrofit Program and the DOE's home energy rebates. And so I'm asking  
10 all of the utilities here today if you could work with me to ensure that whole  
11 building utility data is available to multi-family owners seeking to improve  
12 efficiencies. The EPA along with the Department of Energy has tools and resources  
13 to help utilities and I will be following up with each utility to see if you can make  
14 this data available to ensure that all Louisianans can access these federal fundings  
15 to make their homes more energy secure. So I would point all of the utilities to this  
16 January 18<sup>th</sup> letter from the Secretary of Energy, Jennifer Granholm; the Secretary  
17 of HUD, Marcia Fudge; and the EPA Administer, Michael Regan. Thank you, Mr.  
18 Chairman. That's all I have.

19 **CHAIRMAN FRANCIS:** Thank you, Commissioner Lewis. Ms. Bowman, you  
20 have any other announcements?

21 **MS. BOWMAN:** Yes, sir. One housekeeping announcement is Exhibit 12  
22 contains an executive session, so I recommend moving that to the last agenda item.  
23 And then there's also a couple of congratulations for Commissioner Lewis. He was

1 recently appointed to NARCUC -- several committees, the Committee of  
2 Consumers and the Public Interest, Committee on Energy Resources and the  
3 Environment, the Select Committee on Regulatory and Industry Diversity. He was  
4 also a member of the NARUC Electric Vehicle State Working Group and he has  
5 been appointed to the board of directors of a national utilities' diversity counsel.  
6 So you are going to be a very busy man, Mr. Commissioner.

7 **CHAIRMAN FRANCIS:** Congratulations, Commissioner Lewis. Is there any  
8 objection to moving Item 12 out to the end? [NONE HEARD] Okay. Hearing  
9 none, we'll move 12 out. Anything else, Ms. Bowman? Okay. Well, let's -- hold  
10 on, we got --

11 **SECRETARY FREY:** March B&E.

12 **VICE CHAIRMAN LEWIS:** Thank you. Yes. Originally -- thank you, Mr.  
13 Chairman. We had talked about the March B&E being moved into one of the River  
14 Parishes. We are going to push that back to a later date. So I believe we had  
15 originally held that date for one of the River Parishes, but we are still working with  
16 some of those local governments, so I will come back at probably the March  
17 meeting with a preferred date. But I think we will back here in Baton Rouge for  
18 the March meeting.

19 **COMMISSIONER SKRMETTA:** And Staff can still mark the calendar for  
20 October, we are still looking to have a meeting probably in lower Plaquemine. And  
21 we'll work on arranging that somewhere -- we'll look at the dates just to reconfirm  
22 those, probably towards the third week maybe in October. And I'll get with you on  
23 looking at some options for locations.

1 **CHAIRMAN FRANCIS:** All right. That's a great time to catch those speckled  
2 trout down the south of New Orleans.

3 **COMMISSIONER SKRMETTA:** What? Say it ain't so.

4 **CHAIRMAN FRANCIS:** And I'll also remind you, Dana, we'll get our fishing  
5 poles ready for April. We're going to Toledo Bend and looking forward to that.  
6 We always have a good time up there. Okay. Ms. Bowman, let's get started on  
7 Number 2, Exhibit 2.

8 **MS. BOWMAN:** Yes, sir. Exhibit Number 2 is Docket Number T-36702. It's  
9 the Commission versus Platinum Moving and Delivery on an alleged violation of  
10 Revised Statutes 45:161 through 180.1, by engaging in activities related to moving  
11 household goods prior to complying with the requirements of Revised Statute  
12 45:164 (E), General Order dated March 16, 2021, and for failure to comply with  
13 the requirements of General Order dated April 3, 2008 as amended. This is a  
14 discussion and possible vote to reconsider Order Number T-36702, an order of  
15 dismissal and discussion and possible vote pursuant to Rule 57 on an affidavit and  
16 stipulation executed by the carrier. So this will need three separate votes. As a  
17 result of a complaint submitted to Transportation Staff, a citation was issued to  
18 Platinum Moving on March 29, 2023, based on the aforementioned allegations and  
19 violations. And in response to that citation, the owner of the company executed an  
20 affidavit and stipulation on behalf admitting to the violations in the citation. In that  
21 affidavit and stipulation, the carrier agreed to the imposition of a \$1,000 fine and a  
22 \$25 citation fee with \$500 being suspended contingent on several compliance  
23 factors. Staff inadvertently filed a motion to dismiss this docket with prejudice,

1 which was granted on December 27, 2023. Upon realizing the error, Staff filed a  
2 motion for reconsideration and a motion to continue without date pending the  
3 stipulation's consideration and approval by the Commission. Therefore, Staff  
4 recommends that the Commission: 1) Exercise its original and primary jurisdiction  
5 under Rule 57 to take this matter up; 2) Reconsider Order T-36702; and 3) Accept  
6 the affidavit and stipulation executed on December 5, 2023, for fines and fees  
7 totaling \$525. So we will need three separate votes on this matter.

8 **CHAIRMAN FRANCIS:** Okay. Thank you, Ms. Bowman. And this -- Exhibit  
9 3 will mirror this same --

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

11 **CHAIRMAN FRANCIS:** -- procedure?

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

13 **CHAIRMAN FRANCIS:** And just ask any of the Commissioners, you have any  
14 questions or suggestions?

15 **COMMISSIONER SKRMETTA:** Move to bring the matter up under Rule 57 to  
16 begin it.

17 **CHAIRMAN FRANCIS:** Okay. Bring it up under Rule 57, offered by  
18 Commissioner Skrmetta. Is there a second?

19 **COMMISSIONER GREENE:** Second.

20 **CHAIRMAN FRANCIS:** Second by Commissioner Greene. All right. Okay. So  
21 now we need to move to order to fix the procedure. Is there a motion?

22 **COMMISSIONER SKRMETTA:** Move to fix the procedure.

23 **CHAIRMAN FRANCIS:** Skrmetta moved to fix the procedure.



1 **MS. BOWMAN:** So moved to reconsider by Commissioner Skrmetta?

2 **COMMISSIONER SKRMETTA:** Yeah, move to reconsider.

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

4 **VICE CHAIRMAN LEWIS:** I'll second.

5 **CHAIRMAN FRANCIS:** And second by Commissioner Lewis. And now the

6 final -- I would move that we accept the affidavit and stipulation executed on

7 December 5, 2023, for fines and fees totaling -- I'm sorry, wait a minute, I got the

8 number here -- \$525. Okay. Sorry. So is there a motion -- I present the motion.

9 **COMMISSIONER SKRMETTA:** I'll second it.

10 **CHAIRMAN FRANCIS:** Is there a second? Second by Commissioner Skrmetta.

11 Is there any objections or suggestions here? [NONE HEARD] Okay. So Number

12 2 is passed. Okay.

13 **MS. BOWMAN:** Exhibit Number 3, as the Chair mentioned, is a similar docket.

14 It's Docket Number T-37009. It's the Commission versus America's Towing on a

15 alleged violation of General Order dated February 17, '22, for exceeding state

16 prescribed rates on 12 counts while operating under Common Carrier Certificate

17 Number 8035, allegedly having occurred on or between September 22, '23 through

18 October 23, '23, and General Order dated October 13, '23 for operating with no

19 proof of insurance on 12 counts while operating under Common Carrier Certificate

20 Number 8035 allegedly having occurring on or before September 22<sup>nd</sup> through

21 October 23, 2023, pursuant to Revised Statutes. And it's a discussion and possible

22 vote to reconsider Order Number T-37009 - order of dismissal and discussion and

23 possible votes pursuant to Rule 57 on the affidavit and stipulation executed by the

1 carrier. In response to Staff's citation, the owner of the company executed an  
2 affidavit and stipulation admitting to the violations and agreed to the imposition of  
3 a \$2,000 fine and a \$25 citation fee with \$1,000 being suspended contingent on  
4 several compliance factors. Staff also inadvertently filed a motion to dismiss in  
5 this docket which was granted on December 27, 2023, and upon realizing the error,  
6 Staff filed a motion for reconsideration and motion to continue without date  
7 pending the stipulation's consideration and approval by this Commission. So Staff  
8 recommends that the Commission: 1) Exercise its original and primary jurisdiction  
9 under Rule 57 to take this matter up; 2) Reconsider Order Number T-37009; and 3)  
10 Accept the affidavit and stipulation executed by the carrier on December 1, 2023  
11 for fines and fees \$1,025.

12 **COMMISSIONER SKRMETTA:** Move to bring the matter up under Rule 57.

13 **COMMISSIONER GREENE:** Second.

14 **CHAIRMAN FRANCIS:** Commissioner Skrmetta asks that we move Exhibit 3  
15 up under Rule 57 and second by Commissioner Greene. Is there any discussion?  
16 [NONE HEARD] Okay. Moving on. I would move that we reconsider the order  
17 to fix the procedure deficit.

18 **COMMISSIONER SKRMETTA:** Second.

19 **CHAIRMAN FRANCIS:** And a second by Commissioner Skrmetta. Any  
20 questions, any comments? [NONE HEARD] All right. Finally, I move that we  
21 accept the affidavit and stipulation executed on December 1, 2023, for fines and  
22 fees totaling \$1,025. Is there a second?

23 **COMMISSIONER SKRMETTA:** Second.

1    **CHAIRMAN FRANCIS:** Second by Commissioner Skrmetta. Is there any  
2    discussion? [NONE HEARD] So Number 3 is passed.

3    **MS. BOWMAN:** Exhibit Number 4 is Docket Number I-36175. It's Cleco  
4    Power's 2021 request to initiate integrated resource planning process pursuant to  
5    the General Order in Docket Number R-30021 dated April 20, 2012. It's a  
6    discussion and possible vote on Staff's report and recommendation. On October  
7    20, 2021, Cleco Power submitted its request to the Commission to initiate the  
8    integrated resource planning process with several parties intervening. At the first  
9    stakeholder meeting, Cleco Power presented their IRP data assumptions, and  
10   stakeholders filed written comments on those assumptions. October 26, 2022,  
11   Cleco Power published its draft IRP report, which was discussed at the second  
12   stakeholder meeting. Four intervenors filed written comments in response to Cleco  
13   Power's draft IRP report. On February 28, 2023, Staff filed written comments  
14   identifying issues that remained in Cleco Power's draft IRP report. On May 22,  
15   2023, Cleco Power filed its final IRP report and associated appendices. And on  
16   July 31, 2023, five intervenors filed comments in response to the final IRP report,  
17   including their disputed issues and recommendations. On September 28, 2023,  
18   Cleco Power filed its final report addendum to address questions posed by Staff  
19   related to Cleco Power's final IRP report. On November 30, 2023, the same four  
20   intervenors filed comments in response to Cleco Power's addendum. On January  
21   23, '24, Staff filed its report and recommendation on Cleco Power's final IRP report  
22   where it noted several concerns in Cleco Power's final IRP report, some of which  
23   were that Cleco Power provided no support for including project Diamond Vault as

1 an ongoing -- as a going in assumption or even going forward resource alternative.  
2 Cleco Power's assumption for the cost of future resource options other than project  
3 Diamond Vault seemed reasonable. Cleco Power complied with requests to  
4 provide more transparent modeling results, but did not update these based on new  
5 information provided in the addendum. Despite these concerns and based on  
6 clarifications provided by Cleco subsequent to the filing of the final IRP, Staff  
7 concluded that Cleco Power met its obligations under the IRP Order requirements  
8 and, therefore, does not recommend initiation of a proceeding for the resolution of  
9 disputed issues. Staff notes that, pursuant to the IRP Order, the Commission's  
10 acknowledgment of this IRP does not constitute Commission approval of Cleco's  
11 IRP or any specific resource decision made within the IRP, though the IRP may be  
12 considered in future Commission proceedings concerning Cleco Power's resource  
13 plans. Staff recommends that the Commission acknowledge that Cleco Power's  
14 final IRP report and addendum complies with the Commission's IRP Order. And  
15 we do have one witness who would like to speak.

16 **CHAIRMAN FRANCIS:** Chair recognizes Commissioner Lewis.

17 **VICE CHAIRMAN LEWIS:** Do you want the witness to go first?

18 **CHAIRMAN FRANCIS:** Oh, I'm sorry. Okay.

19 **MS. BOWMAN:** Would you like to hear from the constituent first?

20 **VICE CHAIRMAN LEWIS:** Yeah.

21 **MS. BOWMAN:** Okay. So Ms. Emma Hopkins with the Sierra Club.

22 **CHAIRMAN FRANCIS:** Ms. Emma Hopkins. Okay. There she is.

23 **MS. EMMA HOPKINS:** Hi, Commissioners. How are you?

1    **CHAIRMAN FRANCIS:** Okay.

2    **MS. HOPKINS:** Is this on? Okay. Hi. How are you doing today?

3    **CHAIRMAN FRANCIS:** Fine.

4    **MS. HOPKINS:** Thank you for having me today. My name is Emma Hopkins.

5    I'm a campaign representative and organizer for the Sierra Club's Beyond Coal

6    Campaign. The Sierra Club has been very involved throughout Cleco's resource

7    planning process and I'm just here to reiterate some of our concerns, many of which

8    you have already heard, which involve the proposed Diamond Vault project and the

9    continued operation of the Madison 3 coal and petcoke unit. We believe that the

10   company has moved without transparency throughout the resource planning

11   process on how they reached a decision to retrofit versus retire the unit, having

12   baked the expense of Diamond Vault project into every planning scenario. The

13   Diamond Vault project puts ratepayers at financial risk as carbon capture and

14   sequestration has a history of failure on power plants. The project is estimated to

15   cost up to \$1.4 billion. As Staff said in their comments, this sum is several times

16   greater than the entire capital of revenue requirement of Cleco's existing fleet

17   which is \$284 million. While we've heard from the company that they don't expect

18   this project to cause rate increases, we've seen no evidence to support this claim.

19   Additionally, CCS has a history of failure on power plants in North America.

20   Despite generous funding and numerous incentives to push CCS in the power

21   sector, such as the Federal 45Q tax credits, this technology has shown a

22   disappointing track record of failures, with the majority of the proposed CCS

23   capacity failing at the implementation stage or -- at the implementation stage or

1 getting suspending early. Looking at the historical trajectory, technical issues have  
2 been one of the most prominent barriers. A lot of projects failed to operate at the  
3 theoretically designed capture rates. As a result, the 90 percent emission reduction  
4 target generally claimed by the industry has been unreachable in practice. There's  
5 not been any operational project that could meet this capture target or that did not  
6 result in extreme cost blowouts. It's also worth noting that the 90 percent capture  
7 rate would be a requirement under the EPA's proposed Greenhouse Gas  
8 Performance Standards through the 111(d) rule. Some case studies here, which you  
9 may have already heard, the Petra Nova plant marketed as a flagship breakthrough  
10 in this area under performed by 17 percent in four years of its operation before  
11 being mothballed indefinitely in 2020. Boundary Dam 3 is the only active carbon  
12 capture project in the power sector worldwide, but has captured less than its  
13 prespecified target by a wide margin of about 50 percent. As we know the  
14 investment costs for such complex facilities is very staggering. This is evident in  
15 the case of the Kemper coal gasification plant that left investors with the most  
16 expensive power plant ever built at \$7.5 billion. The Diamond Vault project is a  
17 \$1.4 billion gamble. The reason why Cleco thinks that they'll make money on this  
18 project is because of the federal government's 45Q tax credits. However, the plant  
19 will have to run the board and get everything right in order to avoid massive losses.  
20 This includes the fact the project must be designed to achieve 75 percent capture  
21 for 45Q, it must effectively capture and sequester carbon, otherwise the tax credits  
22 will be revoked. Additionally, the 45Q tax credits only apply for 12 years, so  
23 whatever Cleco's plan is after that, I think we have yet to hear. Additionally, the

1 upfront costs of this project, which are very high, are only potentially offset by its  
2 long-term performance. As I said a little bit earlier, 90 percent capture by 2030 is  
3 required under the EPA's proposed 111(d) rule. However, CCS has a history of  
4 failure and this has never been achieved. Additionally, under the 45Q tax credit,  
5 Cleco would receive money for every ton of carbon sequestered; however, at its  
6 current level of operation, the plant doesn't produce enough carbon for the tax  
7 credits to offset the upfront costs of the project. The project is so expensive that  
8 the unit would have to increase its capacity factor by two to three times from a  
9 current 30 to 40 percent, to 80 to 90 percent to pencil out. An increase in the  
10 operation of the plant will result in significant increases in other pollutants in our  
11 air and water, such as particulate matter, nitrogen oxide, and sulfur dioxide. These  
12 co-pollutants are also going to be regulated under proposed Good Neighbor Rule,  
13 the Regional Haze Rule, and the National Ambient Air Quality Standards. Another  
14 point is that capturing CO<sub>2</sub> consumes a lot of energy, which effectively reduces the  
15 amount of electricity that can go to customers, otherwise known as this project has  
16 a parasitic load on the plant of about one-third of the plant's capacity, which Cleco  
17 plans to offset by building a 200-megawatt natural gas facility, which also emits  
18 greenhouse gases. This project is a massive cost to undertake for what will  
19 essentially amount to a derated 400 megawatts of generation. Sierra Club believes  
20 that ratepayers should be protected from these risks. The company -- if the  
21 company is allowed to build Diamond Vault, ratepayers should not foot the bill if  
22 the company loses on this bet. This is especially true considering that Cleco did  
23 not properly consider retiring Madison 3 instead of retrofitting the unit with CCS.

1 All in all, this technology should not be marketed as a quick fix for power sector  
2 emissions. We can't feel relieved in this world saving technology just around the  
3 corner. It's not worked financially or technically. Instead, we should address the  
4 root of the problem which is the fossil-based energy production. Proven, cost  
5 effective, and climate-friendly alternatives reduce the dependency on fossil fuels  
6 and the risk of ending up with billions of dollars of stranded assets. That's all.  
7 Thank you.

8 **CHAIRMAN FRANCIS:** Commissioner Lewis.

9 **VICE CHAIRMAN LEWIS:** Thank you. Ms. Emma, I read your Sierra Club's  
10 comments and what I took from it, one of the concerns regarding Diamond Vault  
11 is not also the cost, but the water intensity that would be required for this project,  
12 which I believe is around 55 percent more water for CCS is added to Madison. And  
13 so I know that's been an issue about consumer energy bills, the study in Wyoming  
14 that showed that could raise bills somewhere to 50 to 100. So is that also -- I heard  
15 everything else you said, but was that also a significant concern of yours as well?

16 **MS. HOPKINS:** Yes. That is also a concern.

17 **VICE CHAIRMAN LEWIS:** Okay. Thank you.

18 **MS. HOPKINS:** Thank you.

19 **CHAIRMAN FRANCIS:** Where does that extra water come from? Does it come  
20 from the Red River?

21 **MS. HOPKINS:** I think it would come from Lake Rodemacher.

22 **VICE CHAIRMAN LEWIS:** Yeah. I believe that's where they --

23 **CHAIRMAN FRANCIS:** Oh, the lake there, that Cleco lake?



1 **MS. HOPKINS:** Uh-huh.

2 **CHAIRMAN FRANCIS:** We call it Cleco lake. Okay. Commissioner -- I meant,  
3 Mr. Secretary, got a question for you. We're talking about a IRP. What's IRP  
4 stand for?

5 **SECRETARY FREY:** Integrated resources plan.

6 **CHAIRMAN FRANCIS:** Okay. Would you explain for those who may not know  
7 what integrated resource plan is? I mean, this is what we're talking about here, so.

8 **SECRETARY FREY:** So in simple terms, and I guess I can back up, utilities, the  
9 investor-owned utilities in particular, so Cleco, Entergy, and SWEPCO, when they  
10 would come in for certification of a power plant, we would question what is the  
11 need, why do you need this new facility? I mean, are you anticipating load growing  
12 or are you going to be retiring units, et cetera? So the utilities at that time essentially  
13 had an integrated resources plan, but it wasn't specifically consistent to some  
14 Commission order. So what the Commission did is it opened a rulemaking -- that's  
15 probably been about 15 years ago now, is that about right -- to formalize that  
16 process so the utilities are required to make a filing that looks at what their current  
17 fleet is, what they're looking at in the future on customer growth, on retirement of  
18 facilities, et cetera, on load growth, fuel mix, et cetera. And we've taken those IRPs  
19 in recent years to expand them to look at other things. I know Commissioner  
20 Greene had a directive, I guess, about two or three years ago to add offshore wind,  
21 just looking at that in the IRPs, the feasibility of that, et cetera. So it's almost like  
22 a planning document, I guess the best way to look at it. It's what they've got  
23 currently, what they anticipate needing in the future based on their customer base,

1 on their load growth, on the retirement of existing units, regulations coming down  
2 the pike, et cetera.

3 **CHAIRMAN FRANCIS:** All right. Now, this question here, this Integrated  
4 Resource Plan Order was written, designed, and voted on by the Commission, it's  
5 an order that we asked the people to follow; is that right?

6 **SECRETARY FREY:** That's correct.

7 **CHAIRMAN FRANCIS:** And according to the Staff, Cleco has filed a report in  
8 agreement with what we've done.

9 **SECRETARY FREY:** That's correct.

10 **CHAIRMAN FRANCIS:** Okay.

11 **SECRETARY FREY:** And I'll defer to Justin and our special consultant as well  
12 on that point, but one thing to add, too. The Commission doesn't actually approve  
13 them. I think the vote is more saying you've complied with the requirements of the  
14 IRP. So we're not necessarily blessing plans, but blessing compliance with the rule.

15 **CHAIRMAN FRANCIS:** So in order to satisfy what seems to be a question on  
16 here, we would need to amend our order to change it to satisfy the public in this  
17 particular case?

18 **SECRETARY FREY:** That's possible. I mean, the rule -- again, like you said, it  
19 is our rule, so we can amend it to look at other issues. And as I said, as we've done  
20 in the past.

21 **CHAIRMAN FRANCIS:** Right. I'm just trying to satisfy the public. They come  
22 before the Commission and ask -- give us some ideas about how to make it better,  
23 and that's what we're here for. But as of today, the Staff says we have given these

1 people an order and they have complied and everything's okay. And I understand  
2 how there's always different views on this, but we're here to please the public that  
3 we serve. Thank you, ma'am, for coming.

4 **COMMISSIONER CAMPBELL:** I have a question.

5 **CHAIRMAN FRANCIS:** Okay. Commissioner Campbell. Okay.

6 **MS. BOWMAN:** And Commissioner, your microphone.

7 **COMMISSIONER CAMPBELL:** Basically, you're worried about this plant?

8 **MS. HOPKINS:** Yes, sir.

9 **COMMISSIONER CAMPBELL:** That you don't know it's economical?

10 **MS. HOPKINS:** Yes, sir.

11 **COMMISSIONER CAMPBELL:** And it's going to cost a lot and you don't  
12 really know a lot about carbon capture yet either, do you?

13 **MS. HOPKINS:** The technology hasn't been implemented at this scale  
14 successfully, no.

15 **COMMISSIONER CAMPBELL:** So that's your big -- that's your real big  
16 problem?

17 **MS. HOPKINS:** Yes, sir.

18 **COMMISSIONER CAMPBELL:** You spend a lot of money and you really don't  
19 know how it's going to work.

20 **MS. HOPKINS:** Yeah. In addition to the fact that this was -- this project was --  
21 seemed to be baked into the process in all of the different planning scenarios that  
22 the company proposed.

1 **COMMISSIONER CAMPBELL:** I'd like to talk to some people from Cleco.  
2 Thank you.

3 **MS. HOPKINS:** Thank you.

4 **CHAIRMAN FRANCIS:** Let me say one other thing, ma'am, Ms. Hopkins,  
5 before you leave. I was born and raised within a few miles of this facility you're  
6 talking about and I'll assure you that I've got my eye on it, watching, because it's  
7 a beautiful area and this Commission's sure not going to do anything knowingly to  
8 endanger that. Thank you.

9 **MS. HOPKINS:** Thank you.

10 **CHAIRMAN FRANCIS:** Okay. We got Mr. Cleco.

11 **MR. MARK KLEEHAMMER:** Good morning. Mark Kleehammer and Austin  
12 Finn on behalf of Cleco.

13 **COMMISSIONER CAMPBELL:** Let me ask you a question, real simple  
14 question. This is complicated stuff, but let's break it down. How much money is  
15 this plant costing you guys?

16 **MR. KLEEHAMMER:** So to answer that question, let me go back to what the  
17 purpose of all of the IRP is. The IRP is a snapshot in time of our resource plan with  
18 a five-year action plan. When we come to certify projects, we file an application  
19 with you guys. We're not there, we're not there at all. We are investigating  
20 opportunities around Madison 3. We think Project Diamond Vault is likely  
21 beneficial for customers, for all stakeholders, but we are still doing the analysis  
22 around that. We just completed the pre-feed, which is the front-end engineering  
23 design work. We will be doing a feed study. All of that will feed into our analyses

1 on whether or not one would move forward with Diamond Vault and come to you  
2 to say it's in the public interest. We're not there. What has happened in this IRP  
3 cycle, again, a snapshot in time of how do we plan for 20 years. We look at our  
4 resource stack and we look at our load stack. All of the comments in this have  
5 hijacked the IRP prejudging Diamond Vault, asking for information about  
6 Diamond Vault that is not completely baked yet. That's why we say it is kind of  
7 putting the cart before the horse here. What we do know is that over the next five  
8 years and throughout our study period, we have Madison 3 running. That is where  
9 we are today based upon how we looked at this when we filed this IRP docket two  
10 years ago. We've done updates and adjustments. They were questions by folks  
11 about why didn't Madison 3 retire. We said we'll do unconstrained Aurora runs.  
12 Aurora is the modeling tool that we use. People use ProSEM, they use PROMOD,  
13 they use Aurora. We unconstrained it and said you tell us whether Madison should  
14 dispatch economically or not, and it did in all scenarios. Then we came back and  
15 we said, okay, we will force the retirement of Madison to see what does that do to  
16 costs. And we ran three separate scenarios in there. One was basically CTs, which  
17 is the lowest cost ability to backfill capacity. One was a CT -- CCGT, and one was  
18 solar and battery. And each of those runs were significantly more expensive than  
19 the base case that we have. So where we feel is we've been at this for two years,  
20 we gave the snapshot of time, we took feedback from folks, we showed our  
21 assumptions, modified our assumptions and we are mired in these type of talks. I  
22 would like to just rebut a couple things here that Emma said. One, pointing to Petra  
23 Nova being a CCS project. It was in operation and she said it was mothballed. I

1 don't remember what year that was. I think it relied largely on associated gas from  
2 some of the oilfields. As of September 2023, it's back in service or they have  
3 announced that it's going back in service. So it's not a failure of the CCS  
4 technology. It was an economic issue around the fields and the Permian Basin.  
5 Kemper County is nothing like this. When you think about, and she said, a project  
6 hasn't been done to the same scale as Diamond Vault would be. Diamond Vault  
7 might be two times, may be three times the scale of Petra Nova. When Kemper  
8 County was done, it was something like 80 times the scale of prior technology. It's  
9 a different technology and it's different by orders of magnitude, so it's very  
10 different. Regarding water, the water for Madison 3, the water for Diamond Vault,  
11 comes from Lake Rodemacher. It's Cleco's lake, manmade lake. And when we  
12 met with Sierra Club, we pointed out to them that that water issue is not true for the  
13 process that we're looking at. It is not going to increase water usage by 55 percent.  
14 Those are facts that we know. But to get back to this, all of this is under analysis  
15 by Cleco. We are doing our diligence on every level of Madison 3 and Diamond  
16 Vault, and we plan on coming to you with a filing. We thought that we would have  
17 a X docket filing that we would do about this time. It's been delayed because our  
18 pre-feed study and our feed studies have been delayed.

19 **COMMISSIONER CAMPBELL:** Is Madison 3 the problem? That's what  
20 you're trying to cure?

21 **MR. KLEEHAMMER:** Madison 3 is our largest emitter. It's probably the largest  
22 utility emitter in the state and it's about 60 percent of our carbon dioxide emissions.

1 **COMMISSIONER CAMPBELL:** You know, just for you guys out there in the  
2 audience, this is thing from the past. Why don't you just tell us how old Madison  
3 3 is? Listen to this. I want you to listen to this now. Was it built in 1910? Was it  
4 built in 1920? Was it built in 1930? Was it built in 1980? Why don't you tell us  
5 when it was built?

6 **MR. KLEEHAMMER:** So I think it was 2010.

7 **COMMISSIONER CAMPBELL:** 2010. How you like that? Fourteen years ago,  
8 they built this plant, and I went up there. It's right on the side of I-49. Everybody  
9 was clapping and wonderful. And they use this substance called coke, petroleum  
10 coke. And I want y'all to hear this, it's very, very important. Petroleum coke is  
11 what refineries have waste when they make gasoline. Let me tell you about the  
12 petroleum coke. Under Edwin Edwards they taxed petroleum coke. They taxed it.  
13 And today we ought -- let me get further down the story. Then along comes Mike  
14 Foster and the oil companies. And they said guess what about petroleum coke, it's  
15 not worth anything. They have it piled up all over the refineries. It's not worth a  
16 penny and so we want you to take the taxes off of petroleum coke. Well, they got  
17 their way. They took the taxes off petroleum coke. Along comes 2010, they said  
18 oh, by the way, we might have a little use for it. We're going to build a plant, we're  
19 going to use petroleum coke to make electricity. So there is no tax on petroleum  
20 coke and these folks use it to make electricity. We have been cheated out of  
21 millions of dollars by taking the tax off of petroleum coke that we were told was  
22 useless and there was no way to use it. And lo and behold, we build a new plant  
23 for billions of dollars. How much did it cost, 1 billion?

1 **MR. KLEEHAMMER:** It was around -- yes, about a billion.

2 **COMMISSIONER CAMPBELL:** A billion-dollar plant 12 years ago. Now they  
3 use petroleum coke and we don't get any tax on it. And now, to put the cherry on  
4 top of the ice cream, they said oh, by the way, this is the biggest polluter in the state  
5 and we're going to have to spend millions of dollars to do something with this  
6 pollution. That's the rest of the story as Paul Harvey would tell you.

7 **MR. KLEEHAMMER:** And Commissioner, I agree with everything you said,  
8 and that is why we do so much diligence in all of our resource planning. Things  
9 change. You know, we are talking about Madison 3 today, a petcoke plant. When  
10 I was with Entergy, we were doing the exact same thing with Little Gypsy Plant.  
11 Things change. Fracking came in, gas prices went down. There were cleaner,  
12 cheaper places to provide the electricity. When we look at an IRP, we look at all  
13 of these factors. We take them all into account, and we are looking at technology  
14 risks going forward trying to find the best options for our customers.

15 **COMMISSIONER CAMPBELL:** I'm not pointing my finger at you. I'm just  
16 saying that the whole state was duped by previous administrations who took the  
17 taxes off. The oil companies want it off. They lied. They said it was no use to it,  
18 that it was just piled up and we don't have any use, we ought to not be taxed on  
19 something that's not useful. And lo and behold, they build a plant and they use  
20 petroleum coke. And we have been duped. The state of Louisiana has been duped  
21 out of millions of dollars that we were getting taxes from and they changed it. So  
22 that's just the rest of the story.



1 **MR. KLEEHAMMER:** And two last points, if I may, on petroleum coke, you  
2 mentioned it. It is akin to a waste product. It's different than mining coal some  
3 [INAUDIBLE].

4 **COMMISSIONER CAMPBELL:** I've got it.

5 **MR. KLEEHAMMER:** We look at it very differently. When we think about  
6 Project Diamond Vault in conjunction with Madison 3, we think there's an  
7 opportunity to economically clean up the emissions from Madison 3 and actually  
8 clean up this waste petcoke product. We could bring 90, 95 percent of all of the  
9 CO<sub>2</sub> emissions down from that as opposed to that going offshore.

10 **COMMISSIONER CAMPBELL:** So what you're telling me is that after we built  
11 this plant 14 years ago now, not 1910, 14 years ago -- you remember that, Brandon.  
12 They had a big deal up there, oh, hell, we've done -- it's the greatest thing in the  
13 world. After 14 years, it's the most polluting plant that you have? Even more than  
14 the one you built --

15 **MR. KLEEHAMMER:** Well, think about coal plants that have been retired in the  
16 state over time, right. You've got coal, you've got coal petcoke like this, and then  
17 you've got old gas, legacy gas, new gas, efficient CCGTs, and then now  
18 renewables. The entire industry has been cleaning up everything as we can. So  
19 now, I believe in the state, you know, we have Rodemacher 2, we have Cajun --  
20 Cajun's coal, and then there's Nelson 6 in Lake Charles. So the amount of coal in  
21 this state has declined, and yes, this is the largest plant that is producing and would  
22 have this type of emission.

1 **COMMISSIONER CAMPBELL:** I'm saying that to say this, and I was there at  
2 the groundbreaking, everybody thought it was the greatest thing ever. But before  
3 we spend all this money on carbon capture and all that stuff, let's make sure that  
4 this stuff works. Because we'll be in the same situation that we're in just only 14  
5 years ago. Everybody said this is the newest deal, it's the greatest thing's ever  
6 happened, and I was up there and you had everybody and every politician there  
7 from Arkansas to the Gulf of Mexico. And this is right on I-49. I go by it every  
8 day. And now you're telling me it's the largest polluter in the state. Hell, if we'd  
9 have known that 14 years ago, nobody'd been -- you wouldn't be borrowing a  
10 billion dollars to build it. So science changes and this little lady that came up, I  
11 appreciate her coming, but we really need to know what we're doing before we  
12 wade off into spending billions of dollars. And this is a prime example here. It  
13 cost a billion dollars, now it's filthy and you're trying to do something about it.  
14 And I appreciate y'all's effort to clean the environment up, but what a hell of a  
15 mistake we made building that thing and spending a billion dollars and now it's our  
16 number one polluter in the state of Louisiana.

17 **MR. KLEEHAMMER:** And, Commissioner, I mean, things do change. I mean,  
18 when we looked at this, Cleco built Madison 3, Entergy was looking at Little Gypsy  
19 at the same time because this entire state, the entire industrial base was choking on  
20 \$8, \$9 gas. Boom. Fracking happened. Things changed dramatically. \$15 gas.  
21 Yes. It was a very, very bad period for rates in Louisiana in the 2007, '08, '09 time  
22 frame. And that's why we looked at diversification. We did not go into a full coal  
23 plant because of course you didn't have an opportunity for petcoke. The price of

1 petcoke has changed over the last two years since the Russian invasion of the  
2 Ukraine, but that's -- getting back to my point is we take all of these into account  
3 when we're looking at our long-term resource planning. And the IRP is a snapshot  
4 of that and we believe we've complied with all of the IRP's requirements.

5 **COMMISSIONER CAMPBELL:** Mark, you know, I don't know this for a fact,  
6 but I'll be willing to bet your rates today are 11 cents.

7 **MR. KLEEHAMMER:** Yes.

8 **COMMISSIONER CAMPBELL:** I'm going to bet you in 2010, it wasn't 11  
9 cents.

10 **MR. KLEEHAMMER:** I could get them.

11 **COMMISSIONER CAMPBELL:** I'll just make you a bet. You're at 11 cents  
12 today. You go back and look when you built that plant, you're talking about how  
13 you had to do it because of the high price of electricity.

14 **MR. KLEEHAMMER:** Yeah.

15 **COMMISSIONER CAMPBELL:** I'm going to bet you in 2010 Cleco's rate was  
16 less than 11 cents per kilowatt hour.

17 **MR. KLEEHAMMER:** I think I might take that bet.

18 **COMMISSIONER CAMPBELL:** I'm willing to bet.

19 **MR. KLEEHAMMER:** It depends on when the gas hit, but if you go -- you say  
20 '10, but remember it's a two-year process to build and approve, right. It takes a  
21 year -- it takes us a year to figure out whether we want to build a plant, it takes a  
22 year for you guys to approve it, and then it takes a year and a half to build it. So

1 when we're looking -- in the time when these decisions were made in 2007 and '08,  
2 I'll take that bet. I probably have it behind me.

3 **COMMISSIONER CAMPBELL:** We look at these rates every day. I remember  
4 saying a lot of times, you know, before long we're going to have rates up to 10  
5 cents. Now we got them up to 17 cents, 18 cents, 12 cents, 15 cents. You know, I  
6 mean, I remember when we were talking maybe -- y'all watch it, pretty soon we're  
7 going to be at 10 cents. You remember that? I don't know what year it was. It  
8 hadn't been too long, but I'll bet you a hamburger, here.

9 **MR. KLEEHAMMER:** So the other -- and I thought we might touch on this in  
10 the inflation discussion later on, but when you look at electric rates over time,  
11 they're a deal. If you go back to 1980, the nominal rate throughout the country for  
12 a thousand kilowatt hour residential was about 5 cents. In real terms, that was the  
13 equivalent of 20 cents. Today, the nominal rate, and I looked at these up under the  
14 Bureau of Labor, BLM, whatever -- it's not DOE. But they have us at 17 cents for  
15 January of this year.

16 **COMMISSIONER CAMPBELL:** Have you --

17 **MR. KLEEHAMMER:** Not us. No. Nationally, nationally 17 cents. So inflation  
18 adjusted that's 17 cents, right? Nominally, they were 5 cents way back when and  
19 20 in real terms. When you and I both started working on this in 2005, you're right,  
20 the national rate was about 10 cents. Now it's about 17. But that rate of 10 inflation  
21 adjusted was actually more expensive.

22 **COMMISSIONER CAMPBELL:** The bottom line, it just -- this is me, not  
23 anybody out there, nobody else -- I'm not asking anybody to feel this way. It is one

1 hell of a note when you drive down I-49 and you see this monstrosity over there  
2 that y'all paid a billion dollars for and I was all for it. Now you tell me it wasn't  
3 built in the '20s or the '40s or the '50s, it was built in 2010, now it's obsolete and  
4 it's the most polluting plant in -- that breaks my heart. Because now we got to come  
5 up with another way to clean it up that's going to cost billions. But anyway, that -  
6 - you know, you didn't do it on purpose and that's just the way things change I  
7 guess.

8 **MR. KLEEHAMMER:** Thank you.

9 **CHAIRMAN FRANCIS:** Mr. Kleehammer, that plant's obsolete?

10 **MR. KLEEHAMMER:** No. I would not say it's obsolete.

11 **CHAIRMAN FRANCIS:** Okay. All right. I didn't think so.

12 **MR. KLEEHAMMER:** No. I would say that the environmental requirements  
13 have changed over the last 14 years and we expect them to change over the next 10  
14 and --

15 **CHAIRMAN FRANCIS:** So it went online about 2010?

16 **MR. KLEEHAMMER:** Correct.

17 **CHAIRMAN FRANCIS:** So we probably planned it in 2005 or '06, you know.

18 **MR. KLEEHAMMER:** Correct.

19 **CHAIRMAN FRANCIS:** Several years -- it took a while, huh?

20 **SECRETARY FREY:** It would have been -- I think I worked on that certification  
21 docket with Mr. Zimmering and Mr. Kahal and that probably -- that sounds about  
22 right. I think it was '07 -- '06, '07 around there.

1     **CHAIRMAN FRANCIS:** Okay. And so isn't it true that five Commissioners had  
2     to vote for us to build that plant at that time?

3     **SECRETARY FREY:** Yes. It would have to be certified by the Commission  
4     through a RFP.

5     **CHAIRMAN FRANCIS:** Right.

6     **MR. KLEEHAMMER:** Correct.

7     **CHAIRMAN FRANCIS:** So it's a mistake five Commissioners voted to build a  
8     plant that some think is obsolete, you know. But we don't all think it's obsolete.  
9     Okay. All right. Okay. Commissioner Lewis.

10    **VICE CHAIRMAN LEWIS:** Thank you.

11    **COMMISSIONER CAMPBELL:** Especially if you live down in the Cleco area,  
12    he doesn't think it's obsolete. I live up in Bossier and I know you're fixing to spend  
13    a bunch of money. And I'm going to call it -- it was a bad decision, bad decision.

14    **VICE CHAIRMAN LEWIS:** I'd like to -- thank you, Mr. Chairman, I guess in  
15    2005 that would have put me in seventh grade I think. So Commissioner, I don't  
16    think I was paying quite as much attention to that at that time, but I'm glad to be  
17    here now paying attention.

18    **CHAIRMAN FRANCIS:** Now, you're [INAUDIBLE] --

19    **VICE CHAIRMAN LEWIS:** Now, I'm on it. Thank you. Thank you, Mr.  
20    Kleehammer. I have a few questions. I want to stick on Diamond Vault for a  
21    second, but then I want to talk about some other issues that I have in the integrated  
22    resource planning. And so in this discussion, I mean, I know you mentioned that  
23    you haven't filed your X docket, but in the IRP rules, it clearly states that one of

1 the musts is looking at rate impact, alternative resource planning scenarios, capital  
2 costs, O&M expenses, et cetera. And when I read it, I did not see the optimization  
3 analyzation given to identify it as a least cost resource or the load requirements,  
4 planning periods, and restraints. And so I'm personally struggling to say that that  
5 is actually a completion of the IRP because it is -- you did put Diamond Vault in  
6 there. So how would you tell me otherwise?

7 **MR. KLEEHAMMER:** So we filed in February of '22 with Madison in  
8 throughout for all scenarios. We announced Diamond Vault later on in '22 and are  
9 still working through it. So it's not -- I would argue it's not in there. Austin, if you  
10 want to correct where I am.

11 **MR. AUSTIN FINN:** Just one minor edit there. So Diamond Vault is not  
12 technically a generating resource, Madison is. In the IRP, the approach taken is  
13 looking at it as if it's a load, so without knowing all the details around the costs of  
14 Diamond Vault to prudently evaluate it in the IRP, we at least took the position that  
15 we need to account for the potential for a new load, just like we do in other  
16 scenarios, electrification load, things of that nature. So resources were selected to  
17 account for that additional load in the IRP.

18 **MR. KLEEHAMMER:** Yeah. To clear that up, I think you get about 200  
19 megawatts of parasitic load so we recognize we have 200 megawatts less of  
20 resources that we need to backfill.

21 **VICE CHAIRMAN LEWIS:** Okay. And I think for where I'm coming from and  
22 reading this integrated resource plan and looking at Staff's recommendation, I  
23 mean, there was just some things that just weren't there. I mean, there was no

1 references for revenue requirement. There was no development of an overall action  
2 plan for the choice of this portfolio. I felt there was a little of lack of transparency  
3 in all the aspects of the project, the models, and I was struggling to understand why  
4 it was chosen as the best option forward in some of those. And so I understand  
5 where you're coming from or your point of view on this, but when it's listed in the  
6 integrated resource planning, that is what I'm looking at. And so a question I have  
7 for you when you were forced to model the retirement of Madison 3, it was your  
8 claim that all the alternative scenarios are more expensive; is that correct?

9 **MR. KLEEHAMMER:** Correct.

10 **VICE CHAIRMAN LEWIS:** But I'm struggling because I looked through it and  
11 here are just some of the points that I didn't see. I didn't see any consideration in  
12 taping into existing interconnections with new solar, the IRA Energy Infrastructure  
13 Reinvestment credits. Was there a reason why any of those analyses were not done?

14 **MR. KLEEHAMMER:** We ran the solar scenarios. I'm not sure when the -- I'm  
15 not sure specifically what IRA item you're pointing to.

16 **VICE CHAIRMAN LEWIS:** And some other points where I just did not see, I  
17 mean, I did not see any modeling on demand side resources, energy efficiency. I  
18 mean, I think when we look to compare the cost of demand side resources, energy  
19 efficiency, the LOCE supply alternatives to meet reliability needs of customers,  
20 those also weren't done. And so this is where I'm struggling because I'm a -- as  
21 you know, I'm a former educator. And I appreciate the difference between what a  
22 planning process is and an actual certification requirement is. But when I would  
23 assign papers, your rough draft had to be a rough draft. You couldn't just write



1 1,700 words saying this is my rough draft, have no climax, no rising action, falling  
2 action, and then get a passing grade from me. And so what I'm struggling with is  
3 it seems -- for some of these and some of my comments will apply to Exhibit 5 as  
4 well, that the motions of an IRP were produced, but not the actual analysis that  
5 showcased the best option. I mean, when I'm looking at the option you chose, the  
6 optimized scenario as the best scenario, looking at the data and reading Staff's  
7 reports, I don't think it out performed the other portfolios, especially in the case of  
8 high gas and higher CO<sub>2</sub>, abatement prices. And I'm struggling to see how you  
9 chose the one you did when there was other factors that the IRP asks you to consider  
10 that would lead you to pick a different option than the one you selected in this IRP.

11 **MR. KLEEHAMMER:** Okay. And I think that there are a couple things. I  
12 disagree with the report in two fronts. On page 20, it mentions demand response  
13 and energy efficiency. And it points out, it says in each of the portfolios and  
14 scenarios in Cleco's final IRP. The amount of EE that results from Aurora  
15 modeling is exactly the same that raises questions about how we did it. It was  
16 selected in every scenario. So it's in, it's baked in. EE is baked in throughout in  
17 the load. The second question saying on demand response, the result of the demand  
18 response market potential study are included as a resource option that can be  
19 selected in the Aurora model. Cleco's DSM potential study found that total  
20 program cost to achieve 97 megawatt reduction by 2032 would be 90 million,  
21 implying a cost of \$928 per kW. This is lower than the total cost per kW of any  
22 other supply side technology. That's true nominally, but when demand response is  
23 only incorporated in four percent of the hours because it shaves peaks, that's exactly

1 what it's supposed to do, that becomes a very, very expensive resource to shave  
2 less than four percent of the peak hours. So what I would argue is we use the  
3 modeling for both EE and it was selected in every scenario and we put it in for  
4 demand response and it was not selected because it is actually a high cost when it  
5 only is used four percent -- less than four percent of the time.

6 **VICE CHAIRMAN LEWIS:** So is it -- okay. [INAUDIBLE] --

7 **MR. KLEEHAMMER:** So I think we covered both of those bases and we -- I  
8 disagree, we disagree with those two comments in the recommendation. I think the  
9 third comment in the conclusion that I disagree with is, you know, furthermore,  
10 shareholders should be responsible for a large portion of cost whether or not there  
11 are overruns or underperformance. A CCS will be a very high cost compared to  
12 other zero carbon alternatives. That's prejudging Diamond Vault, which is not at  
13 the table today. Diamond Vault will come with an X docket and a real docket and  
14 a certification. You know, when you say we need to make sure it performs and we  
15 need to worry about cost overruns, that's what a utility does. That's all day long  
16 we do that. When you say that our shareholders should bear some of the costs  
17 before we've even applied, I think that that's -- I disagree that that's the way an IRP  
18 should work.

19 **VICE CHAIRMAN LEWIS:** And I have one more question for you and then I'll  
20 ask Staff some questions based off of your comments. Regarding MISO's effective  
21 load carrying capacity for seasonal capacity, have you done or will do a reliability  
22 analysis for this chosen scenario?

1 **MR. FINN:** We included the understanding of the seasonal accreditations that  
2 recently came out within this IRP, including winter reserve requirements, summer,  
3 et cetera, along with accreditation across the system, anticipated accreditation as it  
4 changes amongst unit types.

5 **VICE CHAIRMAN LEWIS:** Okay. Thank you. And for Staff, hearing what  
6 Cleco's representatives have stated about particularly prejudging Diamond Vault,  
7 looking through your analysis that you stated they didn't demonstrate their final  
8 expansion selection process or be fully transparent on the economic grounds for  
9 optimization in their analysis. What would your answer be to the question that was  
10 -- or the statements that were just posed, I should say?

11 **MS. MARIE FAGAN:** Thank you, Vice Chairman. I'm Marie Fagan. I'm the  
12 chief economist with London Economics who performed the technical analysis for  
13 the Staff report. So what we would have liked to have seen is more transparency.  
14 So for example, the comparison of Project Diamond Vault going forward with, for  
15 example, the solar plus battery option -- I want to turn to the right page so I can  
16 describe it clearly. So Cleco responded in an addendum where we asked for  
17 comparison of the revenue requirements for Madison 3 and Project Diamond Vault  
18 with several alternatives if the goal is to reduce carbon footprint, for example, and  
19 provide capacity. And they looked at a peaking plant, a CCGT, or a solar/battery  
20 hybrid. And they provided some numbers, but it wasn't as transparent -- they didn't  
21 provide, for example, the net present value of these options. They only provided  
22 the increment between the NPV and the cost of Madison 3, not Madison 3 plus  
23 Project Diamond Vault. They didn't provide the levelized cost of energy for each

1 of the options, and they didn't provide numerical details to support the calculations,  
2 for example, fuel price, energy price assumptions, seasonal generation from solar  
3 plants, et cetera. And they noted that, well, the solar plus battery option is more  
4 expensive on a net present value basis than keeping Madison 3 running, but that's  
5 not the relevant comparison. The correct comparison was the solar plus battery  
6 versus Project Diamond Vault. So they did comply, provided more information,  
7 just not enough to really see what the options looked like.

8 **VICE CHAIRMAN LEWIS:** Thank you. And so that is, I would say, a part of  
9 my concern. I know that this is not the certification of Diamond Vault, but I take  
10 integrated resource planning extremely seriously. My Staff does as well. I will tell  
11 you in the interview of my Staff that we talked about integrated resource planning  
12 and these two proposals. That is how I honestly chose Edward Yeilding as my  
13 technical assistant because he came with notes to the interview about these  
14 integrated resource plannings. And so that is why I was asking. Now, when we go  
15 to the optimized portfolio, it included -- and correct me if I'm wrong, Marie -- two  
16 retirements by 2028, it added 500 megawatts of renewable energy resources in '26  
17 and '27, added 150 megawatts of storage in '27, and added 400 megawatts of gas  
18 power in '28. Is that --

19 **MS. FAGAN:** I don't have the exact numbers in front of me.

20 **VICE CHAIRMAN LEWIS:** Mr. Kleehammer, does that sound correct? [NO  
21 AUDIBLE RESPONSE] Okay. I just wanted to make sure that that was correct.  
22 And then the last question for you before I think I am concluded. I know we were

1 talking about the modeling demand side resources and energy efficiency, but in all  
2 of the models, EE was the same, correct?

3 **MS. FAGAN:** So we want to distinguish between demand side management and  
4 energy efficiency. So when you think about energy efficiency, that's something  
5 that's in place all the time, right. You might have more efficient buildings, more  
6 efficient appliances, and once they're put into place, you're always getting that  
7 energy efficiency from them. Demand side management is usually considered  
8 differently, it's what you can call upon to help meet peak demand. You might have  
9 industrial customers, for example, who can use less electricity, if you ask them to,  
10 that can delay some industrial processes. So energy, we would expect over time  
11 energy efficiency to be more attractive to investors, people who own commercial  
12 buildings, residential houses, when electricity prices are more expensive. The  
13 tradeoff between buying new equipment becomes more attractive, but we didn't  
14 see that energy efficiency effect -- sort of an economic tradeoff effect in the  
15 different scenarios. So you had a high energy cost scenario, lost energy cost, but  
16 the energy efficiency adoption was assumed to be the same. The demand, again,  
17 the demand side management, it's a little bit different. It's handled a little  
18 differently, but we were surprised that that efficiency side hadn't changed from  
19 scenario to scenario.

20 **VICE CHAIRMAN LEWIS:** Thank you. And, Mr. Kleehammer, is there  
21 anything you would like to add on that point?

22 **MR. KLEEHAMMER:** Yeah. I can just say that because it was selected at the  
23 maximum that was in there throughout, I'm sure in hindsight you could look at

1 variable levels of energy efficiency and a higher adoption, but the point being,  
2 energy efficiency was selected throughout, reducing the overall loads.

3 **VICE CHAIRMAN LEWIS:** Thank you. And to conclude, I want to thank you  
4 for your answers. Ms. Marie, I want to thank you for your answers. As I stated, I  
5 am struggling because I hear and I understand your point of view and I'm looking  
6 intensely at this IRP General Order and there are places where I don't think it is a  
7 hundred percent in compliance. That doesn't mean based off of all those  
8 assumptions and the optimization that you chose is the issue for me, but it is the  
9 requested as we talk about this, I think IRPs, we have to have a stronger process  
10 that increases transparency, that ensures that we are adequately looking at the best  
11 cost alternatives. Because as Commissioner Campbell was talking about, when we  
12 talk about rates and, you know, I specifically talk about energy cost and energy  
13 burden a lot, the planning for the future is extremely important. And this statement  
14 is not just solely about Exhibit 4, this pertains to Exhibit 5, the upcoming IRP for  
15 1803. And I believe I would go ahead and say I want our co-ops to do this as well  
16 because this is an extremely important process to me about what is -- but just when  
17 I overall looked at it, I just -- the evidence was inadequate for me to support the  
18 instance of Madison plus Diamond Vault in estimates of the LCOEs, fuel prices,  
19 energy consumptions, IRA tax credits, seasonal generation, environment  
20 considerations, the longevity of alternatives. So I am pleased to hear the Chairman  
21 talk about, that I'm going to talk with him after this, about some potential  
22 adjustment to the rule so we can really address these in IRPs and have the kind of  
23 planning conversations that I think are necessary. But I will conclude my questions

1 and let any of my colleagues talk, but I am still struggling to adequately say, even  
2 though the Staff with their concerns agreed, that you complied with the order. I'm  
3 looking at some of the technical language of the order and I'm still on the fence,  
4 so. But I appreciate you answering all my questions and indulging me. Thank you,  
5 Mr. Chairman.

6 **CHAIRMAN FRANCIS:** Take another breath, Mr. Kleehammer. I've got a lot  
7 of constituents in CenLA area watching this program right now, and I want to try  
8 help all my friends and neighbors up there understand what we're talking about.  
9 It's a very complicated issue. So I want to go back to IRP just a minute so we make  
10 sure that the public understands what we're talking about. The R is a resource.  
11 This is a resource of fuel to generate electricity, right?

12 **MR. KLEEHAMMER:** It is. That is correct. It is also looking at the load that  
13 you bring. So you're looking to balance load and the resources --

14 **CHAIRMAN FRANCIS:** But I mean, you have to -- say the economics of it.

15 **MR. KLEEHAMMER:** Absolutely.

16 **CHAIRMAN FRANCIS:** If it's natural gas or if it's coal, or nuclear, or wind, or  
17 solar, or petcoke, that's the resource that we're trying to estimate in the future what  
18 we will use to produce -- to keep the lights on. And the P is the plan. Who makes  
19 the plan? The rules for the plan, who makes the rules for the plan? The Public  
20 Service Commission, right?

21 **MR. KLEEHAMMER:** So yes. So what we do is we make a recommendation,  
22 we have a draft IRP, parties come in, intervene, including Staff, take a look at  
23 whether the assumptions are reasonable and whether we've met a view of -- again,

1 a snapshot of long term. Are you looking all of the levers that you might be able to  
2 play because we talked about it a long time, but, you know, we are looking at  
3 number one, reliability; number two, affordability; and number three,  
4 sustainability. It is a triangle. I hate to list them in that order because they're all  
5 super important, but we are always looking to make sure that when you turn the  
6 switch, the power's there and that we're doing it economically for our customers.

7 **CHAIRMAN FRANCIS:** Okay. That's almost more information than I wanted,  
8 but I got the picture. We got a criticism about transparency. The transparency that  
9 you operate under and you deliver to this Commission, those rules were written by  
10 this Commission, weren't they?

11 **MR. KLEEHAMMER:** They were.

12 **CHAIRMAN FRANCIS:** So if we need more transparency, isn't it up to the  
13 Commission to give you some more rules to follow so that people will be satisfied  
14 that there is transparency?

15 **MR. KLEEHAMMER:** Well, yeah, I mean, it's kind of a rhetorical question, but  
16 we -- I believe we're on our third cycle of the IRP, which is the same as Entergy  
17 and SWEPCO. And there is a big chunk of the state that hasn't done them yet. I  
18 think you're going to see 1803 coming up with one, but we've got all of the other  
19 co-ops who haven't. And transparency is key. So here we're talking about is every  
20 assumption laid out, and to Ms. Fagan's credit, she said that, you know, we didn't  
21 have the assumptions in that last addendum because they're the same as the  
22 original. But they're there. They're there to be found and we go through a  
23 stakeholder process, we have meetings with stakeholders, we go through



1 comments. So we are trying to get to the right answer because as Commissioner  
2 Campbell said, these are big dollar investments, they're 40 year lived investments  
3 and we don't want to make mistakes. And so we're not trying to stiff-arm folks  
4 and say I don't want to hear what you have to say. We just want to make sure that  
5 we can get to the right answers and that we're giving a good, accurate snapshot of  
6 what the future looks like.

7 **CHAIRMAN FRANCIS:** Amen. Okay.

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

9 **CHAIRMAN FRANCIS:** Well, I think we got -- Skrmetta was ahead of you. You  
10 want to say something?

11 **COMMISSIONER SKRMETTA:** Sure. I got a couple of things.

12 **CHAIRMAN FRANCIS:** Sure. Okay. Go ahead.

13 **COMMISSIONER SKRMETTA:** Okay. Can you hear me? Okay. A couple of  
14 things. First, Madison 3 was built -- what -- before we would recognize what is  
15 now considered the war on coal, right?

16 **MR. KLEEHAMMER:** Correct.

17 **COMMISSIONER SKRMETTA:** Okay. And so we voted on Madison 3  
18 because at that time, which you brought up before, was we were dealing with the  
19 runaway prices on natural gas that was existing because of the trade war between  
20 the northeastern part of the United States and the United Kingdom and Europe.  
21 And they were like running the game and they were just bidding against each other  
22 and artificially driving the price of natural gas up. It was during that time period,  
23 right, more or less?

1 **MR. KLEEHAMMER:** Yeah.

2 **COMMISSIONER SKRMETTA:** All right. And also, as I recollect, wasn't  
3 Madison 3 or one of those units, wasn't -- when it was Rodemacher at the time I  
4 think, wasn't it designed to also to burn biomass?

5 **MR. KLEEHAMMER:** It's got some flexibility, it's a fluidized coal --

6 **COMMISSIONER SKRMETTA:** Well, even though we've figured out that  
7 biomass wasn't a preeminent use for the device, but it was also designed for that  
8 because it was, again, looking for a solution to combat the high price of natural gas.  
9 And what I'm looking at is that device was a search by the Commission and by the  
10 companies to fight the extreme expense of the fuel component of natural gas at that  
11 time because of which the price of electricity was very high, we were -- not so much  
12 the rate, but it was the cost of fuel. And we were doing anything we could do to  
13 figure out a path for the consumers to get value for electricity; is that an accurate  
14 statement?

15 **MR. KLEEHAMMER:** That is absolutely true.

16 **COMMISSIONER SKRMETTA:** So it's kind of hard to consider the clarity of  
17 hindsight because that's 20/20, but when you're looking forward, you have to take  
18 risk and assumption because you can't wait until you're at that moment when you  
19 can figure out when everybody's got it right and then do it because then you're two  
20 to three to five years behind the curve and everybody suffers. So you have to take  
21 risks on behalf of the ratepayers and on behalf of the public and the state to make  
22 sure that people can keep the lights on and the industry can keep their horsepower  
23 going to the motors. I think that's a reasonable statement, too.

1 **MR. KLEEHAMMER:** Yes.

2 **COMMISSIONER SKRMETTA:** Okay. So on this Diamond Vault, if you were  
3 to build it, because, you know, I'm still on the wall about it, but if you were to build  
4 it, is there a federal component of contribution towards the cost of this device?

5 **MR. KLEEHAMMER:** So there are two primary paths and one of the unfortunate  
6 things that we found out about three months ago is that we did not get a DOE grant,  
7 which could have been worth \$350 million, basically a deduct on the cost of the  
8 project. There are DOE loans that are helpful. I think they're probably, you know,  
9 somewhat subsidized, akin to like a, you know, rural electric loans. The other issue  
10 and the primary issue is that 45Q tax credits in the IRA, the price of them might've  
11 been tripled. They might've been \$25 a ton up until the IRA, they are now \$85 a  
12 ton. If Madison were running at 100 percent output, 90 percent output, that's  
13 literally 400 million tons a year, so there is a pot of something like \$400 million to  
14 offset the cost to build the scrubber. So basically, if you think about it, you could  
15 have a plant that now is taking waste petcoke, cleaning it up, being paid for largely  
16 by tax credits, as an example of what could be done in the future.

17 **COMMISSIONER SKRMETTA:** So you're going to burn oil waste, turn it into  
18 power, take the waste from its burn, turn it into carbon dioxide, and inject it, and  
19 get people to buy the credits from that, and turn that back to the ratepayers in cash?

20 **MR. KLEEHAMMER:** Exactly.

21 **COMMISSIONER SKRMETTA:** Okay.

22 **MR. KLEEHAMMER:** In some form or another, right, that's the --

1 **COMMISSIONER SKRMETTA:** Well, it's coming back in some form or  
2 another as a credit back to ratepayers. Okay. So I think that's a very simplistic  
3 explanation of what the value proposition is of a carbon capture system. I'm a  
4 believer that the ultimate carbon capture system is to create a non-emitter power  
5 plant like nuclear power because the difference between the renewable elements of  
6 a power generation and nuclear power is nuclear is baseload and renewables are  
7 not. Renewables are certainly a bridge power mechanism, but the state cannot  
8 function on passive power alone, it's hard to drive the horsepower of the motors  
9 that are necessary to drive the economy. In fact, Ms. Evans, the first 300-megawatt  
10 small modular reactor power plant is going into operation in the United Kingdom  
11 and I'd like you to do me a little quick research and figure out what the cost of that  
12 was and get back to me on that. It was just published in an online journal. So  
13 anyway, you know, and our goal is certainly not to raise prices. I didn't hear a lot  
14 of this at, you know, energy efficiency is there to reduce consumption, but also I'm  
15 hearing -- and I'm hearing it sort of sideways that, you know, if we do it in a certain  
16 way, we should be focusing on, you know, not combatting prices as much as we  
17 are combatting the emissions. And the public wants to have volumes of electricity  
18 at the lowest possible price and also in the cleanest possible form. So it is a  
19 triangular shaped analysis and not a linear shaped analysis. So I don't want that to  
20 be lost on anybody, including the consultants, that, you know, this concept of  
21 making power more expensive so then it becomes economically rationed on the  
22 person's personal pocketbook becomes a failure on the part of the Commission to  
23 perform our primary duty, which is reliability and cost. And so I don't want that to

1 be lost on anybody, that, you know, we need to be that way. So I do think that we  
2 are at a position where we've had this discussions and we've been talking about  
3 this. I think that the IRP -- in fact, I want to make sure from Staff's position, that  
4 in all IRP we are at least discussing the options for nuclear in some component as  
5 part of our IRP discussion, you know, it should be a discussion of it. Obviously,  
6 we're going to look at economics down the road and all that, but we should be  
7 looking at it. We're talking about it in our nuclear technical conferences. We  
8 should be looking down the road on this at least five to six years so that becomes a  
9 true analysis because of its non-carbon emitting factor and where we are looking at  
10 this nationally for the potential of how we're going to get license certification, how  
11 we're going to get design certification, how that's going to be taking place across  
12 the country. But what I do think is for the IRP where we are, we understand the  
13 concerns that the Commission has. I think you understand it, Mr. Kleehammer, I  
14 think you've heard everybody out there. I think I would like to call the question on  
15 this. I think we can vote on it. I think we can move it forward. There's going to  
16 be a lot more scrutiny that takes place when we get down to the fine points  
17 associated with carbon capture. And the other option is, you know, what are the  
18 alternatives, right, and the alternatives are possibly some portion of renewables, but  
19 it's possibly not enough. And you know, the problem is we're fighting federal  
20 regulatory constraint and, you know, unless the rules at the federal government  
21 change, then we are going to have to look at some form of carbon capture to include  
22 it with the renewables to achieve the equation and achieve the goals.

1 **CHAIRMAN FRANCIS:** Chair moves that we accept Staff recommendation on  
2 Exhibit 4.

3 **COMMISSIONER SKRMETTA:** Second.

4 **CHAIRMAN FRANCIS:** Seconded by Commissioner Skrmetta. Is there any  
5 objection?

6 **VICE CHAIRMAN LEWIS:** I will.

7 **CHAIRMAN FRANCIS:** You object, Lewis?

8 **VICE CHAIRMAN LEWIS:** [INAUDIBLE].

9 **CHAIRMAN FRANCIS:** Mr. Lewis objects. Is there any other objections? I  
10 guess we need to call the roll. Commissioner Campbell, how do you vote on  
11 Exhibit 4?

12 **COMMISSIONER CAMPBELL:** Go down the row. I want to go last.  
13 [INAUDIBLE].

14 **CHAIRMAN FRANCIS:** Well, I think the Chair has the control over that, the  
15 reason I'm here. How do you vote, sir?

16 **COMMISSIONER CAMPBELL:** Who you talking to?

17 **CHAIRMAN FRANCIS:** Commissioner Campbell, how do you vote?

18 **COMMISSIONER CAMPBELL:** I asked one time in 24 years, I would like to  
19 be the last one to vote and you're not going to let me do that; is that correct, Mr.  
20 Chairman?

21 **CHAIRMAN FRANCIS:** Let me get a Parliamentary ruling on this.

22 **MS. BOWMAN:** Commissioner, can you use your mic, please? That's what I was  
23 --

1 **CHAIRMAN FRANCIS:** Oh, I'm sorry. Okay. Sorry.

2 **MS. BOWMAN:** That's okay.

3 **COMMISSIONER CAMPBELL:** I asked to be the last one to vote the first time

4 I've done this. I've heard it done a thousand times up here in 24 years, I would ask

5 to be the last one to vote.

6 **CHAIRMAN FRANCIS:** Okay. All right. We'll give you the last vote then,

7 Commissioner Campbell, if you insist. Commissioner Greene, how do you vote on

8 this, on 4?

9 **COMMISSIONER GREENE:** Yes.

10 **CHAIRMAN FRANCIS:** Okay. Commissioner Greene, yes. Commissioner

11 Lewis votes no. Commissioner Skrmetta votes --

12 **COMMISSIONER SKRMETTA:** Yes.

13 **CHAIRMAN FRANCIS:** -- yes. The Chair votes yes. And, Commissioner

14 Campbell, how do you vote?

15 **COMMISSIONER CAMPBELL:** Yes.

16 **CHAIRMAN FRANCIS:** Yes. Good. Thank you very much.

17 **MS. BOWMAN:** Mr. Finn --

18 **MR. KLEEHAMMER:** Thank you. And I'll follow up on that hamburger.

19 **SECRETARY FREY:** Well, actually so I hate to weigh in to this hamburger

20 debate, but I actually have some numbers if y'all would like to hear them.

21 **COMMISSIONER SKRMETTA:** Don't interrupt us on the agenda.

22 **SECRETARY FREY:** No. Donnie got me the numbers, and actually, I think it's

23 a tie. To use the technology that Mark likes to use, the tie goes to the runner. In

1 some months, in '10 and '11, Cleco's rates were higher in 2010 and 2011 than they  
2 are now; in some months they weren't. And I think that's a facet of the fact that  
3 Cleco used to be on --

4 **COMMISSIONER SKRMETTA:** It has a lot to do with [INAUDIBLE].

5 **SECRETARY FREY:** Well, they were seasonal rates back then.

6 **COMMISSIONER SKRMETTA:** Right, right.

7 **SECRETARY FREY:** So the summer rates were higher, so in the summer  
8 months, we saw 12.5 cents rates, in the winter months, we saw 10.5, so I think y'all  
9 were both right.

10 **MR. KLEEHAMMER:** But the certification occurred in '08, that's what I thought  
11 we were [INAUDIBLE].

12 **SECRETARY FREY:** I didn't look at those numbers.

13 **MR. KLEEHAMMER:** Right, because I would win that.

14 **COMMISSIONER CAMPBELL:** That's when you were working for Entergy.  
15 Now you're working for Cleco, correct?

16 **MR. KLEEHAMMER:** Correct.

17 **COMMISSIONER CAMPBELL:** Now you also have another issue coming up,  
18 while we're preaching a little bit, we have another issue coming up with Cleco, that  
19 y'all are not in the Baptist church preaching about, right? Okay. Just for the record.  
20 All right.

21 **CHAIRMAN FRANCIS:** Okay. And Ms. --

22 **MS. BOWMAN:** We ready?



1 **COMMISSIONER SKRMETTA:** You want to do this again with Entergy, or  
2 we're just adopting comments and rolling?

3 **CHAIRMAN FRANCIS:** Exhibit 5, Ms. Bowman.

4 **MS. BOWMAN:** Exhibit Number 5 is Docket Number I-36181. This is Entergy's  
5 2021 request to initiate an integrated resource planning process pursuant to the  
6 Commission's General Order in Docket Number R-30021 dated April 20, 2012.  
7 It's also a discussion and possible vote on a Staff report and recommendation. On  
8 October 22, 2021, Entergy submitted its request to initiate an IRP with the  
9 Commission and several parties intervened. ELL presented its IRP data  
10 assumptions and materials, and stakeholders had the opportunity to file written  
11 comments on those assumptions on or before March 15, 2022. After filing the draft  
12 IRP and receiving comments from both intervenors and Staff, Entergy filed on May  
13 22, 2023 its final IRP report and associated appendices, and the same intervenors  
14 filed comments in response to that final report, including their disputed issues and  
15 recommendations. On October 3, 2023, Staff filed its report and recommendation  
16 on Entergy's final IRP report, and in that recommendation, while Staff noted  
17 several concerns, the final IRP report involving transparency, use of up-to-date and  
18 timely information, and development of insights that Entergy's own methodology  
19 supports, Staff -- I lost my spot, apologies. Despite those concerns and providing  
20 clarifications from Entergy subsequent to the final IRP, Staff concluded that  
21 Entergy met its obligations under the IRP Order and does not recommend initiation  
22 of a proceeding for the resolution of disputed issues. Staff notes, again, that  
23 pursuant to the IRP Order, the Commission's acknowledgement of the final IRP

1 does not constitute Commission approval of Entergy's IRP or any specific resource  
2 decision that Entergy made within that IRP, though the IRP may be considered in  
3 future Commission proceedings concerning Entergy's resource plans. Staff  
4 recommends that the Commission acknowledge Entergy's final IRP report, that it  
5 complies with the IRP Order. And we also have Ms. Hopkins who, I think, would  
6 like to make some comments.

7 **MS. HOPKINS:** You won't hear from me after this one.

8 **CHAIRMAN FRANCIS:** Welcome back.

9 **MS. HOPKINS:** Hi, again. So --

10 **CHAIRMAN FRANCIS:** State your name, again, for the record.

11 **MS. HOPKINS:** Oh, yes. Emma Hopkins, representative of Sierra Club. So I  
12 want to say, first and foremost, that Sierra Club is very excited at the proposed  
13 retirements of the R.S. Nelson and the Big Cajun II units in Entergy's IRP. That  
14 being said, I just wanted to note a couple of concerns that we have before we move  
15 on. Entergy's preferred IRP portfolio fails to properly model the IRA and fails to  
16 reflect the least cost options for ratepayers. The IRA substantially altered the law  
17 and factual circumstances governing utility investment and clean energy and  
18 battery resources. For example, Entergy's preferred plan, Portfolio 1, assumes that  
19 the existing production tax credit, or the PTC, and the investment tax credit, or the  
20 ITC, would lapse or stay at low levels. However, as noted in our comments, the  
21 tax benefits available under the IRA are significantly greater than Entergy assumed  
22 in their modeling. In light of significant shift in existing tax law and the  
23 substantially reduced renewable energy and battery costs under the IRA, we believe

1 that it was arbitrary for Entergy to refuse to reoptimize its modeling to reflect those  
2 changed circumstances. And contrary to Staff's recommendation to conduct a  
3 transparent analysis of the IRA's impact on the company's modeled costs, Entergy  
4 simply provided rate impacts of the pre-selected portfolios after the model had  
5 already been run without the IRA. So main point number one is that we would like  
6 to see the company kind of consider more thoroughly money in the IRA for  
7 renewables and battery storage. Second big point is that Entergy's IRP arbitrarily  
8 fails to evaluate the economics of its existing fossil fuel resources or the potential,  
9 specifically, for early retirements. We believe that Entergy should consider earlier  
10 retirements of its coal units because the options modeled were arbitrarily  
11 constrained. Specifically, Entergy did not optimize its analysis for R.S. Nelson or  
12 Big Cajun II Unit III to test the economically optimal retirement date for those units  
13 against potentially lower cost resources. Instead, Entergy hand-selected the  
14 retirement dates for both R.S. Nelson and Big Cajun II separately from any of the  
15 modeling analysis. As a result, the IRP fails to identify or evaluate the least-cost  
16 option for the retirement of those units. In addition to the declining economics of  
17 R.S. Nelson and Big Cajun II, there are several environmental and economic risks  
18 that require an evaluation of earlier retirement. For example, the IRA provides  
19 billions of dollars in tax credits, direct funding, and low interest loans that could be  
20 used to facilitate the retirement or replacement of Entergy's legacy coal units.  
21 Additionally, there are several proposed federal rules which could impact the  
22 continued operation of coal. For example, the Good Neighbor Plan, which requires  
23 coal units lacking in the most effective hydrogen oxide or NOx controls, which are

1 selective catalytic production. To install those controls or purchase pollution  
2 credits to reduce NOx emissions for a level commensurate with SCR technology.  
3 So essentially, the Good Neighbor Rule would force SCR installation. And then,  
4 also, the Clean Air Act's Regional Haze Rule, under which R.S. Nelson and Big  
5 Cajun II are potentially subject to installing expensive technology, such as SCR or  
6 flue-gas desulfurization to reduce SO<sub>2</sub> or NOx emissions to protect visibility in  
7 national parks. These additional environmental compliant risks could force the  
8 company to evaluate new retrofit versus retirement decisions for these units shortly  
9 in the future. Because of all these factors, while the Sierra Club is very glad that  
10 the company is choosing to retire these units, we also believe that the company  
11 should be required to conduct a more thorough, transparent analysis that better  
12 incorporates the favorable economics of renewables from the IRA and an earlier,  
13 more economic retirement of R.S. Nelson and Big Cajun II.

14 **CHAIRMAN FRANCIS:** Thank you, Ms. Hopkins.

15 **MS. HOPKINS:** Thank you.

16 **CHAIRMAN FRANCIS:** I appreciate your intervention into all these issues.  
17 That's what keeps us on the straight and narrow.

18 **MS. HOPKINS:** Thank you for listening.

19 **VICE CHAIRMAN LEWIS:** I have some questions.

20 **MS. HOPKINS:** Yeah. Yeah.

21 **CHAIRMAN FRANCIS:** Lewis. Commissioner Lewis, [INAUDIBLE].

22 **VICE CHAIRMAN LEWIS:** Thank you, Mr. Chairman. Reading your  
23 comments, one of your IRA concerns, I just want to make sure I'm understanding

1 you correctly, was that the IRA assumptions were not included in the Aurora  
2 capacity expansion model.

3 **MS. HOPKINS:** Yes, sir.

4 **VICE CHAIRMAN LEWIS:** And so that was the -- and then also looking at the  
5 ITC and PTC, that how -- I'm looking here at the table that was included in their  
6 IRP where energy future is not, kind of, evaluating the solar ITC at the 30 and 50  
7 percent IRA range and utilizing more like a 10 percent. And so I just wanted to  
8 make sure I was understanding your comments correctly.

9 **MS. HOPKINS:** Yes, absolutely. And just an additional note is that -- it could be  
10 worth noting that Entergy would be entitled to potentially a 10 percent tax credit  
11 adder if any of those renewable resources are within energy communities and  
12 another 10 percent adder if the project is constructed domestically, with  
13 domestically sourced resources. So those things add up and I think we would've  
14 preferred to see that reflected in the modeling.

15 **VICE CHAIRMAN LEWIS:** Thank you.

16 **MS. HOPKINS:** Thank you.

17 **VICE CHAIRMAN LEWIS:** And would someone from Entergy come to the  
18 table? I'm going to ask Staff that my generic comments on IRP and the process  
19 and my concerns also be applied to Exhibit 5. I do just have a few specific questions  
20 for Entergy, but Mr. Hand, I see you here. I just want you to note that some of my  
21 same concerns that were in Exhibit 4 also exist in Exhibit 5, but I'm not going to  
22 rehash those all again, but I just wanted to ask some questions of you. Or first, I  
23 should give you a moment to respond to any of my generic comments around IRPs,

1 before we get to yours, if you had anything that you wanted to mention, since I'm  
2 not going to ask those to you.

3 **MR. LARRY HAND:** So first, good morning, Commissioners. Larry Hand on  
4 behalf of Entergy Louisiana. I'm joined by my counsel, Harry Barton. And I will  
5 not respond fully, because I do largely agree with the way Mr. Kleehammer, you  
6 know, characterized the responses, what this IRP process is about. And we've  
7 learned a lot. Every cycle we do of these IRPs since we've started, we've learned  
8 a lot. It evolves, we learn, we take feedback, and the next time around we  
9 incorporate that. The challenges I see with this cycle and all the prior cycles is as  
10 we're doing this planning process, we're filing assumptions, we're modeling, we're  
11 getting feedback, the world is changing around us. And we don't have the  
12 opportunity to stop the world or stop the process because there are deadlines, and  
13 by the time we get to the end of the process, in this case, you know, IRA was a  
14 reality, Build Back Better wasn't. And so, it's that constant conflict, do we stop  
15 and start over? And then another three years, we finally finish. And so that's the -  
16 - this evolution, I think, we do it within the process, within the cycle, and I think  
17 the next time we start the cycle, which is in a couple of years, we will bake in the  
18 things we learned this time. So it's a constant evolution, would be my only add to  
19 what Mr. Kleehammer said.

20 **VICE CHAIRMAN LEWIS:** Thank you so much. And so understanding your  
21 approach, you used and projected three different future models, which manipulated  
22 assumptions about level peak load, energy growth, natural gas prices, coal,

1 deactivation, carbon tax scenarios, demand side uptake, et cetera. That is how you  
2 approached your IRP, if I'm correct, right?

3 **MR. HAND:** I believe so.

4 **VICE CHAIRMAN LEWIS:** And the biggest difference between your three  
5 portfolios that were modeled is the percent of renewable resource capacity  
6 additions. I mean, if I'm correct, Portfolio 1 was 74 percent; Portfolio 2 is 92  
7 percent; Portfolio 3 was 66 percent. Is that -- am I correct?

8 **MR. HAND:** I don't have the numbers in front of me, but to my knowledge, that  
9 is generally correct, that Portfolio 2 represented a higher penetration of renewable  
10 intermittent resources, wind and solar.

11 **VICE CHAIRMAN LEWIS:** Thank you. And then, so after your modeling is  
12 performed, then you calculate the total relevant supply costs for each portfolio,  
13 which included capital cost not considered in the modeling program?

14 **MR. HAND:** That's right. And to be clear, the TSR that we do, we look at -- and  
15 she said the total relevant supply costs, which is the non-sunk costs, so the future  
16 investment, the future capital to implement a new portfolio, that's what is  
17 considered in that total relevant supply cost measure. We don't go back and look  
18 at investment that's already been made and is in rates because that's kind of  
19 considered a sunk costs, the resource is already there. So I just want to make sure  
20 we're clear on when we're talking about capital in these scenarios, it's the future  
21 capital to execute or modify the resource plan to match what the models tell us we  
22 should be thinking about.

1 **VICE CHAIRMAN LEWIS:** Thank you. And so the reason I wanted to point  
2 that out, because in your plan, you selected Portfolio 1 as your preferred plan. I  
3 mean, when we go directly to the IRP Order and to J, it states that, with proper  
4 justification, a utility may select resource options that are not exclusively least cost.  
5 For example, if the utility is able to justify that such selection is consistent with  
6 reliability, planning, or regulatory environmental operations, objectives, or  
7 constraints, it will reduce the risk of customers acquiring high costs in uncertain  
8 scenarios. And so based off of this, you chose Portfolio 1, but I do have some quick  
9 questions about the decision and your three arguments for why that decision.  
10 Especially on Portfolio 2, you stated it did not yield an executable resource  
11 portfolio, and I'm curious as to why you came up with that recommendation that it  
12 was not executable.

13 **MR. HAND:** And I'll give you a few points, from my perspective. Mr. Barton  
14 may have others. But, you know, one of the biggest things, Portfolio 2 selected  
15 16,000 megawatts of onshore wind in Louisiana and then that would be deployed  
16 over a 20-year horizon. Leaving aside all the duck hunters in the room who may  
17 have issues with 16,000 megawatts of wind turbines onshore in Louisiana, you  
18 know, we've been trying really hard, working with the Commission, with the Staff  
19 to expedite the implementation of solar resources in Louisiana. And to date, we  
20 have 55 megawatts available, so the thought that, over the next 20 years, the wind  
21 technology can mature to the extent that it is economical onshore wind and we can  
22 deploy 16,000 megawatts in Louisiana onshore really raised a lot of risk as to is  
23 this Portfolio 2 really executable, will we have the resource if we need to keep the



1 lights on when people turn the switch, and so that was a big challenge. There are  
2 other challenges from a reliability perspective with that Portfolio 2 that caused us  
3 some hesitation, too. Just look at the pure estimated economics of it. The first one  
4 was capital. Portfolio 2 had about triple the amount of required capital to deploy  
5 to develop that portfolio. Over \$9 billion was the estimate. Whereas you look at  
6 Portfolio 1, it was like 3.5, something like that, I'm not looking at the numbers. But  
7 very significant fixed costs, so we've talked a lot about, you know, Madison today,  
8 about what the thought -- what were we thinking in 2010. Someone may look back  
9 today if we said we're going to do -- we're going to bet the farm on 16,000  
10 megawatts of onshore wind in Louisiana, knowing what we know today, and  
11 someone may look back in 10 years and say what were y'all thinking? And so  
12 we're risk adjusting, trying to think about what is the right balance. We need to --  
13 you know, we need to deliver more renewables to our customers, they're  
14 demanding it, we want to do it, whether that's solar, wind, all options on the table.  
15 But going all in on solar at this point, we felt, would be a significant reliability risk  
16 for Louisiana. And the last point I would add is, you know, we're hearing from  
17 MISO in terms of looking at what load-serving entities are doing across the state,  
18 across the region, that as more and more intermittent renewable resources get  
19 deployed, the risk of being able to meet the load requirements with dispatchable  
20 capability is becoming more and more threatened. And that could be a number of  
21 factors. It could be load growth, it just could be that the rate of deployment of the  
22 renewable, intermittent resources. And as, you know, as we all know, currently,  
23 this Commission has not yet acted on or adopted any sort of minimum capacity

1 obligation. There are a number of cooperatives who have recently gotten approved  
2 supply arrangements that do not require identifiable physical capacity, so on behalf  
3 of our customers, we're a little concerned, and that factors into our planning. You  
4 know, when we think about a portfolio, we want to plan for not only do we want to  
5 make sure we have enough for ours, but the way MISO sheds load, if other LSEs  
6 in the state don't plan enough dispatchable capacity and load sheds become  
7 required, we get cut, Entergy Louisiana's customers would get cut about 50 percent  
8 of what MISO declares for the state. And to us, that is not an acceptable outcome  
9 for our customers to select a Portfolio 2, which we would think would place that at  
10 risk. And this could be a very different answer in three years, in the next cycle, as  
11 technologies mature, if there's an MCO, we'll continue to adjust, but that's kind of  
12 why -- I hit a few of the reasons why we've kind of moved to Portfolio 1. I don't  
13 know if Mr. Barton has any others that I neglected.

14 **VICE CHAIRMAN LEWIS:** And really quickly, before Mr. Barton, I just want  
15 to make sure I understood your MISO market. So basically, your concern was that  
16 you felt Portfolio 2 would expose your customers to the market risk because it over  
17 relies on capacity from MISO's market due to the level of intermittent resources.  
18 Is that a fair analysis of what your --

19 **MR. HAND:** I would say that it overly exposes us, not only to the MISO energy  
20 market, MISO doesn't have a capacity market, so, you know, that's a PRA, that's  
21 a clearing price. The capacity market is what we, as a utility, you as Commission,  
22 require us to deliver, so I think its overreliance on the MISO energy markets, when  
23 you don't have enough of the right types of resources to cover your energy

1 requirements, that energy deficit, from a capacity perspective, it's really the  
2 question of do we -- were we comfortable that Portfolio 2 would deliver enough  
3 dispatchable capacity when the sun's not shining and the wind's not blowing to  
4 keep the lights on, that's what the capacity issue is.

5 **VICE CHAIRMAN LEWIS:** Thank you. And, Mr. Barton, just one second  
6 before I come to you. Your analysis was that you felt ELL did not provide any  
7 quantitative analysis towards that. Am I reading your comments correctly?

8 **MS. FAGAN:** So, yes. So we understand that having more intermittent  
9 renewables, wind, solar, on the system is tricky for reliability because you don't  
10 always get the wind blowing and the sun shining when demand peaks. But there's  
11 quantitative analysis that you can do using what they call effective load carrying  
12 capacity, ELCC, it's a metric that gives you an idea of are these resources going to  
13 run when they're needed, not just their capacity over the course of the year. So  
14 what we would like to have seen is an analysis saying, okay, there's a lot of solar  
15 and wind in Portfolio 2, you know, where is the risk there? What happens when  
16 you add all that to the system, what happens to ELCCs, what happens to your  
17 frequency of unserved load? So we understand that that's a dynamic, that's  
18 something that happens in the energy space, but we would like to have seen it  
19 quantified.

20 **VICE CHAIRMAN LEWIS:** Thank you. And, Harry, forgive me for interrupting  
21 your comment.

22 **MR. HARRY BARTON:** No, not at all, Commissioner. And this may address  
23 Dr. Fagan's concerns as well. I would just to add to what Mr. Hand said that, you

1 know, Entergy Louisiana recently issued a renewable RFP that included a  
2 solicitation for a significant amount of wind resources in Louisiana, and I can't  
3 divulge, you know, the number of proposals we did or didn't receive in that  
4 solicitation, but I think the results of that would underscore the company's  
5 viewpoint, at least at this time, that it would not be realistic to assume that you're  
6 going to get 16 gigawatts of wind resources developed in Louisiana over the 20  
7 year planning horizon.

8 **MR. HAND:** And, Commissioner Lewis, one thing I neglected to mention, having  
9 had a chance to reflect. The other factor, maybe the final factor in the selection of  
10 Portfolio 1 was the assumptions that underlined our IRP when we started. We  
11 assumed we were working under the traditional MISO accreditation construct for  
12 renewable capacity solar, in particular with a 50 percent capacity accreditation. As  
13 the IRP process evolved, MISO moved toward a seasonal accreditation and, you  
14 know, that had a very significant drop in the accreditation, particularly for solar in  
15 Louisiana, as we've seen certainly in the winter months. So if we were to rerun the  
16 analysis, and we agree with Dr. Fagan, you can always do additional modeling, but  
17 you're modeling uncertainties, so we're always going to have uncertainties. And I  
18 think that if we redid that, one of the factors that would further suggest Portfolio 1  
19 is where we need to be right now is the seasonal construct, because the, you know,  
20 the wind and the solar that Portfolio 2 relies heavily upon, the capacity accreditation  
21 from MISO would be much lower on what we know today and I would -- if I were  
22 a betting man, I would think it's going to go lower in the future as more and more  
23 solar and wind penetrates, so just final point on that one.

1 **VICE CHAIRMAN LEWIS:** Thank you. Thank you. That's a thorough answer.

2 **CHAIRMAN FRANCIS:** I'm sorry. You still going?

3 **VICE CHAIRMAN LEWIS:** Just a few more questions, Mr. Chairman.

4 **CHAIRMAN FRANCIS:** All right.

5 **VICE CHAIRMAN LEWIS:** And then I will conclude. Going back to the

6 conversation we were having with the Sierra Club, can you just briefly explain why

7 you were unable to include the ITC and the PTC in the modeling? And if your

8 concerns are the same as Mr. Kleehammer's, just based off of the IRA changes,

9 that's an acceptable answer to me, too, if that's how you want to address that cost.

10 **MR. HAND:** Yeah, I do think it's similar. You know, we did what is called -- I

11 would call an out-of-model adjustment to reflect the change from Build Back Better

12 versus PTCs to the IRA numbers. We did an out-of-model adjustment, which only

13 means we didn't go back and run the Aurora model, which is a very time-

14 consuming model, with the different scenarios, portfolios. And I think it's

15 important to note that the way we reflected the ITC credit -- I'm sorry, the IRA

16 credits, was that, you know, we reduced the capital of that future scenario. So when

17 we talked about the high capital cost of Portfolio 2, we did reduce that by those

18 numbers. If you think about -- it really just -- it could affect how much solar you

19 select in the capacity expansion tool. It's not going to change the dispatch of the

20 system very much because solar and wind dispatch when the sun is shining and the

21 wind is blowing. So I don't know that the Aurora model is going to be

22 fundamentally different if you were to rerun it, but the biggest constraint was one

23 of timing. Had we stopped the process to plug IRA into Aurora, rerun it, and start

1 over, then we would be having this discussion eight months, ten months from now.  
2 Far outside of the time permitted by, you know, the process, and more concerning,  
3 while we would be fresh on that assumption, on the IRA, we'd be more current, all  
4 the other assumptions are then outdated. So we would have to keep starting over  
5 and over. This will be one where next time around, yeah, that's baked in because  
6 we now know IRA is there.

7 **VICE CHAIRMAN LEWIS:** Yeah. And thank you. I understand. In talking  
8 about that, really quickly, I want to hit just two final points that were in -- that were  
9 in your IRP that I felt were not truly addressed, and one of them was regulatory  
10 uncertainty and the effects of facility retirements. When we look at kind of some  
11 of the EPA regulations around the cross-state air pollution rule or the catalytic  
12 reduction -- selective catalytic reduction, there were assumptions that you ran. And  
13 Ms. Fagan can correct me if I'm wrong. One of the things that was pointed out is  
14 that your IRP did not look at the possibility of that some of these existing resources  
15 could be deactivated and replaced with new resources due to changes in regulation  
16 and reading your comments, you argue that the IRP is not the proper venue for that.  
17 But I'm curious if the IRP is not where we would make some of those evaluation  
18 and assumptions, then where would we get some of that planning done, if it's not  
19 in the resource planning process?

20 **MR. HAND:** Absolutely. A few notes on that one. With regard to -- so there's an  
21 open docket at the Commission, an evaluation of retirement or potential economic  
22 deactivation of legacy gas units. That's on the gas world, that docket's out there  
23 specific to look at that question. You know, when might it be economic to

1 deactivate some of those units. On the coal side, with regard to Big Cajun II, Nelson  
2 6, which I think is the focus of the question and the comments here, a couple of  
3 things to note. One is ELL, Entergy Louisiana, is a minority owner in those two  
4 plants. So even if I woke up and said today's the day to retire it, we do not have  
5 the -- as a minority co-owner, we don't have the ability to dictate how those units  
6 activate, how they run, how they're maintained, how they're expanded, or when  
7 they retire. What we can do is engage the majority owner or other co-owners to see  
8 what's economic. So the best thing we could do as a minority co-owner in our  
9 planning in this IRP is make a reasonable assumption about when those units might  
10 be economic from the majority owners' perspective to deactivate, and we have  
11 fairly, you know, fairly reasonable deactivation assumptions that take into account  
12 the environmental headwinds facing those units. For Big Cajun II Unit 3, we have  
13 a deactivation assumption of 2025. Again, it is just a planning assumption because  
14 we don't control the decision. With regard to Nelson 6, also we're a co-owner  
15 minority in that unit. We have a 2028 deactivation assumption. Those assumptions  
16 may change as we learn more about the environmental regulations those units may  
17 be subject to in the next two to three years. And also, more about the technology  
18 that could be used to address those or not because that will dictate is it economic to  
19 install a scrubber, an SCR, all these sorts of things, or is it more economic to  
20 repower it or is more economic to retire it completely.

21 **VICE CHAIRMAN LEWIS:** And I want to thank you and recognize you for  
22 some of the environmental concerns that you did have in this plan. I mean, you  
23 utilized the EPA's EJScreen, which evaluates environmental justice impacts and I

1 did appreciate that. But I would suggest that it's further to use their estimates and  
2 their impacts on new gas burning generation as part of the evaluation. So the last  
3 question I do have for you before I pass it on to my colleagues was about  
4 transmission. Future transmission just was not addressed in this IRP. I mean, we  
5 did not state any consideration of transmission as a resource option, unless it's  
6 connected to a specific generation resource designated to meet your load. So my  
7 question is, why did you only consider transmission as a resource option if it is  
8 connected to a specific generation resource load designated to meet your load, but  
9 aren't there other kind of transmission projects that could provide access to  
10 economic generation resources?

11 **MR. HAND:** Absolutely. Great question. And this is a question that comes up  
12 often in the context of IRPs. I will tell you that the word transmission is not  
13 mentioned often in the general order. It is mentioned, of course. It's mentioned in  
14 the context of when we consider resource options and you think about an integrated  
15 resource plan, we are solving for a peak load capacity issue. You know, we want  
16 to make sure we have enough generation or capacity resources. It could be a  
17 generator, could be DSM, could be energy efficiency. We're looking at resources  
18 to apply to address the peak load requirements of our customers. And the context  
19 of transmission is that when we consider a new generator over here as this is our  
20 solution, we need to take into account that that new generator may have a  
21 transmission cost associated with it to upgrade to interconnect. And so we can't  
22 assume the goodness of this new generator without taking into account the added  
23 cost that transmission could provide, so it must be considered in that context. From



1 the -- it's also to be considered as a potential -- transmission is to be considered as  
2 a potential economic constraint relief. We have a great example of this in  
3 Louisiana. There is a co-generator at the DOW facility in Plaquemine, Louisiana.  
4 When we joined MISO, that unit had difficulty getting its output onto the grid. We  
5 came to this Commission and this Commission approved a project, an economic  
6 transmission relief project, called the Louisiana Economic Transmission Project.  
7 We're bad at naming things. We can only use that once. But what it did was it  
8 made that generator more deliverable to the entire system and so that was a very  
9 economic transmission project. But those -- and the rules reflect that the economic  
10 transmission plan expansion is to be conducted in a different forum than the IRP  
11 itself because we have the MISO planning process, which that project was  
12 identified. So we do need to take into account what we know about the future state  
13 of the transmission topography in Louisiana, but to attempt to have a transmission  
14 planning process in an IRP where all the right stakeholders may not be engaged,  
15 you know, without MISO, other TOs, would lead to a very incomplete, segmented,  
16 fragmented transmission plan.

17 **VICE CHAIRMAN LEWIS:** And thank you. That's a thorough answer. And  
18 that concludes everything that I have. Really quickly, Ms. Marie, is there anything  
19 you would, from my questions, make note of?

20 **MS. FAGAN:** Nothing else.

21 **VICE CHAIRMAN LEWIS:** Thank you. Thank you, Mr. Chairman. I'm  
22 [INAUDIBLE].

1 **CHAIRMAN FRANCIS:** So, Mr. Hand, this IRP we're talking about, it's about  
2 the fuel that we'll use to generate electricity in the future; is that right?

3 **MR. HAND:** It is about the right generation resource mix, and it could be demand  
4 side management or energy efficiency, the right mix of that, which takes into  
5 account the fuel that it uses to generate and the cost of that fuel.

6 **CHAIRMAN FRANCIS:** But when we analyze the transmission, that's another  
7 project; is that right?

8 **MR. HAND:** That's correct.

9 **CHAIRMAN FRANCIS:** Okay. Does the government affect your planning for  
10 the future as they change the rules in DC? Does that have any -- cause y'all any  
11 problem to getting it right?

12 **MR. HAND:** I would say every year, but it's probably more frequent than every  
13 year.

14 **CHAIRMAN FRANCIS:** Yeah. I apologize from coming from the real world,  
15 but this IRP process reminds me of -- real business people call it a SWAG. You  
16 know what a SWAG is, huh? I'm not going to repeat that, but so I appreciate what  
17 you're going through to try to estimate where we'll be down the road when the --  
18 we've seen what the federal government has done over the last few years, both  
19 republicans and democrats, you know.

20 **MR. HAND:** And I don't want to blame the government because they're here to  
21 help.

22 **CHAIRMAN FRANCIS:** Absolutely.

1 **MR. HAND:** What makes these things challenging is just uncertainty in general.  
2 It could be the uncertainty of gas prices, it could be inflation, it could be regulation  
3 on the environmental front, it could be tax incentives. It's a constantly changing  
4 world, and I've been at this for a bit at the Commission and doing this sort of stuff,  
5 I've never seen things change as quickly and as frequently as we see them now, and  
6 that uncertainty makes this planning process really challenging. Even when we  
7 come to y'all to certify a new resource with the best information we have at that  
8 world, that's generally a year old. By the time we do an RFP, we gather  
9 information, we come to you, it's really hard to get to you for a decision timely  
10 with the most current information. And even if it's current at the time, it's probably  
11 not going to be accurate a year, two years, ten years, so we all have to make the  
12 best decision we can with the best information available.

13 **CHAIRMAN FRANCIS:** And we will make some missteps, but over the years,  
14 if you look at the price of a homeowners' kilowatt hour of electricity, Louisiana is  
15 -- we're in the very top in this nation because of companies like yours and your  
16 planning. And I trust you to -- when you do the IRP, I know you're doing the best  
17 you can when you're dealing with the government and the changes in the RTO  
18 system. And I'll hand this over to Commissioner Skrmetta, I believe he had  
19 something for you.

20 **COMMISSIONER SKRMETTA:** Yeah, just a couple of things. The --

21 **MS. BOWMAN:** Commissioner, I don't think your mic is turned on.

22 **COMMISSIONER SKRMETTA:** I'm sorry. Am I on now?

23 **MS. BOWMAN:** Yes, sir. Thank you.

1 **COMMISSIONER SKRMETTA:** Okay. A couple of things. Really  
2 nomenclature on this, because I know we jump around with a lot of terms. I know.  
3 Isn't that strange, right? But we've been going back and forth, we're talking about,  
4 you know, wind, solar, talking about natural gas, right. But I think we need to focus  
5 on baseload and passive as the concept of deliverability of electricity, right?  
6 Because, I mean, I was just here looking at the MISO app a minute ago, so like at  
7 7 percent wind right now. Okay. Some days on a front, it's at 20 percent wind, but  
8 for how long, you know? And then it goes down. But, you know, if you think  
9 about this, we've spent trillions of dollars on renewables over the last seven, eight,  
10 not ten years, and we're still, right now, pushing at including the solar in the MISO  
11 footprint, the wind in the MISO -- not quite 10 percent of what's going on right  
12 now. Still, right now at 40 percent natural gas, which is a little bit higher than usual,  
13 still in that 30 plus range of coal in how we look at this. And, you know, the  
14 economy here functions on baseload power. And while we need to look at, on IRP,  
15 about how we're going to balance that issue out, we need to be looking at the  
16 baseload concept versus the passive, comparing the both, not saying which is better  
17 or not. But when we're talking about identifying the resource, we need to be talking  
18 about it in that sort of term so we understand what we're going to be able to deliver  
19 to high demand customers versus low demand customers. And I think that sort of  
20 getting our -- I guess, getting our nomenclature lined up for that I think is an  
21 important context. And you're talking about issues associated with, you know, the  
22 ongoing movement of federal government regulation. I mean, we just had one,  
23 what is it, about two or three weeks ago with the particulate differential changing

1 with increasing the limitations on tolerance of particulate in the atmosphere, which  
2 is going to affect IRP, it's going to affect all of these rules as we move forward. In  
3 fact, it's not unusual for us to get past something, build something, and then the  
4 very next day have rules saying why it's already obsolete, you know, and so we're  
5 building towards the next step. And, you know, so I think that, you know, that's an  
6 issue that we have to take into consideration that we're going to put our best foot  
7 forward, we're going to do the best we can do, but we're going to also not be the  
8 least bit surprised when the EPA opens their door and yells surprise. And so I think  
9 we have to look at it that way as well. I think that's all I'm going to do for right  
10 now. If nobody else has got any questions, I was going to go ahead and call for a  
11 question and ask for us to go ahead and vote on this issue.

12 **CHAIRMAN FRANCIS:** We got a motion from Commissioner Skrmetta and  
13 Chair will second that. Is there any other opposition or other conversation? [NONE  
14 HEARD] It looks like it's unanimous.

15 **VICE CHAIRMAN LEWIS:** I object, Mr. Chairman.

16 **CHAIRMAN FRANCIS:** Oh, I'm sorry. Do we need to call the roll? We got a  
17 --

18 **COMMISSIONER SKRMETTA:** Yep.

19 **CHAIRMAN FRANCIS:** Okay.

20 **MS. BOWMAN:** Did Commissioner Lewis have opposition? Okay. Yes, sir.  
21 Then a roll call vote.

22 **CHAIRMAN FRANCIS:** Commissioner Lewis votes no. Commissioner Greene?

23 **COMMISSIONER GREENE:** Yes.

1 **CHAIRMAN FRANCIS:** Commissioner Greene votes yes. Commissioner  
2 Skrmetta?

3 **COMMISSIONER SKRMETTA:** Yes.

4 **CHAIRMAN FRANCIS:** Votes yes. Commissioner Campbell?

5 **COMMISSIONER CAMPBELL:** Yes.

6 **CHAIRMAN FRANCIS:** Votes yes. Chair votes yes. So 4 to 1, it passes.  
7 Moving on to Number 6.

8 **MR. HAND:** Thank you, Commissioners.

9 **MS. BOWMAN:** Exhibit Number 6 is Docket Number R-31106. It's the  
10 Commission's rulemaking to study the possible development of financial  
11 incentives for the promotion of energy efficiency by jurisdictional electric and gas  
12 utilities. Discussion and possible vote to retain Chris Justin through an under  
13 \$50,000 solicitation. At the Commission's January B&E, the Commission adopted  
14 Phase II rules establishing a statewide energy efficiency program. And during this  
15 transition period, need has been identified for the Commission to have assistance  
16 in researching and providing analysis on external energy efficiency programs,  
17 exploring the integration of complementary programs, including collaboration with  
18 the Louisiana Department of Energy, to ensure both programs can work with one  
19 another. Additionally, work can begin now with the IOUs and the LDCs to  
20 strategize the transition to the statewide program and begin examining any possible  
21 barriers to accessibility and participation. It is Staff's opinion that this limited  
22 scope of work can be accomplished for a total budget of less than \$50,000. Based  
23 on this identifying need, Mr. Justin submitted a proposed budget of 48,000 in fees

1 and 2,000 in expenses for a total budget of \$50,000. Mr. Justin has been an energy  
2 efficiency consultant with Plan Your Energy since March of 2023 and has spoke to  
3 the Commission at its October 2023 B&E. Mr. Justin has also assisted the  
4 Louisiana Department of Energy in developing its Home Energy Rebate system as  
5 well as advising the department on how best to maximize the program efficiency.  
6 Staff recommends that the Commission retain Mr. Justin thorough an under 50,000  
7 solicitation to assist in the transition from a Quick Start program to a statewide  
8 energy efficiency program for a budget of 48,000 in fees and 2,000 in expenses for  
9 a total budget not to exceed of \$50,000.

10 **COMMISSIONER SKRMETTA:** Move to accept Staff recommendation.

11 **COMMISSIONER GREENE:** Second.

12 **CHAIRMAN FRANCIS:** Commissioner Skrmetta moves that we accept this  
13 recommendation, seconded by Commissioner Greene. Is there any discussion?  
14 Any opposition? [NONE HEARD] Hearing none, Chris Justin, you got a new job.  
15 Thank you. Exhibit 7.

16 **MS. BOWMAN:** Exhibit Number 7 is Docket Number U-36680. It's Irish  
17 Environmental's application for an increase in sewer service rates for the  
18 Bartholomew Landing Subdivision and the Fleur de Lis Subdivision. It's a  
19 discussion and possible vote on an uncontested stipulated settlement. On February  
20 23, 2023, Irish filed its application with the Commission, which was published in  
21 the Commission's Official Bulletin and no interventions were filed. On September  
22 15, 2023, Commission Staff filed its report and recommendation and on October 9,  
23 2023, Irish filed a letter accepting the Staff's report. Irish accepted the Staff's

1 report subject to a request to not implement the 24-month term maintenance rider  
2 of \$4.01 per customer. And after considering Irish's responses, Irish and  
3 Commission Staff entered into a settlement to complete the proceeding in this  
4 matter. There was a motion filed into the record on November 15, 2023 that  
5 included the stipulated settlement terms, and those terms are summarized as  
6 follows: Irish is authorized to earn a return over operating and maintenance of 15  
7 percent; Irish is authorized to implement a recommended rate increase for an  
8 additional annual revenue in the amount of \$7,488 compared to its 2022 test year,  
9 which is approximately a \$6 increase in rates; and Staff recommends Irish apply  
10 for a rate case before the Commission in a period of 3 to 5 years with the appropriate  
11 record keeping for review. Staff recommends that the Commission accept the  
12 uncontested stipulated settlement that was filed into the record on November 15,  
13 2023.

14 **COMMISSIONER CAMPBELL:** This is my area.

15 **MS. BOWMAN:** Mic, please.

16 **COMMISSIONER CAMPBELL:** These people hadn't had a rate increase since  
17 -- anybody can tell me when's the last time they had a rate increase?

18 **MR. ARVIND VISWANATHAN:** Good morning, Commissioner. Arvind  
19 Viswanathan, Commission Staff. I believe it was when they filed their initial  
20 application to become a regulated utility.

21 **COMMISSIONER CAMPBELL:** When was that?

22 **MR. VISWANATHAN:** I don't have that date in front of me, I'm sorry,  
23 Commissioner.



1 **COMMISSIONER CAMPBELL:** A good while ago, though?

2 **MR. VISWANATHAN:** Commissioner, I believe it was around 2012.

3 **COMMISSIONER CAMPBELL:** 2012, okay. I would ask you to accept Staff

4 recommendation.

5 **VICE CHAIRMAN LEWIS:** Second.

6 **CHAIRMAN FRANCIS:** A motion to accept by Commissioner Campbell and

7 seconded by Commissioner Lewis. Is there any objection or any other comments?

8 [NONE HEARD] Hearing none, Number 7 is passed.

9 **MS. BOWMAN:** Exhibit Number 8 is Docket Number U-36974. This is 1803

10 Electric Cooperative's application for certification of a capacity purchase

11 agreement with Calpine and for cost recovery. It's a discussion and possible vote

12 on an uncontested stipulated settlement. On September 13, 2023, 1803 filed its

13 application, which was published in the Commission's Official Bulletin, with

14 Entergy Louisiana and Northeast Louisiana Power Cooperative intervening. In its

15 application, 1803 indicated a need for approximately 100 megawatts of additional

16 capacity in the first five years of its power supply portfolio. Additionally, because

17 MISO transitioned to a seasonal capacity construct, 1803 has identified an

18 increased need for winter capacity. In April of 2023, 1803 received an unsolicited

19 offer to purchase capacity from Calpine, specifically from its Pine Bluff Energy

20 Center. 1803 now seeks Commission approval for a 10-year agreement to provide

21 up to 175 megawatts of capacity, with 80 megawatts for the months of January

22 through March of 2025, and 175 megawatts for April 1, 2025 through May 31,

23 2035. On January 26, 2024, after discovery and filing of testimony, 1803, Staff,

1 and NELPCO, with ELL expressing its non-opposition, filed a joint motion to  
2 convert and reschedule to an uncontested stipulated hearing, accompanied by the  
3 stipulated settlement. In the settlement, the parties agreed that 1803's application  
4 for certification of Calpine was in the public interest, consistent with the  
5 Commission's General Order dated September 20, 1983, and complies with both  
6 the Commission's MBM and Unsolicited Offer Order. Further, 1803 agrees to be  
7 subject to any requirements established in Docket Number R-36263, which is the  
8 Minimum Capacity Obligation Rulemaking Docket, without the provision of a  
9 grandfathering protection. The costs from the CPA will be recovered through  
10 1803's existing rate schedules and tariffs already approved by the Commission.  
11 Staff recommends that the Commission accept the uncontested stipulated  
12 settlement filed into the record on January 26, 2024.

13 **CHAIRMAN FRANCIS:** Is Churchwell in here? Churchwell, you back there? I  
14 thought I saw him earlier. There he is. You want to come up here and tell us what's  
15 going on with this? You're one of the 1803 guys, aren't you? Your lawyer back  
16 there? Yeah. I asked for Churchwell to come because he's a common-sense guy  
17 like me from north Louisiana and we got a --

18 **MR. JEFF CHURCHWELL:** I brought my own common sense with me, though,  
19 [INAUDIBLE].

20 **MS. BOWMAN:** Jeff, please use the mic, please.

21 **CHAIRMAN FRANCIS:** I'm not going to -- I just want to give you the simple  
22 north Louisiana explanation. Mr. Churchwell is one of five co-ops, he's in  
23 Northeast, he runs the Northeast co-op, he lives up there around Bastrop, and their

1 footprint is all northeast Louisiana. This new power is coming from Pine Bluffs.  
2 That's not very far; isn't that right? Okay.

3 **MR. CHURCHWELL:** Yes, sir. That's right, it's right across the border.

4 **CHAIRMAN FRANCIS:** Just give us a two-minute talk on why we should  
5 approve this.

6 **MR. CHURCHWELL:** Well, Jeff Churchwell, general manager, Northeast  
7 Louisiana Power Co-op. From Northeast's perspective, and having a position on  
8 the board for 1803, what we have looked at is the seasonal MISO construct that  
9 they came up with. We were going to be short in winter, and so in an attempt to  
10 solve some of those problems, Brian and his staff have -- they viewed this  
11 unsolicited offer that we received against the market, and as we can tell, it's the  
12 economical thing to do for the five co-ops in 1803.

13 **CHAIRMAN FRANCIS:** You have -- also Claiborne is in that footprint -- in that  
14 group of 1803, right?

15 **MR. CHURCHWELL:** Yes, sir.

16 **CHAIRMAN FRANCIS:** That's a lot of Commissioner Campbell's area, north  
17 Louisiana. It also affects my area with Beauregard Electric, also, which is over  
18 40,000 meters. And I believe Washington-St. Tammany and SLECA --

19 **MR. CHURCHWELL:** And SLECA.

20 **CHAIRMAN FRANCIS:** -- SLECA down in Houma, so it touches almost every  
21 Commissioner. Commissioner Campbell, you have any questions for them?

22 **COMMISSIONER CAMPBELL:** No, I'm fine with this.

1 **CHAIRMAN FRANCIS:** All right. I just wanted to get somebody besides an  
2 attorney up here that could explain it to where we'd understand it. Do y'all have  
3 anything to add to confuse the issue any?

4 **MR. BRIAN HOBBS:** Yeah. The only other thing I would add -- I'm sorry. Brian  
5 Hobbs, 1803 Electric Cooperative. The only other thing I would add, NELPCO is  
6 the first of the five co-ops that we begin service, and that's next January.

7 **CHAIRMAN FRANCIS:** Yes. Okay.

8 **MR. HOBBS:** And so we have an initial need, and Calpine has agreed to shape  
9 this product to fill that need for the first quarter of 2025 for one co-op and then  
10 move to the maximum capacity they can offer as we start serving the other four co-  
11 ops. So it's kind of --

12 **CHAIRMAN FRANCIS:** How many years would that be for? What's the term  
13 of the year?

14 **MR. HOBBS:** It's 10 years and 5 months.

15 **CHAIRMAN FRANCIS:** Okay. Is that a locked in price? Of course, you got to  
16 go fuel -- [INAUDIBLE] fuel.

17 **MR. HOBBS:** No, this is capacity only, and it is a locked price for the five years.

18 **CHAIRMAN FRANCIS:** Okay.

19 **MR. HOBBS:** Doesn't escalate. It's fixed for the -- I mean, for the 10-year period.  
20 We are buying energy out of that facility as well for five years, and that is natural  
21 gas, it is subject to natural gas pricing.

22 **CHAIRMAN FRANCIS:** Okay. Any of the Commissioners have any questions?

23 **VICE CHAIRMAN LEWIS:** Quick question.

1 **CHAIRMAN FRANCIS:** Okay.

2 **VICE CHAIRMAN LEWIS:** Or a quick statement. Thank you, Mr. Hobbs, for  
3 that explanation, and I'm in support, and I just wanted to identify why. I mean,  
4 even though this does circumvent, in my view, our kind of Commission order on  
5 procurement processes, you desperately, and 1803, need the capacity; is that  
6 correct?

7 **MR. HOBBS:** Yeah, I'd like to speak to that a little bit.

8 **VICE CHAIRMAN LEWIS:** Okay. Yeah, please.

9 **MR. HOBBS:** So the Commission does have specific exceptions to the MBM  
10 Order that allows for this kind of process. Here, we had kind of some fortunate  
11 circumstances. We got an unsolicited offer, we got a second unsolicited offer, so  
12 we could compare those against each other. The Calpine offer was the lower. We  
13 also had market intelligence that we could compare to. And then a few months  
14 later, we initiated a formal RFP process looking for capacity. We have those  
15 results, and I will tell you, you'll be seeing those at some point, but this Calpine  
16 offer is significantly lower cost than anything we saw in that RFP. So while it is  
17 an unsolicited offer, it's had price tests through those three different mechanisms.

18 **VICE CHAIRMAN LEWIS:** And thank you. And in my analysis, I think this  
19 would be a winner as well, but I just wanted to give some clarity on my thought,  
20 but I appreciate that walkthrough, because it was very helpful. Thank you.

21 **CHAIRMAN FRANCIS:** So Pine Bluff, that's in the MISO footprint. What zone  
22 is Pine Bluff in?

23 **MR. HOBBS:** It's in Zone 8, and we're in Zone 9.

1 **CHAIRMAN FRANCIS:** And most of Louisiana is in Zone 9, right?

2 **MR. HOBBS:** Right.

3 **CHAIRMAN FRANCIS:** So as we go forward, these are going to be more  
4 important issues, the zones, all the RTO footprint, and it's a very complicated  
5 process, you know, that's why I wanted to get Churchwell up here to explain it  
6 without it being an attorney, you know. So thank y'all for coming. I would make  
7 a motion we accept this Exhibit 8.

8 **VICE CHAIRMAN LEWIS:** I'll second.

9 **CHAIRMAN FRANCIS:** Seconded by Commissioner Lewis. Any other  
10 comments or anything? [NONE HEARD] Okay. Well, it's passed. So thank y'all.

11 **MR. CHURCHWELL:** Thank you.

12 **MR. HOBBS:** Thank you.

13 **MS. BOWMAN:** Exhibit Number 9 is Docket Number U-37026. It's Pierre Part  
14 Natural Gas Company's rate stabilization plan filing for the year ended June 30,  
15 2023. It's a discussion and possible vote on a joint report and draft order. On  
16 November 1, 2023, Pierre Part filed its plan with the Commission and it was  
17 published in the Official Bulletin, with no parties intervening. Pursuant to Order  
18 Number U-36612, Pierre Part's rate stabilization plan allows the company to earn  
19 a midpoint return on equity of 10 percent and requires a resetting of rates in the  
20 event that the test period earnings fall outside the prescribed deadband. In Pierre  
21 Part's 2023 filing, the company reported a ROE of 1.554 percent, which would  
22 have required a rate increase and would have resulted in an upward adjustment in  
23 the revenue requirement of \$71,105. Staff reviewed the filing and determined

1 Pierre Part's ROE for the test year '23 was 1.915 percent, which is still below the  
2 bandwidth. And as such, Staff found that Pierre Part was authorized in accordance  
3 with the provisions of its RSP to adjust its rates to generate an increase in revenue  
4 of \$57,641.15, which was filed in Staff's report and recommendation into the record  
5 on January 12, 2024. Upon review, Pierre Part indicated that it accepted the  
6 company's Staff report and recommendation, and the parties filed a joint report and  
7 draft order into the record on February 8, 2024 acknowledging all resolution. As  
8 there are no unresolved issues, Staff recommends that the Commission accept the  
9 joint report filed into the record on February 8, 2024, authorizing Pierre Part to  
10 increase its rates for \$57,641.15, subject to conditions.

11 **COMMISSIONER GREENE:** Motion to accept Staff recommendation.

12 **VICE CHAIRMAN LEWIS:** I'll second.

13 **CHAIRMAN FRANCIS:** We have a motion to accept the Staff recommendation  
14 by Commissioner Greene, seconded by Commissioner Lewis. Is there any other  
15 discussion? [NONE HEARD] Looks like it's unanimous, so this Number 9 is  
16 passed.

17 **MS. BOWMAN:** Exhibit Number 10 is Docket Number U-37027. This is South  
18 Coast Gas Company's rate stabilization plan filing for the year ending June 30,  
19 2023. It's also a discussion and possible vote on a joint report and draft order. On  
20 November 1, 2023, South Coast filed its plan with the Commission, which was  
21 published in the Official Bulletin, with no interventions. Pursuant to Order Number  
22 U-36276, South Coast rate stabilization plan allows the company to earn a midpoint  
23 return on equity of 10 percent and requires a resetting of rates in the event that the

1 test period earnings fall outside of the prescribed deadband. In South Coast's 2023  
2 revised RSP filing, the company reported a ROE of -3.577 percent, which would  
3 have required a rate increase and would have resulted in an upward adjustment in  
4 the revenue. Staff reviewed the filing and concluded South Coast's ROE for the  
5 test year 2023 was -2.970 percent, which still requires an upward adjustment of  
6 rates. As such, Staff found that the South Coast was authorized, in accordance with  
7 its RSP, to adjust its rates to generate increase in revenue of \$794,212.33. Staff  
8 filed its report and recommendation into the record on January 12, 2024. Upon  
9 review, South Coast indicated it accepted company, Staff report and the parties filed  
10 a joint report and draft order into the record on February 8, 2024, acknowledging  
11 resolution of all issues. Therefore, Staff recommends that the Commission accept  
12 the joint report filed into the record on February 8, 2024, and authorize South Coast  
13 to increase its rates to generate an increase in revenue of \$794,212.33, subject to  
14 conditions.

15 **COMMISSIONER SKRMETTA:** Move to accept the Staff recommendation.

16 **COMMISSIONER GREENE:** Second.

17 **CHAIRMAN FRANCIS:** Commissioner Skrmetta moves to accept Staff  
18 recommendation and seconded by Commission Greene. Is there any discussion or  
19 opposition? [NONE HEARD] Hearing none, it's passed. I want to make one  
20 comment.

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

22 **CHAIRMAN FRANCIS:** We're talking about gas. Louisiana uses a lot of gas  
23 for generating this electricity. A lot of people don't realize that it's like 70 percent



1 of our fuel in Louisiana is produced using natural gas. And natural gas is just  
2 unbelievably cheap right now, it's just at a record low, you know, and I think it  
3 reflects on our good rates that we have here for our homeowners and our industry.  
4 So I'm really proud of that and thank goodness for natural gas here in Louisiana.  
5 So let's go on to Number -- where were we, 11?

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

7 **CHAIRMAN FRANCIS:** All right.

8 **MS. BOWMAN:** Exhibit Number 11 is reports, resolutions, discussions. We do  
9 have a few discussions this month, and the first one is a discussion on inflationary  
10 pressures being experienced by jurisdictional electric utilities. This was Exhibit 24  
11 last month.

12 **CHAIRMAN FRANCIS:** Could we move over to 13, please?

13 **MS. BOWMAN:** Sure.

14 **CHAIRMAN FRANCIS:** All right.

15 **MS. BOWMAN:** Moving to Exhibit Number 13, it's Docket Number S-37011.  
16 It's DEMCO's application for recovery of wholesale power costs through a revenue  
17 neutral manner and tariff amendments, pursuant to Order Number U-36133. It's a  
18 discussion and possible vote on a Staff report and recommendation. On October  
19 12, 2023, DEMCO filed its application due to the transition from its current power  
20 supply agreement with Cleco Power to a new power supply agreement with  
21 NextEra Energy Marketing, which commences on April 2, 2024. DEMCO's  
22 current PSA with Cleco Power includes a fuel cost adjustment that is passed  
23 through DEMCO ratepayers on a monthly basis. The new PSA with NextEra does

1 not have this clause, as wholesale power costs are set in the beginning of each year  
2 and generally do not vary with fuel costs. The new tariff would implement a  
3 wholesale power charge in place of the fuel cost adjustment. DEMCO stated that  
4 the move from the current tariffs to the new tariffs would be revenue neutral.  
5 DEMCO also proposes changes to certain language in the new tariff stating that the  
6 changes allow for more transparency in billing as the updated descriptions more  
7 accurately reflect the purpose of the charges. On February 8, 2024, Staff filed its  
8 report and recommendation, and in response to further information submitted by  
9 DEMCO, filed an amended report and recommendation on February 15, 2024.  
10 Staff's report stated that the application meets the regulatory requirements as set  
11 forth in the Commission's July 1, 2019 General Order and agree that the requested  
12 tariff changes will be revenue neutral. Furthermore, Staff found that the additional  
13 language changes could provide further transparency in customer billing. It does  
14 not believe that any of the language changes would result in a revenue change. On  
15 February 15, 2024, DEMCO filed its correspondence indicating agreement with  
16 Staff's report. Staff recommends that the Commission accept Staff's report filed  
17 February 15, 2024 and express its approval of the issuance of the revised tariff,  
18 effective upon commencement of DEMCO's new PSA with NextEra.

19 **CHAIRMAN FRANCIS:** Okay. You want to go ahead and make a  
20 recommendation?

21 **COMMISSIONER SKRMETTA:** I'll let y'all do it.

22 **CHAIRMAN FRANCIS:** Okay. I'm going to go ahead and make a motion that  
23 we accept this. And get a second?

1 **VICE CHAIRMAN LEWIS:** I'll second.

2 **CHAIRMAN FRANCIS:** Seconded by Commissioner Lewis.

3 **COMMISSIONER SKRMETTA:** I have a question.

4 **CHAIRMAN FRANCIS:** Recognize Commissioner Skrmetta.

5 **COMMISSIONER SKRMETTA:** I need the microphone. There we go.

6 Question for Staff. That's you, Noah? Okay. Noah, my understanding, and need

7 you to further explain this to me, is that since they're going from an FAC, a fuel

8 adjustment charge, to more of a contract basis with the next, what is it, year and a

9 half from now, more or less. Since the fuel adjustment charge has a tendency to

10 fluctuate, but under the new mechanism, it's not going to fluctuate, correct? I mean,

11 is that an accurate statement?

12 **MR. NOAH HOGGATT:** Yes, Commissioner.

13 **COMMISSIONER SKRMETTA:** Okay. So then how is it going to impact

14 overall pricing to where, if there was any value -- like right now, say with the price

15 of natural gas being so low, and the people in DEMCO getting a better value in

16 their contract than they would have got since gas is like \$1.75 right now Henry

17 Hub, which would be much more by the time it gets to the utility, it might be double

18 that. But still, if it moves into a fixed price, how do you anticipate the balance in

19 that and how does that come into an ultimate price impact to the consumers of

20 DEMCO?

21 **MR. HOGGATT:** The consumers' bill would not reflect that impact, showing the

22 fluctuation in energy prices.

1 **COMMISSIONER SKRMETTA:** Right. I get it's not going reflect fluctuation,  
2 but if they're getting the value when the price goes down, they won't be having that  
3 same impact if it goes to a fixed price element, correct?

4 **MR. HOGGATT:** That's correct, Commissioner.

5 **COMMISSIONER SKRMETTA:** Okay. So how is that fixed price element  
6 going to be impacting the next bills to the consumers under the new contract? So  
7 like on 1,000 kilowatts or, you know, how is the -- if you look at the current bill of  
8 a consumer, like a residential consumer, you know, small family now, and a small  
9 family under the next contract, is it -- did you look at -- did they tell you or do you  
10 have any data on what the difference is going to be, ultimate difference?

11 **MR. HOGGATT:** We were informed by the company or the co-op that it would  
12 be revenue neutral and that there would not be rate impact, but I would defer it to  
13 the co-op [INAUDIBLE].

14 **COMMISSIONER SKRMETTA:** Okay. Well, that's a good question that  
15 you've now raised for me. Because the company told you so -- because I had kids  
16 once, you know, so -- does that mean that the Staff didn't engage in making its own  
17 determination?

18 **MR. HOGGATT:** No. Our Audit Staff performed an audit and verified it.

19 **COMMISSIONER SKRMETTA:** Okay. Who was Audit Staff?

20 **MR. HOGGATT:** Thomas Broady.

21 **MS. ROBIN PENDERGRASS:** Commissioner, Thomas Broady handled the  
22 audit for this. He is upstairs with the flu. I forbid him from coming down here.

1 **COMMISSIONER SKRMETTA:** Well, I don't blame you. But you can see my  
2 question?

3 **MS. PENDERGRASS:** Yes.

4 **COMMISSIONER SKRMETTA:** Well, that's my concern is that, you know, did  
5 the Staff engage in making a determination on its own about how of any impact  
6 would be, not just taking the information from the co-op?

7 **MR. PENDERGRASS:** I would have to check with him on that. I mean --

8 **MR. HOGGATT:** Yes, Commissioner. Mr. Broady did tell me that he had  
9 performed an independent analysis to verify that.

10 **COMMISSIONER SKRMETTA:** Well, I appreciate it. I'm just not feeling the  
11 love at the moment, but, I mean, I think it's a legitimate question because we're  
12 going from an entirely different analytical context. And to understand that going  
13 from a variable price element that gives advantage and it also gives increased costs  
14 when their FAC, you know, changes, and moving now into something that's a fixed  
15 -- for what's the period of the new contract, five years, three years?

16 **MR. HOGGATT:** I believe that's five years.

17 **COMMISSIONER SKRMETTA:** Five years? Okay. So for that five year  
18 period, there won't be any variable, it'll be fixed, whether it goes up or goes down,  
19 right, but we don't know what it is. I mean, you don't -- and Broady didn't give  
20 you the numbers on that to bring down today, right?

21 **MS. PENDERGRASS:** No, sir. He was actually expecting to be here -- he was  
22 actually expecting to be here up until this morning, so.

23 **COMMISSIONER SKRMETTA:** All right. Thank you.

1 **VICE CHAIRMAN LEWIS:** Mr. Chairman, can we have someone from  
2 DEMCO really quick?

3 **CHAIRMAN FRANCIS:** Okay. I'm sorry. Go ahead.

4 **VICE CHAIRMAN LEWIS:** Could I just have someone from DEMCO come to  
5 the table real quick?

6 **CHAIRMAN FRANCIS:** Is Randy here? Randy Pierce? He's got two  
7 bodyguards with him. Go ahead, Commissioner.

8 **VICE CHAIRMAN LEWIS:** Thank you. Thank you. And my question will be  
9 very brief. I just want to make sure I'm understanding that the application -- or  
10 basically what you're trying to do is revise the name of two charges on your bill so  
11 they're more transparent and accurately reflect the purpose of each charge. Is that  
12 the intention?

13 **MR. RANDY PIERCE:** Yes, Commissioner. Randy Pierce with DEMCO. The  
14 WPC, the wholesale power charge, will now reflect the entirety of the wholesale  
15 power cost in any given month. The other two charges will be distribution charges  
16 will be the DEMCO piece. So while we've had fuel charges and really several  
17 pieces of the bill before, now we simplify it because of the new contract and the  
18 way it's constructed, it will be constructed that way. And we did discuss all of  
19 these things in the certification, so there will be an annual true-up, to Commissioner  
20 Skrmetta's concern. As prices move up and down, if there needs to be an annual  
21 true-up, which would affect the prices for the next year, that would be considered  
22 at the end of each contact year.

1 **VICE CHAIRMAN LEWIS:** Okay. And so you, according with Staff then you  
2 believe that there is no rate impact on this specific change?  
3 **MR. PIERCE:** This is strictly the mechanism by which we'll be doing it. It's  
4 revenue neutral.  
5 **VICE CHAIRMAN LEWIS:** Okay. Thank you.  
6 **COMMISSIONER SKRMETTA:** [INAUDIBLE].  
7 **CHAIRMAN FRANCIS:** Okay.  
8 **COMMISSIONER SKRMETTA:** Go ahead. I'm sorry.  
9 **CHAIRMAN FRANCIS:** Go ahead, Commissioner Campbell.  
10 **COMMISSIONER CAMPBELL:** I want to congratulate you. Y'all have had  
11 some high rates, but it looks like this month you're some of the cheapest, 10 cents.  
12 **MR. PIERCE:** It's a good month.  
13 **COMMISSIONER CAMPBELL:** Huh?  
14 **MR. PIERCE:** It's a good month.  
15 **COMMISSIONER CAMPBELL:** This month?  
16 **MR. PIERCE:** Yes, it's a good month.  
17 **COMMISSIONER CAMPBELL:** Well, you know, in the past, you've had some  
18 spikes, and I've said this a hundred times, used to be 10 cents was high, high, high.  
19 Now it's 16, 17 cents, but I appreciate you trying to keep it down. You have a big  
20 co-op, the biggest one in the state, most number of people, so it's real important  
21 that you keep the rates reasonable. Everybody's trying to. As you know,  
22 everything is going up, it's outrageous, and people are very conscious about their  
23 bills, so I appreciate it. That 10 cents, can you keep it there?

1 **MR. PIERCE:** That's going to be a challenge, but we're going to try. We'll be  
2 talking about that in some of the inflation discussion later. But that's the purpose  
3 of the contract that we selected and that was approved by the Commission, we  
4 believe, will give us our best opportunity to bring the best prices possible to the  
5 Commission.

6 **COMMISSIONER CAMPBELL:** That contract is not the 1803 contract or  
7 [INAUDIBLE]?

8 **MR. PIERCE:** It's different, correct. And it is --

9 **COMMISSIONER CAMPBELL:** You're not in the five.

10 **MR. PIERCE:** That's correct. We've got our own contract, we're not. And ours  
11 does begin, by the way, April 1<sup>st</sup> or April 2<sup>nd</sup> of this year. So while all the other co-  
12 ops are around next year, beginning of next year and into the spring of next year --

13 **COMMISSIONER CAMPBELL:** And where are you getting your electricity  
14 from?

15 **MR. PIERCE:** Cleco Power at the moment.

16 **COMMISSIONER CAMPBELL:** You're staying with them or you're going  
17 somewhere else?

18 **MR. PIERCE:** No, going to NextEra. So we'll have the first year with NextEra  
19 and then after the first year, we'll have a piece of a solar, we'll be taking 100  
20 megawatts of a solar facility through NextEra as well as the NextEra contract.

21 **COMMISSIONER CAMPBELL:** They're from Florida, correct?

22 **MR. PIERCE:** Yes, sir.

23 **CHAIRMAN FRANCIS:** Is that it?



1 **COMMISSIONER CAMPBELL:** I don't have any other questions.

2 **CHAIRMAN FRANCIS:** Okay. I got a couple. We're wearing out this word,  
3 transparency, okay. And I was reading these notes here. We got into it with telling  
4 the co-ops how to run their business a few years ago with Claiborne, you know, and  
5 y'all remember that? So I'm like less government is the best government, okay.  
6 And you have a board and y'all make your internal rules according to 10 different  
7 co-ops, they're different near cultures, you now. So you did some things to have  
8 more transparency for your DEMCO customers, basically is what you did; isn't that  
9 right?

10 **MR. PIERCE:** Yes. We believe this rate will be much easier for the members to  
11 understand.

12 **CHAIRMAN FRANCIS:** Okay.

13 **MR. PIERCE:** When they look at it, there'll basically be three pieces. Two will  
14 be the DEMCO piece of the charge, so when we're talking to members, we'll be  
15 able to say the wholesale power cost represents the raw power that we're  
16 purchasing, and the grid access fee and the delivery fee on the distribution side  
17 represent the distribution cost of the delivery cost of the product. So we think that  
18 members will be able to look at their bill in any given month and fully understand  
19 what's before them.

20 **CHAIRMAN FRANCIS:** All right. So you're making it more transparent?

21 **MR. PIERCE:** We believe it certainly is.

22 **CHAIRMAN FRANCIS:** People are always hollering for that. So wait a minute,  
23 let me finish or I'll forget what I'm thinking about here. If something doesn't work

1 out like we thought, which that happens sometimes here in the electricity business,  
2 are they going to call you or are they going to call the Public Service Commission  
3 to complain?

4 **MR. PIERCE:** Well, probably both.

5 **CHAIRMAN FRANCIS:** Yeah.

6 **MR. PIERCE:** We get a lot of calls. We certainly did, you know, last year when  
7 our power costs significantly increased, increased over most of the course of the  
8 year. We got thousands of calls, and the Commission calls increased as well. So  
9 we know that when that occurs, we're accountable, so we've got to answer for that  
10 and we understand that. So we believe, moving forward, not only the contract is  
11 the best approach, but we think the construct of this tariff of the bill will reflect that  
12 and help members to easily understand their bill.

13 **CHAIRMAN FRANCIS:** So y'all were working with Noah on this situation here,  
14 right?

15 **MR. PIERCE:** Yes.

16 **CHAIRMAN FRANCIS:** And so, Noah, you don't -- do you know who was the  
17 first boat captain in the world? I just thought I'd throw that. I couldn't help it.  
18 Okay. Commissioner Campbell.

19 **COMMISSIONER CAMPBELL:** How many board members do y'all have?

20 **MR. PIERCE:** Thirteen.

21 **COMMISSIONER CAMPBELL:** And how much do you pay them?

22 **MR. PIERCE:** They make \$300 a meeting.

23 **COMMISSIONER CAMPBELL:** How many meetings you have?

1 **MR. PIERCE:** We have two a month.

2 **COMMISSIONER CAMPBELL:** So they make \$600 a month?

3 **MR. PIERCE:** Yes.

4 **COMMISSIONER CAMPBELL:** Okay.

5 **MR. PIERCE:** We have a committee meeting and a board meeting.

6 **COMMISSIONER CAMPBELL:** And you cut them off of the insurance; is that

7 correct?

8 **MR. PIERCE:** We did not.

9 **COMMISSIONER CAMPBELL:** They still get the insurance?

10 **MR. PIERCE:** Some do, some do not. The ones that -- we have several on the

11 board that have insurance through other means.

12 **COMMISSIONER CAMPBELL:** Mr. Pierce, this is an old thing, and you're

13 probably not going to do a damn thing about it, but they're grossly overpaid there.

14 Any time -- you're paying them \$600 a month, that's what they're worth per

15 meeting. But some of these people come and serve on the board, a hour and a half,

16 two hours, six hours a month, and you put their whole families on insurance. Could

17 be \$2,000 or \$3,000 a month per person. If you're looking for places to cut, you

18 ought to do that right there because they don't need hospitalization for a board

19 member of a co-op. The rest of y'all out there, y'all can hear me, but I might have

20 to start bringing some of y'all up. Y'all shouldn't be doing that. You're making

21 people pay for the whole insurance program with a man and a family could be

22 \$3,000 a month and they come once or twice a month. That's -- you're not right

23 there. It's wrong-headed as it could be. We talked about it before. Y'all are

1 looking for places to cut, Mr. Co-op and board members, cut your board members  
2 off of the hospitalization. They don't deserve it like the people climbing the lines  
3 do and the people working for the co-ops. And y'all have them on there, sometimes  
4 at better programs than the guys climbing the lines in the middle of the night when  
5 it's sleeting. But you don't want to hear that, but you ought to hear it, because  
6 that's one thing we ought to really cut out and you shouldn't be paying these people  
7 \$3,000 a month. And a lot of them are 3,000, you know that, Randy.

8 **MR. PIERCE:** Yeah, I understand your view.

9 **COMMISSIONER CAMPBELL:** Yeah.

10 **MR. PIERCE:** I do. We've discussed it many times. And I will say ours is the  
11 same, it's not better than the lineman receive, so.

12 **COMMISSIONER CAMPBELL:** Okay. Just asking, how much is your  
13 insurance?

14 **MR. PIERCE:** For a family plan right now?

15 **COMMISSIONER CAMPBELL:** Yeah, what you're on.

16 **MR. PIERCE:** It's about \$1,500 a month.

17 **COMMISSIONER CAMPBELL:** All right. But you --

18 **MR. PIERCE:** I mean, that's -- you know, and we pay a certain -- DEMCO pays  
19 a certain percentage of that.

20 **COMMISSIONER CAMPBELL:** Would you say that's the average of all your  
21 employees, \$1,500 a month, young people with families and all that?

22 **MR. PIERCE:** Yes. So we have one -- we divide it into two different arenas.  
23 We've got a family plan, we don't do couples and such, we do a family plan or a

1 single. So a single runs probably, you know, 800, something like that, and then a  
2 family plan right now runs about 1,500. I mean, I'm giving you a rough figure, but  
3 that's --

4 **COMMISSIONER CAMPBELL:** Yeah, I got it. It's 18,000 a year, just roughly.

5 **MR. PIERCE:** Yes, sir. Yes, sir.

6 **COMMISSIONER CAMPBELL:** How many members you got? I mean, how  
7 many board members?

8 **MR. PIERCE:** Thirteen. We've got about half of them that are on that.

9 **COMMISSIONER CAMPBELL:** That's a quarter of a million dollars a year.

10 **MR. PIERCE:** Well, we've got about half, so.

11 **COMMISSIONER CAMPBELL:** Yeah. Well, you know, one thing Claiborne  
12 did, you brought up Claiborne, and I'm proud, they cut that out up there.

13 **CHAIRMAN FRANCIS:** Yeah.

14 **COMMISSIONER CAMPBELL:** They cut it out completely, and that's good.  
15 Because nobody that's serving on a board of a co-op that goes once a month  
16 deserves healthcare coverage at the expense of the ratepayers. That's way -- and  
17 that's been a long -- that's happened forever and ever and ever. So you guys  
18 looking for a little place to cut the budget, that's it, if you've got the courage to do  
19 it, now. It's going to take a little courage, you're going to have to bow up a little  
20 bit because they're all going to squeal like a hog under a gate when you do that,  
21 now. That's all I got to --

22 **CHAIRMAN FRANCIS:** Randy, I'm the one that stirred that up on purpose,  
23 okay. I'll admit that.

1 **MR. PIERCE:** That's all right.

2 **CHAIRMAN FRANCIS:** Look, you have 13 board members.

3 **MR. PIERCE:** Yes, sir.

4 **CHAIRMAN FRANCIS:** Is it a federal law you have so many board members  
5 per customer?

6 **MR. PIERCE:** It's not. It's according to the bylaws of any given electric co-op.  
7 There's between -- there's about 850 to 900, or so, electric co-ops around the  
8 country and each is different.

9 **CHAIRMAN FRANCIS:** We've got 10 co-ops, each one kind of makes their own  
10 rules about the board members and all?

11 **MR. PIERCE:** Yes. It's according to their own bylaws in terms of the size of  
12 their board, whether their geographical representation, that type of thing, is all  
13 determined by the members of that co-op.

14 **CHAIRMAN FRANCIS:** Does the Public Service Commission have any  
15 jurisdiction on telling them how many board members they can have? Before, you  
16 know, we get sued again. Do you know if they --

17 **SECRETARY FREY:** I don't know that I should answer that question.

18 **CHAIRMAN FRANCIS:** Okay.

19 **SECRETARY FREY:** There may have been litigation in the past about whether  
20 we had jurisdiction or not.

21 **CHAIRMAN FRANCIS:** All right. Well, look, you know, the public doesn't  
22 know the difference between a co-op and a IOU, most people don't. And there's a  
23 lot of difference in the two, and we're here trying to work with everybody. And so

1 anyhow, just -- I didn't answer many questions here, I caused some trouble, but  
2 thank y'all for coming.

3 **COMMISSIONER SKRMETTA:** I just got one question.

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

5 **COMMISSIONER SKRMETTA:** I just got one quick question.

6 **MR. PIERCE:** Yes, sir.

7 **COMMISSIONER SKRMETTA:** And it's really about the true-up.

8 **MR. PIERCE:** Yes.

9 **COMMISSIONER SKRMETTA:** Okay. So this true-up you're talking about,  
10 and it's something that I'm not fully informed about. So the true-up that you're  
11 going to do, it's going to be annual?

12 **MR. PIERCE:** Yes, sir.

13 **COMMISSIONER SKRMETTA:** Okay. So the true-up, but it strikes both  
14 ways? Is it a double-edged sword?

15 **MR. PIERCE:** It can strike both ways, yes.

16 **COMMISSIONER SKRMETTA:** Okay.

17 **MR. PIERCE:** But rather than it being a month -- you know, again, we looked at  
18 many, many approaches to it and felt like one of the main complaints that we get at  
19 DEMCO is when the rates are erratic. So if you go from one month and it's 10  
20 cents, the next month -- which we had this in '22, it could be 16 cents, then back to  
21 12. That's one of the main complaints we get. So when we negotiated this contract,  
22 we struggled with it, grappled with it, but we decided to have some stability for an

1 annual period, and then do a true-up at the end of that period that would affect the  
2 next year.

3 **COMMISSIONER SKRMETTA:** That's sort of like the Florida mechanism for  
4 gas -- for their gas pricing, right?

5 **MR. PIERCE:** I'm not sure.

6 **COMMISSIONER SKRMETTA:** Yeah. I think Florida does an annual on their  
7 gas prices, which can impact ratepayers, okay.

8 **MR. PIERCE:** Yes, it certainly can.

9 **COMMISSIONER SKRMETTA:** Yeah. So you're going to start your contract  
10 April 1?

11 **MR. PIERCE:** April 2.

12 **COMMISSIONER SKRMETTA:** April 2?

13 **MR. PIERCE:** Yes.

14 **COMMISSIONER SKRMETTA:** Okay. So you're going to do your true-up  
15 April 2 of '25?

16 **MR. PIERCE:** '25, yes, sir.

17 **COMMISSIONER SKRMETTA:** Okay. So this is for the Staff. So obviously  
18 we're going to be wanting to pay close attention to the true-up in '25 because my  
19 concerns are we don't want to have a whoopsie one way or the other.

20 **MR. PIERCE:** Yes.

21 **COMMISSIONER SKRMETTA:** And we want to be working very closely with  
22 you and your folks on this to make sure we watch this because my concerns on an  
23 annualized true-up, you have an annualized surprise. And so we want to make sure



1 that, you know, we at least are monitoring this closely with you and see what  
2 happens next year.

3 **MR. PIERCE:** Yes, sir. And, I mean, as far as the certification, we certainly  
4 understood that and committed to the Commission, we would keep you informed  
5 well before any adjustment on that annual basis.

6 **COMMISSIONER SKRMETTA:** Okay. All right. Well, thank you very much.

7 **MR. PIERCE:** Yes, sir.

8 **CHAIRMAN FRANCIS:** Thank y'all for coming. Did we -- we did a motion and  
9 a second?

10 **COMMISSIONER SKRMETTA:** Yeah, just got to vote.

11 **CHAIRMAN FRANCIS:** Okay. So we want to have a roll call vote?

12 **COMMISSIONER SKRMETTA:** No. Nobody opposed it.

13 **CHAIRMAN FRANCIS:** Okay. So this is -- what, it's Number 13?

14 **COMMISSIONER SKRMETTA:** Yeah, 13.

15 **CHAIRMAN FRANCIS:** Number 13 is passed.

16 **MS. BOWMAN:** Okay. So if 13 is passed, we're moving back to Exhibit Number  
17 11, which was our reports, resolutions, discussions. We do have several discussions  
18 this month and the first is the discussion on inflationary pressures being  
19 experienced by jurisdictional electric utilities. This was Exhibit 24 last month, and  
20 I think the Chair wanted to have the three IOUs speak first. We can go in  
21 alphabetical order, so Cleco, if you'd like to come up. And Mr. Hand, you can go  
22 up to. I mean, that's fine.

1 **CHAIRMAN FRANCIS:** Do you have anybody with SWEPCO here?  
2 SWEPCO? SWEPCO?

3 **COMMISSIONER SKRMETTA:** Bobby's in the back.

4 **MR. HAND:** And Mr. Chairman, I'm happy to go first, since Mr. Kleehammer  
5 took the body blows in the IRP discussion --

6 **CHAIRMAN FRANCIS:** Okay. Go ahead.

7 **MR. HAND:** -- maybe I'll take them for him here. And again, Larry Hand on  
8 behalf of Entergy Louisiana. Appreciate the opportunity to come visit with y'all  
9 about some of the inflationary supply chain pressures we're seeing in the utility  
10 sector, and it's not just Louisiana, it's across the nation. We do understand the  
11 impact that rates have on our customers and it's important that we do what we can  
12 to manage those. You know, there are two big things, I think, affecting the utility  
13 industry and the supply chain's base, and we hear about it a lot, I think, in our  
14 personal lives. Since COVID pandemic, we've heard a lot about supply chain  
15 constraints, we've heard a lot about inflationary cost pressures, and I think we  
16 experience them in our personal lives, when we got to the grocery store, we see it  
17 in commodities we buy, whether it's gasoline, electricity. It's affecting all of us.  
18 And these are global market issues that affect everybody, including our customers  
19 and our utility rates. One of the big things we've seen driving that are increased  
20 lead times on equipment that we use on the grid. From a demand-side perspective,  
21 we are seeing significant growth, at least for Entergy Louisiana, significant in  
22 growth and load in terms of subdivisions, commercial spaces, industrials. And that  
23 growth drives the need to buy more conductor, more transformers --

1 **COMMISSIONER SKRMETTA:** Hang on one second.

2 **MR. HAND:** Yes.

3 **COMMISSIONER SKRMETTA:** So question about transformers real quick  
4 because this is a subject matter that we've discussed, and I think it's time to broach  
5 this subject about the federal government's standardization for transformers in steel  
6 certification. And I want to know if all of the companies, and this is a question for  
7 all three of you, about this requirement from -- I guess it's EPA requirement?

8 **MR. HAND:** DOE, I believe.

9 **COMMISSIONER SKRMETTA:** DOE? DOE requirement to move  
10 transformers to contain amorphous steel. So I want to know who manufactures it,  
11 where we're going to get it, where the supply chain's issue is on it, how do we get  
12 it to the manufacturers of the transformers, what are out lead times on it, how are  
13 we going to be able to deal with that with potential requirements for regular new  
14 business as well as, you know, disaster based issues. I think that's one of my super  
15 big questions about this particular issue.

16 **MR. HAND:** Yeah. And great question, because it is a big concern that could  
17 further exacerbate the shortage of transformers, particularly distribution  
18 transformers. Currently, probably 95 percent of the distribution transformers in the  
19 United States utilize what is called a grain-oriented steel core, that's how it's made.  
20 In January of 2023, the Department of Energy released proposed rules, they haven't  
21 been adopted yet, but proposed rules that would require transformers used in the  
22 United States to move to what is called an amorphous steel core. They are more  
23 efficient in terms of it reduces the losses of electricity, so there is a potential savings

1 of electricity there, but there's a significant shortage of the capability to  
2 manufacture amorphous steel core transformers. And so there's been a very large  
3 outreach effort by industry to the federal delegation. There's two pieces of  
4 legislation. I won't attempt to name them, but both of them attempt to -- one of  
5 them attempts to phase in the transition to amorphous steel core transformers, and  
6 also boost the capability to manufacture a grain-oriented steel transformers. And  
7 so there's one in the House, one in the Senate. So both of those are there. Those  
8 seem to be positioned pretty well, with very wide support, whether it's the Edison  
9 Electric Institute, the cooperative groups, industry, everybody is pushing, saying,  
10 look, we can get there, but let's slow it down and let's not exacerbate an already  
11 acute supply chain situation on transformers. Because that is the most acute thing  
12 we are seeing is the transformer availability driven by the demand side. And again,  
13 Commissioner Skrmetta, your question goes to the supply chain -- the supply side  
14 of it, so we're trying to maintain that, improve it on the transformer front, but we  
15 also have very tight labor markets, transportation constraints, low inventory levels,  
16 and so forth. Just to give an example of padding out transformer availability, and I  
17 would venture to say every one of you have heard from subdivision developers  
18 about I can't get the transformer in time. Pre-pandemic, it took about 16 weeks.  
19 We'd pick up the phone, call the manufacturer, say that we need a whatever voltage  
20 transformer it was, we need it, and you got it in, you know, 16 weeks later. Today,  
21 it's a year, at least.

22 **COMMISSIONER SKRMETTA:** In disaster situations, is there a plan with the  
23 Department of Energy to give waivers on amorphous steel?

1 **MR. HAND:** Well, right now, the rule is not effective. I don't know if there's a  
2 contingency that if there were a disaster, if they had a rule, but we'll --

3 **COMMISSIONER SKRMETTA:** Can you inquire?

4 **MR. HAND:** I will.

5 **COMMISSIONER SKRMETTA:** Thank you.

6 **MR. HAND:** I'll check with our federal folks. You know, auto transformers,  
7 thinking about large -- in a transmission substation, the auto transformers, those  
8 used to take about 52 weeks. They're designed, engineered for purpose. Those  
9 take about 160 weeks now. Same for high voltage breakers; used to be 52 weeks,  
10 now it's 150 weeks. The other thing that's really hurting across the supply chain,  
11 the equipment, is the cost of commodities. Copper, since the pandemic, is up 11  
12 percent; iron and steel are up 26 percent; chemicals are up 27 percent; and  
13 aluminum is up 25 percent. It's been reported that about 60 percent of investor-  
14 owned utilities in the United States have experienced delays in getting transformers,  
15 such that they had to defer projects or cancel them, that customers wanted. So it's  
16 across the board, it's a significant issue. There's a 40 percent increase in the cost  
17 of those transformers due to labor, the steel, all those components. And the real  
18 question is, you know, where is this going? We think it's going to taper off, but we  
19 do still see upward pressure on supply chain and costs for transformers, in  
20 particular, from 2024 to 2026. And hopefully it tapers and we catch up on the  
21 manufacturing side, the industry catches up, such that we can get the delivery times  
22 down, most importantly, and also the costs down. And what we're doing about it,  
23 again, we're engaging with our policy makers, lawmakers to make sure that federal

1 regulations don't exacerbate the supply chain shortage and that we increase  
2 production. Also, looking for our customers, when they have specific needs to  
3 energize a subdivision, what have you, look for other solutions. If we don't have  
4 the exact padmount transformer they need, you know, we can find one that's close  
5 enough. As they ramp up, we can install overhead and switch it back, so we'll try  
6 to keep the customer first in all we do in those things. And we understand they call  
7 you and they're giving you an earful. Just rest assured, we're doing everything we  
8 can to meet their time requirements, whether it's borrowing a transformer from  
9 another operating company we're affiliated with, getting one from the repair shop.  
10 Whatever we can, we're looking across every rock, turning it over, finding the  
11 solution for the customers is what we're trying to do. And lastly, I would say, you  
12 know, how do these things affect kind of where we are? We've talked a lot about  
13 rates, where we were in 1980 and today. For Entergy -- and this is just Entergy,  
14 every story is different, but when I look back to 1990 to today, the cost of electricity  
15 for Energy Louisiana customers has gone up about 74 percent. On an absolute  
16 basis, that's a lot of money, but it is a 34-year period, and you do the math on that,  
17 it's about --

18 **COMMISSIONER CAMPBELL:** How long?

19 **MR. HAND:** Since 1990, 34 years, gone up 74 percent, which means about 2.1  
20 percent, which is generally the historic inflationary rate. We're not -- we're seeing  
21 a lot more than that in inflation today, so on an absolute basis, it's a lot; on a relative  
22 basis, year-to-year, it's kind of keeping pace with inflation. Like anything else, the  
23 cost of labor for us goes up. But to put that into context, if you look at the price of

1 gasoline over the same period at the pump, it's gone up 177 percent. You look at  
2 the price of bread, even higher. And lastly, ground beef has gone up 217 percent.  
3 So, yes, things are more expensive. We're doing what we can to manage those, but  
4 we do think we still provide a solid value in terms of the electric rates to our  
5 customers in Louisiana, which to your point, Chairman, it has positioned Louisiana  
6 and continues to position Louisiana, as a low-cost, a low-rate electric state. We  
7 have a lot to do in terms of curbing the usage, being more efficient, but we think  
8 we have a good value proposition, you know, us and the Commission that regulates  
9 us to deliver that for customers.

10 **CHAIRMAN FRANCIS:** We need to get those cattle men to give us a break on  
11 beef, you know. Okay. Go ahead, Mark.

12 **MR. KLEEHAMMER:** Thank you. Mark Kleehammer on behalf of Cleco. I'll  
13 echo almost everything that Larry said. Just a few high-level points. CPI, consumer  
14 price index, the average increase from 2001 to 2020 was about 2 percent. Over the  
15 last three years, that's nearly tripled, between 5 and 6 percent. PPI was up 10  
16 percent in 2021 alone. Everything he said about supply chain timing, we would  
17 agree with. Everything's gone up. When you look at assets, conductor is up almost  
18 60 percent; crossarms have almost doubled since 2020. Everything related to the  
19 transformers, timeline and price, is up significantly. On labor costs, we've seen  
20 increases of nearly 20 percent, both on distribution labor and vegetation  
21 management costs. Sometimes those things come in lumps, because we might do  
22 a two, three year contract with folks, so we're seeing all of those expenses hitting.  
23 In addition, our debt costs are up. In 10-year rates, in 2021, were 1.1 percent.

1 They're now 3.99 percent. Three month LIBOR was 0.2; it's 5.32 percent. Our  
2 overall imbedded cost of debt has gone up a percent. All of these things are factors  
3 that go in our cost of service. For the most part, our rates at Cleco have not  
4 increased. Fuel fluctuates, but the rates last went in in 2021 and so we've seen a  
5 hit on what our earned return has been over the last couple of years. We are doing  
6 similar things on repurposing transformers, rebuilding transformers, taking low  
7 usage ones and moving to other areas, as needed, as we try to navigate the  
8 transformer challenges that we have. And as I said earlier in the discussion, to  
9 Larry's point, in real terms, electric prices have gone down. They are lower than  
10 they were in 1980, they are lower than they were in 2010. In nominal terms, we  
11 recognize the rates have been up. And finally, on -- I think you owe me a  
12 hamburger. Cleco's --

13 **COMMISSIONER CAMPBELL:** Let me ask [INAUDIBLE].

14 **MR. KLEEHAMMER:** We'll talk about -- okay, maybe I don't want the  
15 hamburger. But the Cleco rates were slightly higher in both '08 and in '10.

16 **COMMISSIONER CAMPBELL:** Let me ask you a question.

17 **MS. BOWMAN:** Commissioner, your microphone, please.

18 **COMMISSIONER CAMPBELL:** This all of y'all ought to answer. How much  
19 is your load of natural gas? How much do you use natural gas to make electricity;  
20 10 percent, 20 percent, 40 percent, 50 percent, what?

21 **MR. KLEEHAMMER:** I don't know, but it's probably north of 60.

22 **COMMISSIONER CAMPBELL:** Sixty percent?

23 **MR. KLEEHAMMER:** Probably two-thirds.



1 **COMMISSIONER CAMPBELL:** What about you?

2 **MR. HAND:** Roughly the same, 65 percent. We have probably 27 percent nuclear  
3 and a touch of coal.

4 **COMMISSIONER CAMPBELL:** How much is yours, Bobby?

5 **MR. BOBBY GILLIAM:** It's close to 50, about 47, somewhere in that range.

6 **COMMISSIONER CAMPBELL:** Okay. All your rates are going down, look,  
7 the price of natural gas is three bucks today, man. And you use 60 percent natural  
8 gas to make electricity. And you're singing the blues. Natural gas has been higher,  
9 but today they're giving it away. Y'all all say that. I mean, you know, I got you  
10 coming, you know, transformers are higher, I know that. Tires for the trucks are  
11 higher. Wages go up, they're higher. But 60 percent of the stuff you buy to make  
12 electricity is at three bucks. Last week it was at \$2.

13 **COMMISSIONER SKRMETTA:** It's \$1.75 right now.

14 **COMMISSIONER CAMPBELL:** What?

15 **COMMISSIONER SKRMETTA:** \$1.75 right now.

16 **CHAIRMAN FRANCIS:** Two dollars.

17 **COMMISSIONER CAMPBELL:** Two dollars right now?

18 **COMMISSIONER SKRMETTA:** \$1.75.

19 **MR. KLEEHAMMER:** And, Commissioner Campbell, that's correct. And from  
20 a base rate perspective, they're only reset periodically, every three years or four  
21 years or whatever it is.

22 **COMMISSIONER CAMPBELL:** Yeah. But you know --

1 **MR. KLEEHAMMER:** From a fuel rate, they go up and down, which is to the  
2 point, you had DEMCO up here a moment ago, they were with Entergy and Cleco  
3 in 2022. Same thing, we had extraordinarily high gas prices and that was the  
4 pressure that everybody was seeing. And right now, we're in a good --

5 **COMMISSIONER CAMPBELL:** I got y'all before. Y'all are singing the blues,  
6 you know, and everybody is feeling sorry for you. Remember one thing, you're a  
7 monopoly. Nobody can come in competition against you to get anything down.  
8 You got it. You know, you got a lock on everybody that's buying electricity in  
9 Baton Rouge.

10 **MS. BOWMAN:** Commissioner, your mic, please.

11 **COMMISSIONER CAMPBELL:** And then, remember, \$1.75, y'all are making  
12 me sick if you tell me that. I'm the one that needs some relief, \$1.75 natural gas.  
13 But anyway, y'all ought to be in pretty good shape. I mean, if you can buy gas that  
14 cheap.

15 **MR. HAND:** And we do, you know, that helps our customers, we flow that low  
16 fuel through our customers. But I will point out that, you know, at least for  
17 Entergy's standpoint, since I joined the company, we've built probably 3,000  
18 megawatts of new combined cycle generation to burn that low-cost fuel efficiently.  
19 And these inflationary pressures to steel, all the things to build the plant to generate  
20 it using that fuel, those have gone up, and that's why, you know, our rates have  
21 gone up as well, even though that particular part of the fuel has gone down.

22 **COMMISSIONER CAMPBELL:** That ought to be the first thing you say in your  
23 speeches. Rather than singing the blues and making everybody feel bad about, oh,

1 Lord, I didn't know it was that bad. Tires jumped up, pickup trucks jumped up,  
2 wire jumped up. I can't buy a generator, I can't buy one, I ordered them three years.  
3 Then you ought to say but, by the way, 60 percent of the stuff we use to make  
4 electricity is at \$1.75. Y'all don't ever mention that. It's been five and six and  
5 eight. Look up that. Look up what natural gas was 10 years -- it was higher than  
6 1.75. So, I mean, that's the -- as Paul Harvey said, that's the other side of the story,  
7 that y'all don't tell too much. You tell me about all the bad things, but you don't  
8 tell about all the good things and that's a hell of a break, \$1.75, that makes me glad  
9 for the consumer. Anyway, I just thought I'd bring it up.

10 **CHAIRMAN FRANCIS:** You got the IRP right on that one for a while. Okay.  
11 Bobby, what's going on with SWEPCO?

12 **MR. GILLIAM:** Very similar. I'm Bobby Gilliam, representing SWEPCO. Very  
13 similar, I mean we definitely have transformer increases. I was looking at some of  
14 the padmounts, see for 300 kV it's up 151 percent, 50 kV is up 165 percent, so  
15 that's one of the issues. Everything, meters have gone up and we just got a lot of  
16 new meters and has been a good deal, what we got them. Glad we got them when  
17 we did. And some of the old meters you can't get anymore, they don't make them  
18 so you have to buy certain things. Crews and things like tree trimming, that's  
19 something that's gone up and I hope it goes up and down some as fuel prices change.  
20 It's a good thing with fuel prices of course for energy, the savings are passed  
21 through to ratepayers, that's what the fuel cost does. But for example, tree trimming  
22 cost per mile, I mean, they've gone way up, like 50 percent we've experienced. So  
23 we try to deal with it and we have to still manage to trim and cut trees, so some of

1 that we have to do over and above the budget for that, but that's one area that is a  
2 concern. We have -- AEP has for transmission, they've kind of joined with seven  
3 other utilities to form a grid assurance, so they can have transmission facilities that  
4 they need available and they're building warehouses in different locations, so you  
5 can go get what you need and keep things operating as they should. So that's one  
6 of the procedures and mechanisms we've instituted to try deal with shortages  
7 because there are shortages and that's the other thing, it's gotten better. During  
8 COVID it got terrible for a while, but it does still take longer and certain big  
9 transformers, they'll quote you five years before you can get one. And those are  
10 problems, so we have to work around that.

11 **CHAIRMAN FRANCIS:** How dependent are we on these countries that don't  
12 love America to get these products? That's a question we get asked every day.  
13 Where are y'all buying this stuff that we're -- and are they -- you know, for security  
14 of our country? Any comments on that?

15 **MR. HAND:** The one thing I will add is to help relieve the transmission -- I mean,  
16 the transformer constraint issue, we have with coordinating with the FBI, we have  
17 sourced some transformers from domestic manufacturer who sources them from  
18 China and I know Commissioner Skrmetta had a directive about being careful  
19 where we source certain electrical components. Transformers, I assure you are not  
20 internet capable components such that there's a cybersecurity risk. But we do try  
21 to source it as locally as we can because we want to, you know, make sure it's in  
22 our backyard, it can get here quick, and it's not subject to people or countries that  
23 may not have America's best interest and certainly Louisiana's best interest at heart.

1    **CHAIRMAN FRANCIS:** Well, our federal government's aware of the problem I  
2    know and they've got to be working with your folks. So I don't think it's in our  
3    jurisdiction to tell you exactly what to do there, but wish you well on that. We get  
4    asked that a lot, our people that use your electricity. Thank y'all for coming -- wait  
5    a minute, we got another --

6    **VICE CHAIRMAN LEWIS:** Thank you, Mr. Chairman, and thank you for your  
7    answers. And I was curious to know, and correct me if I'm wrong, I believe all of  
8    you did, there was a letter to the President about using the Defense Production Act.  
9    Did anything follow that or were there any conversations from DOE or the White  
10   House about that concern that you all and your colleagues across the country raised?

11   **MR. HAND:** Going from memory, I believe the potential authorization under the  
12   Defense Production Act preceded the DOE's proposed regulation. I don't know  
13   enough about it to say whether it was implemented and how successful it was.

14   **VICE CHAIRMAN LEWIS:** Okay. Thank you. Yeah. I just remembered that  
15   from some earlier conversations that we had and I want to thank you. And I want  
16   us to really take a look, I mean, I was just looking up a second ago the EIA forecast,  
17   which has a four percent increase on utility bills predicted for this year. We saw  
18   last year that the increase doubled inflation and so this is a -- while I do appreciate  
19   all of the concerns, I also want to reiterate this is why looking at alternatives to  
20   lower the impact on customers and consumers is important, why I took energy  
21   efficiency so efficiently, why I'm stressing and I was asking those questions in the  
22   IRP about demand response about energy efficiency. Because when we think about  
23   inflation from the production level, which is a true issue, I also want us to think

1 about the inflation from a consumer's issue. The Chairman brought up -- excuse  
2 me, the former Chairman brought up his concerns and the concerns that I shared  
3 with him about the feeding programs and I've been talking about this publicly for  
4 a few weeks. But when we tackle on what's happening in the ecosystem outside of  
5 our control here at the Commission and those inflationary costs to utility bills, we  
6 are seeing significant devastation in our communities where people cannot afford  
7 to live. And so that's why I appreciate your comments on theirs, but I'm  
8 encouraging you to really look at alternative means. That's why I mentioned that  
9 letter from DOE, HUD and the EPA earlier because we have dollars to help ensure  
10 consumers are protected and inflationary increases and I want to ensure that we are  
11 doing everything we can, from applying for every federal grant, as you all know, I  
12 had that directive earlier. And so I just wanted to put that on to the record and this  
13 conversation with you all and hope to work with you still on some of those  
14 problems, but I think this moment requires us to start thinking a little bit outside of  
15 the box because I'm not sure we're ever going to see it come back down, so thank  
16 you.

17 **CHAIRMAN FRANCIS:** Thanks fellas.

18 **MR. HAND:** Thank you.

19 **CHAIRMAN FRANCIS:** Let's see, is Cleco here? I saw Bill Fontenot back there.

20 **COMMISSIONER SKRMETTA:** He's right there in that Kleehammer suit.

21 **CHAIRMAN FRANCIS:** Okay. Well, I'm sorry. Well, we got [INAUDIBLE]

22 now that's a -- Bill, you put on some weight there. Talk about the --

1 **MR. KLEEHAMMER:** Were there co-ops were going to come up? I thought  
2 maybe --

3 **MS. BOWMAN:** I didn't know, Chairman, if you -- you had asked for the co-ops  
4 to also just give a little information on the inflationary, but if you're --

5 **CHAIRMAN FRANCIS:** Oh, I'm sorry. I jumped too far I guess.

6 **MS. BOWMAN:** But I mean, if it's the same --

7 **CHAIRMAN FRANCIS:** I think it's the same.

8 **MS. BOWMAN:** I believe it is, I mean, from the reports that they provided to you,  
9 written, it's the same information. They're having the same delays in, you know,  
10 getting the equipment and lag times, and a lot of it stems from right after COVID  
11 into now.

12 **CHAIRMAN FRANCIS:** All right. All right. Well, let's go move on to the price  
13 of coal and [INAUDIBLE] --

14 **MS. BOWMAN:** So just for the record, this is the discussion with Cleco  
15 Corporation regarding Cleco Cajun's increased contract charges to the Louisiana  
16 electric cooperatives.

17 **CHAIRMAN FRANCIS:** Thank you, Ms. Bowman. Bill, welcome to the podium  
18 here.

19 **MR. BILL FONTENOT:** Good afternoon, Commissioners. I guess I'll -- I've  
20 got some prepared remarks, we can go from there. Bill Fontenot, I'm the CEO with  
21 Cleco Holdings. So just a little background, as you know, because you approved  
22 that Cleco Holdings acquired the LaGen business in 2019. And the Louisiana  
23 Generating business, of course, when we acquired them, it included about 3,500

1 megawatts worth of generating assets and of course it included the contracts to  
2 serve all but one of the Louisiana cooperatives. So I'd say that we at Cleco  
3 Corporation were excited about the opportunity. We serve some 300,000 customers  
4 across Louisiana, we understand customers, and so we were excited to begin that  
5 service. Me personally, I'm a Louisiana rural, born and bred, individual myself and  
6 so we're proud of the role that we've played really in supporting these Louisiana  
7 cooperatives really since 2019. And with respect to Cleco, I'll say that we have and  
8 will always honor the obligations under our contracts for better or for worse. So  
9 let me say, why would I say for better or for worse? Sounds like a marriage. Well,  
10 these contracts have been in place for some 20-plus years and in many ways, it is  
11 like a marriage, but I say for better or for worse is because these particular contracts  
12 are really price based, they're market or price based. And the cost for the energy -  
13 - the energy cost for these cooperatives are basically derived from inputs, inputs  
14 from coal, from natural gas. And again, this is not a cost-based solution, this is a  
15 price or a market-based solution, and when we talk about market-based solutions,  
16 not cost-based solutions, from time to time there's going to be winners and they're  
17 going to be losers. And so from month to month, sometimes you're going to -- we,  
18 as the supplier, or the cooperatives, or the customers will fare well and sometimes  
19 not. But let me say that I believe that this contract, for the most part, has been in  
20 place for 20 years, has looked like a marriage per say and I believe that these  
21 contracts have broadly served these cooperatives well. Again, it is amazing that  
22 these contracts have been in place for over 20 years having reliable power, backed  
23 by real assets, and of course stable, affordable solutions through this priced-based



1 solution that we have in place. Again, they're not cost based. Essentially, these  
2 cooperatives are billed through an algorithm and this algorithm is populated with  
3 the price of natural gas and a coal price. Natural gas, where does that price come?  
4 It comes from the public pricing indices very available in the public. Coal pricing  
5 is basically calculated, real simply, as the cost that we incur at Cleco Cajun to  
6 deliver coal to Big Cajun II in a given month divided by the volumes of which were  
7 delivered to the plant in a given month. So we take the natural gas price, the coal  
8 price, we populate a formula, and that basically establishes the cost for the  
9 cooperatives.

10 **COMMISSIONER CAMPBELL:** Wait a second. Let me ask you, how do you  
11 divide [INAUDIBLE] --

12 **MS. BOWMAN:** Commissioner -- thank you.

13 **COMMISSIONER CAMPBELL:** -- if you take the coal and you multiply it times  
14 the price to get the price?

15 **MR. FONTENOT:** No, we take the costs --

16 **COMMISSIONER CAMPBELL:** Of the coal.

17 **MR. FONTENOT:** To determine the coal price, we take the costs we've incurred  
18 to have coal delivered in a given month and divide it by the volumes that were  
19 delivered in a given month.

20 **COMMISSIONER CAMPBELL:** And get the price per ton, price per whatever.  
21 Yeah.

22 **MR. FONTENOT:** Right.

23 **COMMISSIONER CAMPBELL:** Okay. I got it.

1 **MR. FONTENOT:** Okay. With this algorithm though, coal is really the key  
2 contributor because 80 to 85 percent of the energy cost is tied to the price of coal  
3 and, again, I think being tied to coal has served the cooperatives well. Case in point,  
4 in 2022, we talked earlier about the prices of natural gas going from \$7 to \$9 in  
5 MMBtu. Remember, this is the aftermath of the Russian invasion of Ukraine and  
6 we saw huge movement in energy cost really across the nation. So the investor-  
7 owned utilities, I manage one of them, were well aware in Louisiana of the cost of  
8 natural gas to our customers, and by the way, this was a national issue. Every power  
9 supplier or any such supplier was dealing with high cost commodities. But with  
10 respect to these Louisiana cooperatives, they're costs remained very stable because  
11 they were tied to this relatively stable price of coal and of course the generation  
12 fleet to keep them reliable. So this same coal based algorithm that's not working  
13 well for them today is what mitigated really all of their exposure to the rising prices  
14 of natural gas back in 2022. So again, reiterate, I think it served them well for the  
15 past 20 years, particularly in 2022. At issue here, I believe, is the recent force  
16 majeure event incurred by our coal transporters, whereby with this summer and fall  
17 drought that our nation experienced, it brought about low Mississippi River levels  
18 which impacted our coal transporters ability to deliver coal. Well, it shouldn't be  
19 a surprise about whether there was a low Mississippi River. There's public  
20 information you can read. You can read about water levels pretty much anywhere  
21 you want to in the Mississippi River, but we all were aware of what was going on  
22 in New Orleans. In fact, that same low Mississippi River level was causing  
23 basically saltwater intrusion to jeopardize clean water supply to New Orleans. So

1 this was not a surprise that we had problems. So what happened is that when you  
2 look at the cost of coal, we incurred cost versus relatively lower volumes as a result  
3 of the inability to deliver much coal because of the force majeure event. So when  
4 we established our pricing based on the cost over the volumes, and to be really  
5 clear, Cleco or Cleco Cajun billed these cooperatives in accordance with the  
6 contract. First of all, we're bound to do so. Secondly, this is not the first force  
7 majeure situation that we've incurred since we've served the co-op since 2019. We  
8 actually dealt with this in 2020 where we again experienced low Mississippi water  
9 levels such that no coal was actually delivered in a couple of months in 2020. So  
10 I'm trying to populate a formula to populate an algorithm to bill these customers,  
11 but you can imagine with no volumes for coal, it made pricing impossible to  
12 calculate, so we had a glitch in our contract. So in 2020, we, as Cleco Cajun, offered  
13 solutions to the cooperatives and the solution at that time was to offer them an  
14 average, whereby we couldn't calculate the coal price to determine the cost for their  
15 monthly energy, rather, we said look, we'll take the average inventory of the coal  
16 and use that as the coal price to populate the cost because of course we hadn't  
17 received no coal. We thought that was a good solution to remedy the problem then  
18 and for -- then when we had low river issues and for any future low Mississippi  
19 River issues. To our surprise, back in 2020, basically the cooperatives rejected our  
20 means to calculate coal pricing under this force majeure event. They paid the bill  
21 under protest and notified us clearly that failure to bill these cooperatives in  
22 accordance with the contract is a breach of the contract and we were notified to  
23 specifically bill in accordance with the contract. We serve multiple co-ops, but we

1 receive many, most of the time, identical letters from the co-ops because they have  
2 the same legal counsel, but I'll read exactly the language that we -- what we were  
3 directed to do with respect to the 2020 low river level and the force majeure.  
4 Despite the clear language of the PSSA, that's the contract, seller, that's us, has  
5 chosen to provide an invoice with a calculation for the coal price that is not in  
6 conformance with the current coal price in the contract and therefore breached the  
7 contract and thus is in default. I'll go on, that was plenty of legal language, but  
8 basically, we were instructed very clearly, any invoices billed beyond April and  
9 May 2020, which were the force majeure months in 2020, shall be calculated in  
10 accordance with the PSA. In other words, bill us in accordance with the contract.  
11 So this shouldn't be really relevant to the discussion, this is a 2020 event, but in  
12 this recent case, Cleco Cajun did have volumes. So in 2020, we had no volumes,  
13 but we understood really clearly, if you're going to hold us in breach, we will  
14 deliver volumes for better or for worse. But it points out that as recent as 2020, we  
15 offered resolutions to remedy this force majeure or low river volumes early on and  
16 it was rejected, so Cleco's only remedy to bill the contracts and remain out of breach  
17 is to have coal delivered so that we in turn can bill the cooperatives. And so in  
18 2024 -- in 2023, that's exactly what we did. So I'm the CEO of a utility serving  
19 300,000 customers, and I and the company understand the cost consequence on  
20 customers, we're not immune to that, and we've had to deal with high costs  
21 ourselves for short periods of times like one to three months like the co-ops were  
22 experiencing here. And so there are known short term issues and Cleco Cajun  
23 basically explained early on that this was a short term issue and the remedy that

1 investor-owned utilities, Cleco, Entergy, others, would use is just to spread those  
2 costs out over a number of months. Something that we all use in Louisiana, so  
3 when the coal price event occurred, I think Cleco Cajun did the right thing. We  
4 actually offered these cooperatives to use our own balance sheet at no cost to spread  
5 these costs out over several months in order to mitigate the immediate cost  
6 consequence of these high coal prices. I want to say that again, we offered to do  
7 this for free. We are baffled because the co-ops did not accept our offer and many  
8 of the co-ops proceeded not to spread their costs out over subsequent months. And  
9 I think in many ways that's why we're here. The cooperatives choose to take this  
10 issue public and basically blame Cleco Cajun for the high costs for many of the  
11 same cooperatives who didn't spread their costs out and then, ultimately, we're here  
12 with you today before the Public Service Commission. Within the contract there  
13 are remedies to resolve these disputes, but rather than use these remedies, they've  
14 chosen to blame us publicly and we're here today. The cooperatives -- I read the  
15 trade rags, I read, Commissioner, the Pointe Coupee Banner and you know, the  
16 statements are that we could -- Cleco Cajun could have done things differently.  
17 I've heard it from one of the Beauregard customers. We could've done things  
18 differently. I think in reality is what they're saying is we could've reduced their  
19 bill, we could've essentially given them money. I'll say that at Cleco we're going  
20 to honor our obligations and I'll say that these contracts have not always been  
21 lucrative for the company. In fact, as recently as January of 2024, remember the  
22 recent winter storm, I'll say that we lost \$10 million in a couple of days. And so  
23 making matters worse, I can tell you 2022 when we were utilizing natural gas based

1 energy to serve contracts at coal prices, let me tell you there were tens of millions  
2 of dollars lost throughout those months. Yet, did Cleco Cajun go to the  
3 cooperatives and say hey, can we raise our bill, we lost a lot of money, can we pass  
4 through more costs? No, we wouldn't, we shouldn't, and we didn't. So in  
5 summary, I'd say that we wouldn't expect the cooperatives to ask us for any money  
6 either. We'd expect them to use the same tools that we would use as an investor-  
7 owned utility. So I'll state it again, you know, as a CEO of the company, we're  
8 going to understand and we're going to honor any obligations under these contracts.  
9 There are remedies under the contract which the cooperatives may take to  
10 determine if we indeed did bill them incorrectly. If a court or any jurisdiction  
11 otherwise that we did something improper or didn't bill correct, we will backstop  
12 our mistakes. But I'll say this, I knew I was coming to this meeting and certainly  
13 we've seen the public pressure over our billing, and know that I've hired internal  
14 and external auditors to review our method of billing and including our practices of  
15 operation. And I'll just be clear, our findings show that we abided by and billed the  
16 cooperatives consistent with the contract and consistent with the understanding of  
17 what the Commission -- of what the cooperatives told us in 2020 to ensure we had  
18 to deliver coal in order to remain out of breach of the contract. So in summary, I'd  
19 say we did everything we were supposed to including offering a resolution to  
20 support Louisiana's rural customers, they were rejected, we've honored our  
21 obligation and I think that you would expect from Cleco.

22 **CHAIRMAN FRANCIS:** Thank you, Bill. And, Commissioner Greene.

1 **COMMISSIONER GREENE:** Thank you. I have a series of questions, I'm just  
2 going to ask them all and then you can answer them. It's my understanding that  
3 you won't tell the co-ops how much coal you received in question and if so, why  
4 not? Will you tell us? Isn't it also true that this information will become publicly  
5 available in the next few weeks through the EIA available data?

6 **MR. FONTENOT:** So the answer --

7 **COMMISSIONER GREENE:** Go ahead. No, if you can answer it.

8 **MR. FONTENOT:** Okay. The answer to the last question is no. And, Jeremy,  
9 you want to give us a perspective on the process for providing information?

10 **MR. JEREMY KLIEBERT:** Yes. I'll grab that one, Commissioner Greene. So  
11 there is a process under the co-op PSSAs. We've got confidentiality agreements  
12 up and down our supply chain that prevent us from disclosing that information.  
13 There is a process whereby we can get that with back-to-back confidentiality  
14 agreements or things of that nature. To date, we have not had any of those processes  
15 initiated. However, to ease the co-ops concerns, what we have done is we've  
16 engaged PricewaterhouseCoopers. That audit engagement will be signed this week  
17 where they come in, they audit top to bottom to look at our practices and give an  
18 independent attestation concerning what we did. It speeds the process up, we don't  
19 have to negotiate with third parties to put agreements in place.  
20 PricewaterhouseCoopers already does transmission audits under the co-op PSSAs  
21 so it's a known quantity, a known process. So with the EIAPs I'll also address. I  
22 think we need to read closely what the EIA reports. The EIA does not report  
23 deliveries to Big Cajun II. The EIA reports deliveries from the mine to our initial

1 transport provider in our supply chain. Those numbers many times do not match,  
2 so to rely on and say that the amount of coal delivered by an EIA report is going to  
3 match what hits our docks is not a correct look at how those numbers are  
4 [INAUDIBLE].

5 **MR. FONTENOT:** More specifically --

6 **COMMISSIONER GREENE:** It smells like a fear of transparency though.

7 **MR. KLIEBERT:** It's not a fear of transparency. We're perfectly fine working  
8 with them under the contracts that those dispute resolution processes are invoked  
9 and requested. We'll work with our suppliers, we'll work with the co-ops to put  
10 the necessary agreements in place, and be as transparent as we can with all of that  
11 information.

12 **COMMISSIONER GREENE:** Okay. I'll guess we'll see how that plays out. My  
13 understanding is that the force majeure came from the barge company saying it  
14 wasn't safe to ship the coal down the river and yet we received coal each month.  
15 How did that occur?

16 **MR. KLIEBERT:** So we received a notice from the coal barge company, we  
17 investigated that. We take our force majeure seriously. We had weekly phone calls  
18 --

19 **MS. BOWMAN:** I'm sorry, Jeremy, I hate to interrupt you, but can you speak a  
20 little closer into the microphone.

21 **MR. KLIEBERT:** Yeah. You bet.

22 **MS. BOWMAN:** Thank you.



1 **MR. KLIEBERT:** So we received that notice from our coal barge company, we  
2 were able to secure supplies to be delivered. We had higher supplies delivered  
3 during the force majeure as things -- you get a higher uptick at the dock, you can  
4 ship coal. We had weekly phone calls with that coal shipper. We traveled all the  
5 way to their terminal to take a look at what the river levels were in order to satisfy  
6 our obligations under the contract to make sure that that force majeure was --

7 **COMMISSIONER GREENE:** Let me interrupt you, it sounded like you said the  
8 price was higher so we ordered more; is that accurate?

9 **MR. KLIEBERT:** That's not it at all.

10 **COMMISSIONER GREENE:** Okay. Can you clarify it?

11 **MR. KLIEBERT:** So it's a dollar per MMBtu is how that cost of coal is processed.  
12 We want to get our coal shipped. We have got contracts with our coal supplier,  
13 barge, rail, terminal. We want to have that coal shipped because we have those  
14 obligations.

15 **COMMISSIONER GREENE:** And so will the Pricewaterhouse analysis reveal  
16 how much coal has shipped on what type of barge and for what cost? Because it  
17 sounds like if the river's low, you can't ship as much and as big of a shipping cargo,  
18 so you have to go with multiple smaller ones. I understand that may cost more  
19 money, we're just going to find out how much more relative to how much y'all  
20 actually charge people; is that accurate?

21 **MR. FONTENOT:** Well, I'll answer. So, Commissioner --

22 **COMMISSIONER GREENE:** You mention a formula, it seems like this is a  
23 formula.

1 **MR. FONTENOT:** Yeah.

2 **COMMISSIONER GREENE:** This is the cost and this --

3 **MR. FONTENOT:** Absolutely, but as far as, you know, our transporters and  
4 shippers, so think about it, we mine -- we have a mine, they basically mine the coal,  
5 they put it on a rail, it shows up at a transloading facility, take the transloading, they  
6 put it on a barge, and ultimately, it's going to show up at our docks. It may be  
7 fleeted, it's a lot of movement, that's their business, but that's really the process.  
8 So basically, once they got that product to the transloading facility, they could  
9 transload it, but they couldn't move it. So the force majeure excuses their  
10 performance. They have an obligation for so many barges and so many tons a  
11 month and the force majeure event excused their performance, but they still have  
12 best efforts requirements to mitigate the force majeure issue. So they couldn't meet  
13 the obligations of the contract, but they did everything they could because, look,  
14 the more volumes that we receive, the better the cost for customers. And these  
15 transporters are incentivized to move coal because they don't make money unless  
16 they deliver the coal.

17 **COMMISSIONER GREENE:** I know. Well, my question is this, I take it that  
18 the analysis will provide whether or not the cost increase was just a pass through or  
19 you actually charged more just because you could? And I'm not -- you can answer  
20 that now if you'd like to or my main question is will the Pricewaterhouse analysis  
21 reveal that?

22 **MR. FONTENOT:** It will basically analyze how we billed and the validity of the  
23 billing and the process to establish the bill.

1 **COMMISSIONER GREENE:** That's a vague answer for a simple question.

2 **MR. FONTENOT:** I'm trying to give you what you're looking for. That's what  
3 you will get out of it. The pass through -- you're asking what we incurred -- what  
4 costs we incurred versus what we billed, that's just a matter of time before we  
5 understand the consequence of that. So we got more or less volumes, okay, and  
6 then this force majeure event, we got less volumes, but that -- we have an obligation,  
7 we have contract and we have our own obligation to take coal. So while today I'm  
8 dealing with no coal trying to establish a price for a customer and run my business,  
9 tomorrow and in the coming months, I'm going to get coal, probably \$20-plus  
10 million worth of coal that I've got to deal with and it's going to have a huge cost  
11 consequence. So we will incur cost of which we can't bill for? Absolutely. How  
12 we mitigate that, it remains to be seen as to when we get them and what markets  
13 will allow us to recoup those costs.

14 **COMMISSIONER GREENE:** And I guess the real answer to my questions will  
15 come out in the court proceedings; is that right?

16 **MR. FONTENOT:** In the --

17 **COMMISSIONER GREENE:** In the protest process?

18 **MR. FONTENOT:** If that's what they choose to do, yes.

19 **COMMISSIONER GREENE:** Okay.

20 **CHAIRMAN FRANCIS:** Commissioner Lewis.

21 **VICE CHAIRMAN LEWIS:** Thank you and thank you, Mr. Fontenot, for  
22 responding to the letter that me and Commissioner Greene sent you. I want to just  
23 characterize why I asked for this discussion. I mean, when we have these

1 conversations between the wholesale contract and the co-ops, there is -- as you  
2 know, I deeply care about the people and we saw significant, significant bill  
3 increases among co-op customers between those months where people are making  
4 hard, hard choices in their lives about it. And so while I am here just to get answers  
5 and not -- do I want to set the stage of why this conversation is important, that this  
6 is not simply just, I think a -- well, there is a contract role question between the co-  
7 ops and you all, but there is a humanized -- a human effect that I want to make sure  
8 is centered here in this meeting of people who saw a \$75 to \$50 increasement just  
9 on their fuel adjustment clause, not talking about any other additional causes  
10 because of the consumption of energy. And so that is why I was interested in just  
11 trying to understand what happened. Me and Commissioner Greene were both at  
12 the Pointe Coupee Electric annual meeting and this was a topic among citizens and  
13 so I said it was my obligation as a Commissioner to come back and ask these  
14 questions. And so I'm just going to have some questions just to kind of figure it  
15 out. So when was the force majeure declared just in the timeline perspective?

16 **MR. KLIEBERT:** It was early September '23.

17 **VICE CHAIRMAN LEWIS:** Early September. And when did you notify your  
18 wholesale customers about this?

19 **MR. KLIEBERT:** I'd have to take a look back through and see when that got  
20 notified because there were meetings that occurred for any formal communication.

21 **VICE CHAIRMAN LEWIS:** Okay. And so I'm clear --

22 **MR. KLEEHAMMER:** Commissioner, if I can --

23 **VICE CHAIRMAN LEWIS:** Yes, please [INAUDIBLE].

1 **MR. KLEEHAMMER:** If I can jump on this, I think that the primary issues that  
2 we saw in the billings that were going to go to the co-ops were in the delivery month  
3 of October, operation month of November, bills presented to the co-ops in early  
4 December. Typically, the co-ops then would pass that on to their customers in  
5 January and the way we've seen it is that there is roughly a 3-cent uptick in their  
6 fuel -- we all got different nomenclature, but in their fuel adjustment clause for the  
7 months of October and November. I think it's a little different for Pointe Coupee,  
8 I think they bill more rapidly. So they may have seen a 3-cent uptick in what hit  
9 their customers in December and January, and others saw it in January and  
10 February.

11 **VICE CHAIRMAN LEWIS:** Okay. Thank you. And who decides how much  
12 coal is delivered in those months? Is that a standardized process? How do you  
13 evaluate that?

14 **MR. KLEEHAMMER:** It would be a standardized process under the normal  
15 course, but when there's a force majeure issue like there is, and I actually have  
16 several articles about the level of water in St. Louis about all types of shipping  
17 issues up and down the Mississippi, then it's an achievability issue.

18 **VICE CHAIRMAN LEWIS:** Okay.

19 **MR. FONTENOT:** So let me put a little cover.

20 **VICE CHAIRMAN LEWIS:** Okay. Please.

21 **MR. FONTENOT:** So natural gas of course you procure certainly by the month,  
22 oftentimes by the day. When we're looking at solid fuel like coal, we put contracts  
23 in place for deliveries some -- usually at least two years earlier. So we establish a

1 ratable supply of coal, and to the extent that waterways are open and there are no  
2 issues, those volumes are pretty much delivered. So we don't get involved in the I  
3 want 10 this month and 20 next month. It's a ratable expectation from the  
4 providers.

5 **VICE CHAIRMAN LEWIS:** Thank you. That's actually a good -- kind of leads  
6 me to another question that I had when I was looking at this issue and kind of  
7 studying, looking at the EIA plant level reports. So if that is the case, could you  
8 not -- or why could you not get more barges or tows delivered in a month to make  
9 up quantities if the barge could not be loaded heavier? I'm trying to -- basically,  
10 what I'm trying to see is could there have been some other items taken to ensure the  
11 cost impact that would hit the ratepayers, which is my primary concern -- thank you  
12 -- could be limited. And so I'm trying to see what other creative solutions other  
13 than just kind of, as you described, is on the table, if they're not on the table, then  
14 what so?

15 **MR. FONTENOT:** So, Commissioner Lewis, I don't run the fuel desk. I can just  
16 say that we try to get volumes to the dock and unload them because that basically  
17 would be the mitigant to a cooperative customer's cost. The more volumes I can  
18 bring in, that lower that cost for MMBtu are going to be. So you know, that would  
19 be -- whatever our suppliers come up with, whatever their issues are, and by the  
20 way, you know, we have issues from time to time, things break, we have problems  
21 from time to time, we deal with these logistical providers. But the bottom line is  
22 bring us the coal, deliver the coal, and we work through it. But our guidance, bring  
23 it to the dock.

1 **VICE CHAIRMAN LEWIS:** Thank you. And so I -- last one, this one, before I  
2 go to a few questions on the 2020 situation. So this was not a matter of not having  
3 sufficient coal on the ground to run the units or was there an issue where you still  
4 needed additional coal? Because you see where I'm trying to --

5 **MR. FONTENOT:** We weren't running out of coal at the facility, no.

6 **VICE CHAIRMAN LEWIS:** Okay. So --

7 **MR. FONTENOT:** There's still inventory out there.

8 **VICE CHAIRMAN LEWIS:** There's still inventory out there so would that --  
9 knowing what we knew about the force majeure, could there be an evaluation to  
10 not send coal down to rectify what would be a complete shock increase? I'm just  
11 trying to see if you had to, knowing that you had stockpile, if it was necessary to  
12 still send coal down.

13 **MR. KLIEBERT:** And I think there's two pieces to think through there,  
14 Commissioner Lewis. I will say that the generation is disconnected from the way  
15 pricing goes through in the contracts. I would say looking into how we operate our  
16 plants or how we do that in relation to the pricing mechanism and the commitments  
17 under the PSSAs is disconnected. When you look at what we contract with, with  
18 our particular providers, as is consistent with most coal contracts, you've got to  
19 take our pay provisions, you've got different pieces there. So I would say we have  
20 to comply not only with our contracts to supply, but we've got to also comply with  
21 our contracts through our supply chain also when those things happen.

22 **VICE CHAIRMAN LEWIS:** Thank you. And so I'm going to come back to some  
23 questions for the co-ops, but I just kind of want to make sure I'm understanding this

1 2020 situation correctly. And I want to thank Mr. Kleehammer for coming to meet  
2 with me, providing those letters that you talked about, Mr. Fontenot, so I did see  
3 them and I'll have some questions for the co-ops on those. But the way we were  
4 looking at the CCP calculation and the way that I read the letters and the  
5 understanding of the issue, and I want to make sure I'm correct, is that in 2020 you  
6 had no coal delivered, correct?

7 **MR. KLEEHAMMER:** In those two months [INAUDIBLE], correct.

8 **VICE CHAIRMAN LEWIS:** In those two months, yes. And so looking at the  
9 equation, would that not require putting a zero in the amount of coal delivered?

10 **MR. KLIEBERT:** That's not the way it would work. The denominator in that  
11 particular formula would become zero, so you can't divide by zeros, so it becomes  
12 an impossibility.

13 **VICE CHAIRMAN LEWIS:** It would become an undefined value.

14 **MR. KLEEHAMMER:** Correct.

15 **VICE CHAIRMAN LEWIS:** But if we followed the equation as listed in the  
16 contract, that would be -- that would've been the solution, would've been a zero  
17 payment from the co-ops, correct?

18 **MR. KLEEHAMMER:** Oh, it'd be infinity.

19 **MR. FONTENOT:** No, it'd be infinity.

20 **MR. KLIEBERT:** It'd be infinity.

21 **MR. FONTENOT:** It would be through the roof.

22 **VICE CHAIRMAN LEWIS:** Through the roof. Okay.

23 **MR. KLIEBERT:** Yeah.



1 **MR. FONTENOT:** Not zero.

2 **VICE CHAIRMAN LEWIS:** So that's why I'm trying to see because I hear that  
3 comparison and I'm going to ask them about it, but I wanted to make sure I  
4 understand it perfectly in what. And I know you're going to end up going into  
5 probably some type of either legal remedy, so I'm not going to ask any questions  
6 about that, but I'm just trying to make sure I understand before we talk to the co-  
7 ops. So when did you make your offer -- some of the offers that you talked about,  
8 Mr. Fontenot, to the co-ops?

9 **MR. KLIEBERT:** The date that we offered to -- the four month interest free?

10 **VICE CHAIRMAN LEWIS:** Yes.

11 **MR. KLIEBERT:** That was in early 2024.

12 **VICE CHAIRMAN LEWIS:** Early -- so we would say January?

13 **MR. KLIEBERT:** Yeah. January, February '24.

14 **VICE CHAIRMAN LEWIS:** And so were there any other conditions put on that  
15 offer that the co-ops would have to consider?

16 **MR. KLIEBERT:** Correct. They would have to withdraw their notice of  
17 opposition.

18 **VICE CHAIRMAN LEWIS:** Their notice of opposition.

19 **MR. KLIEBERT:** Yeah. Or their payment under protest.

20 **VICE CHAIRMAN LEWIS:** The payment under protest or both ones.

21 **MR. KLIEBERT:** Correct.

22 **VICE CHAIRMAN LEWIS:** Okay. Mr. Chairman, I think that's all I have for  
23 now. Thank you.

1     **CHAIRMAN FRANCIS:** Thank you. Quick question, the inventory at the plant,  
2     do you keep it the same? You maintain a certain inventory of coal at the plant?

3     **MR. FONTENOT:** Yes. We always had several months on the pile in support of  
4     reliability of the units.

5     **CHAIRMAN FRANCIS:** So in this case, you just got to get more barges down  
6     to maintain that steady supply of coal inventory?

7     **MR. FONTENOT:** So in this case, there's inventory on the pile today. We're a  
8     little short inventory because we've had several months where we didn't receive  
9     the volumes anticipated, but it's coming.

10    **CHAIRMAN FRANCIS:** Okay. So your inventory has dropped [INAUDIBLE]  
11    --

12    **MR. FONTENOT:** So now in time, I'm going to deal -- I went from not getting  
13    enough inventory to now I've got too much inventory.

14    **CHAIRMAN FRANCIS:** All right. Who did you offer to spread out their cost  
15    without any extra interest on it? Who turned down that offer from the co-ops?

16    **MR. KLIEBERT:** My understanding in looking at the letters is everything went  
17    out to the attorneys and co-op GMs.

18    **CHAIRMAN FRANCIS:** Okay. So the attorneys for the co-ops called back  
19    saying we're not interested in your spread --

20    **MR. KLIEBERT:** I don't think we heard back from any of the attorneys directly.  
21    I think the GMs did maybe, but I'd have to check it, Commissioner Francis, to  
22    check.

1    **CHAIRMAN FRANCIS:** Well, if you didn't hear back that means they weren't  
2 interested in your offer, yeah? So y'all offered to eat the interest cost on that money  
3 to finance for them over time really, so. I didn't know that. That's good for you  
4 guys.

5    **MR. FONTENOT:** Well so, Commissioner Lewis, you asked -- I mean, there's a  
6 people -- there's a human issue here and so, Commissioner Francis, that's exactly  
7 what we were trying to do, understanding that there would be a cost consequence.  
8 Putting this bill on the customers might be a 3 cent increase, hurt a lot of customers.  
9 Whereas, you spread it out over six months, maybe that's a half a penny increase,  
10 so it just becomes a much more palatable solution for customers.

11   **CHAIRMAN FRANCIS:** There's a still a cost to you if you offered that.

12   **VICE CHAIRMAN LEWIS:** Mr. Fontenot, real -- I'm sorry, Mr. Chairman. I  
13 didn't mean to --

14   **CHAIRMAN FRANCIS:** Okay. Wait. Okay.

15   **VICE CHAIRMAN LEWIS:** -- jump in real quick. Just on that point, real quick,  
16 I just want to make sure I'm following. Was the cost of coal the only increase or  
17 was it also the delivery cost in that period?

18   **MR. KLIEBERT:** The cost per contract, the dollars per MMBtu for the  
19 calculation is what changed.

20   **VICE CHAIRMAN LEWIS:** That's what -- okay. That is what changed.

21   **MR. FONTENOT:** Which is driven by -- I mean, there are costs, but of course  
22 the volumes are in the denominator so as those increase, Commissioner, of course  
23 so does the cost of coal.

1 **VICE CHAIRMAN LEWIS:** Okay. Thank you.

2 **MR. KLEEHAMMER:** And, Commissioner, if I can, I just wanted to go through  
3 what I handed out, which are just articles pulled off of the internet. Waterways  
4 Journal in front, I'm not a subscriber typically, but Waterways Journal says that in  
5 St. Louis in December the sixth lowest river level on record, which the records go  
6 back to 1860 and it was the lowest since 1989. One of the other articles is from  
7 NPR, it points out the fact that the trip from St. Louis to New Orleans typically  
8 went from five days to nine days; that when you lashed barges together, you could  
9 typically lash about half as many barges together; and when they were filled, this  
10 is not just coal, this is all shipping, in many cases they were filled at lower levels.  
11 So if you do half and half and half, you might be getting 15, 16 percent of river  
12 traffic coming up and down. There are also articles in there by PBS, CNN, USA  
13 Today, all identifying the force majeure issues. These are types of questions that  
14 we received from the co-ops is tell me that there was a force majeure. It is  
15 unequivocal that these issues affected transport up and down the river.

16 **VICE CHAIRMAN LEWIS:** Thank you. And, Mr. Chairman, when it's  
17 appropriate, I would like to hear from the co-ops.

18 **CHAIRMAN FRANCIS:** All right. Okay. Mr. Skrmetta, you have any  
19 questions?

20 **COMMISSIONER SKRMETTA:** I do.

21 **CHAIRMAN FRANCIS:** Okay.

22 **COMMISSIONER SKRMETTA:** Can I have the microphone? Okay. Now it's  
23 on. There we go. I guess Mr. Kleehammer can answer this. So just to clarify this

1 myriad of what's it, who's it, what's it, what's it. The contract that we're talking  
2 about exists -- this particular issue with the, sort of, complaint between the co-ops  
3 and you, right, this exists over a contract of service on power and the fuel  
4 component of the contract, right. But this particular contract, it's my  
5 understanding, under previous issues that the co-ops have actually held you to this  
6 contract to their advantage under this same contract where they gain value under  
7 this contract; is that correct?

8 **MR. KLEEHAMMER:** Well, I think they naturally achieved that value in 2022,  
9 they naturally achieved that three weeks ago with the cold spell that we've had, and  
10 I can say that when we in 2020 had an impossibility of calculating a bill because  
11 the denominator is zero, when we proposed an alternative, it was not accepted or  
12 rejected by all of the co-ops.

13 **COMMISSIONER SKRMETTA:** Okay. So in other words, the two parties to  
14 the contract have both had moments in which they have had both advantage and  
15 disadvantage and each party on opposite side of that equation took advantage of  
16 those moments. I mean, you had to use your time on our issue and when they had  
17 an opportunity to take advantage, they took advantage and they call that the parties  
18 to the contract living up to their obligations within the contract, I think you would  
19 probably agree to that.

20 **MR. KLEEHAMMER:** Yes.

21 **COMMISSIONER SKRMETTA:** So sometimes the contract works for you and  
22 sometimes the contract works against you. It's the life under the pendulum. Okay.  
23 Now you talk about this issue with the barges, it's not uncommon in the Mississippi

1 River traffic, we've had issues before when they weren't properly dredging the  
2 Mississippi River, particularly in the Port of New Orleans. When they were having  
3 to half load vessels coming up the river and the increase in freight cost associated  
4 with container freight went well up on freight because they were having to light  
5 load, because the Plimsoll marks were having to come seven, eight feet further up  
6 on ships, because light loading was the only way to go. So it's the same way with  
7 barge traffic that they have to light load the barges, otherwise they can't do it. So  
8 instead of one barge, it might have to be on three barges on four barges, so it affects  
9 the overall, you know, allocation of freight per square feet or square meter of deck.  
10 So it's the issue associated with that, right, it's a pretty much an accurate assessment  
11 of that?

12 **MR. KLEEHAMMER:** Sure.

13 **COMMISSIONER SKRMETTA:** So you know, we have this issue that is to say  
14 contract between the parties, correct?

15 **MR. KLEEHAMMER:** Correct.

16 **COMMISSIONER SKRMETTA:** And I'm going to state something that's  
17 probably pretty obvious, which is this is a civil contract between the parties, which  
18 the Commission has no jurisdiction over. Now, I'm absolutely glad to have the  
19 forum to discuss the issue between you two, between all the parties, but ultimately,  
20 you know, when you enter into a contract, everybody goes with clear open eyes,  
21 everybody has lawyers, everybody goes through the process of vetting the contract  
22 and it is what it is. Now, you didn't engage into the force majeure, you establish  
23 the fact that the freight company invoked force majeure under the contract you had

1 with them, and let me guess, there's an element in your contract that says if force  
2 majeure is invoked, this is what happens; is that an accurate assessment?

3 **MR. KLEEHAMMER:** Well, Jeremy can take this, but I think the issue is that  
4 the contract stands exactly as it is, all of the calculations work and that's exactly  
5 what we lived up to.

6 **COMMISSIONER SKRMETTA:** Right.

7 **MR. KLEEHAMMER:** They just have a change coming from a provider.

8 **COMMISSIONER SKRMETTA:** Right. So the force majeure element is largely  
9 irrelevant; is that accurate? [NO AUDIBLE RESPONSE] Okay. Verbal versus  
10 the head nods --

11 **MR. KLEEHAMMER:** Yes.

12 **MR. KLIEBERT:** [INAUDIBLE] per our calculations.

13 **COMMISSIONER SKRMETTA:** -- because you don't hear a nod --

14 **MR. KLEEHAMMER:** Yes.

15 **MR. KLIEBERT:** Yes.

16 **COMMISSIONER SKRMETTA:** -- and you can't quantify it. So yeah. So the  
17 force majeure is good for discussion purposes, and it's good to understand the  
18 issues associated with river traffic, and I get to dust off my maritime master's  
19 degree, we can talk about light loading, and we can do all that nice stuff. But really  
20 what we're talking about is a contract between the parties with fairly, if not  
21 implicitly, legal obligations between the parties. And legal obligation is my  
22 favorite part of my Litvinoff on obligations treatises, things you do and things you  
23 don't do, right. And ultimately, you have an obligation to do, but if you can't do it

1 and you can't do it because of natures, the force majeure, you know, act of God, if  
2 you're not from Louisiana, and you're -- you know, you have to component this,  
3 then you've got to go prove that to a judge or a jury in the correct forum. And I  
4 think that the same thing goes for the co-ops, if they feel that they have a legal  
5 component in this contract that obfuscates what you're trying to say, they've got  
6 the opportunity to go to the correct legal forum and bring this matter before the  
7 appropriate finder of fact. Certainly, we've been up here doing the greatest  
8 deposition in the history of mankind, but we're not going to get to an answer with  
9 this. Now, I think that what we have done is given great concept to the idea of a  
10 solution of resolution by, you know, rolling the dice, spreading the cost, mitigating  
11 it over time, a variety of things. But I'm not one to see that this is a Commission  
12 issue because I do think that, you know, parties enter into contracts. They don't do  
13 it willy-nilly, they do it reluctantly, they do it with thought, and they do it in a sense  
14 that everything they have to do is critical. And I know these co-ops hire lawyers,  
15 and I know you've got lawyers working for you, Bill. You got more lawyers than  
16 Carter's got little pills. So you know, my point is is that while this is an interesting  
17 discussion of force majeure, while this is an interesting discussion of river traffic,  
18 and how you move traffic down a river, and what light loading is, and how you  
19 move coal, and how you get it there; the complexity of the intricacies of the contract  
20 that these co-ops have entered into with you is best suited for a different forum than  
21 the Public Service Commission. Now, if you want to cut a deal and the co-ops want  
22 to enter into a resolution where you're going to spread costs, and you're going to  
23 agree to it, and you're going to do that, and want to come to the Commission, and



1 say we want to spread these costs and we want to do this in a meaningful way, then  
2 I'm all for that. But I'm not going to strongarm somebody into something simply  
3 because we're going to try and look at a contract of which we've got no jurisdiction  
4 over to say -- although we're going to make it look like we've got jurisdiction over  
5 it because I think that we get outside of our parameters and we go way outside of  
6 our lane. But I also really want to just finish up by coming back to the point that  
7 this contract has served the interest of both parties just at different times. So you  
8 know, when it worked for the co-ops, then it worked for the co-ops, and if it works  
9 for company now, it works for the company. You know, it's the sauce for the  
10 goose, the sauce for the gander. You know, and so sometimes you're on one side  
11 of it, sometimes you're on the other and it's just one of those things, but again, while  
12 I appreciate all this, it's not the right forum for me. But I think it is the right forum  
13 if the parties want to go and come to a resolution and come to us to approve a  
14 settlement on how to maintain and manage the sort of equitable solution that  
15 benefits the ratepayers and allows the company to survive and make a legitimate  
16 decision that lets the co-ops manage the impact and lets the company manage the  
17 impact. For me that's the only reason you should be here today. So anyway, thank  
18 you.

19 **CHAIRMAN FRANCIS:** During this time period, were you ever in danger of  
20 running out of coal at the plant?

21 **MR. FONTENOT:** No, Commissioner.

22 **CHAIRMAN FRANCIS:** Okay. Thank y'all. Appreciate y'all coming.

23 **MR. KLEEHAMMER:** Thank you.

1 **CHAIRMAN FRANCIS:** Okay. Got a co-op lawyer in the room? Somebody  
2 want to speak for the -- in defense of the co-ops? Oh, man, we got bunch of them.  
3 All right.

4 **COMMISSIONER SKRMETTA:** Is the only thing left the approval of the  
5 Commissioner's vote at Southwest Power Pool and then the executive session?

6 **MS. BOWMAN:** Well, there's one discussion related to French Settlement Water  
7 unless that's --

8 **COMMISSIONER SKRMETTA:** Is French Settlement Water -- oh, French  
9 Settlement, that's --

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

11 **COMMISSIONER SKRMETTA:** Is the mayor here?

12 **MS. BOWMAN:** Yes, I heard a yes.

13 **COMMISSIONER SKRMETTA:** Okay. Great. Okay. I just [INAUDIBLE] if  
14 he's here or not, that's all.

15 **MS. BOWMAN:** That and then one ratification and the executive session.

16 **COMMISSIONER SKRMETTA:** Okay. All right.

17 **MS. KARA KANTROW:** Thank you, you guys. Kara Kantrow, we have a bunch  
18 of folks on behalf of -- well, I'll let you --

19 **MR. MIKE HEINEN:** Jeff Davis Electric Cooperative CEO, Mike Heinen.

20 **COMMISSIONER SKRMETTA:** You need a chair? Staff can get you a chair?

21 **MR. GLENN EDWARDS:** I've been sitting all day, Commissioner, I'm fine.  
22 Glenn Edwards on behalf of SLEMCO and I'm accompanied by Katherine  
23 Domingue who is the CEO of SLEMCO.

1 **MS. BOWMAN:** Okay. Wait, guys, if you're going to speak, we're going to need  
2 to use a microphone. Yeah. They do move so you guys are good.

3 **MR. EDWARDS:** So Glenn Edwards on behalf of SLEMCO and I am  
4 accompanied today by our CEO, Katherine Domingue.

5 **MR. MYRON LAMBERT:** Myron Lambert on behalf of PC Electric and I have  
6 Ms. Jennifer Vosburg, counsel for PC Electric.

7 **MS. KANTROW:** I do want to start with a few clarifications that just by listening  
8 to some of the conversations that Cleco was up here and I think, Commissioner  
9 Francis, something that you said you weren't aware of, that mitigation offer that  
10 was put up. From a timing perspective, the co-ops received these bills -- the first  
11 round of these increase in bills, December 8<sup>th</sup>. At least for a group of the co-ops,  
12 payment under protest was received then to Cleco December 21<sup>st</sup>. There was no  
13 offer for mitigation at any chance, at any time --

14 **CHAIRMAN FRANCIS:** Really?

15 **MS. KANTROW:** -- until January 17<sup>th</sup> when there was going to be a second round  
16 of increased bills and only at the time, when the second round came in, it was like  
17 hey, we'll spread this over four months, as Fontenot said, on their spreadsheet, and  
18 only if then you give up your payment under protest. So there was nothing on the  
19 front end. We were given a short email with barely any explanation as to the  
20 increase and then, here, pay it or you'd be in breach of your contract. So yes, we  
21 paid it and we paid it under protest questioning the procurement of the coal and  
22 questioning what happened. And I'll be really short and I'll pass it on. In 2020,  
23 Cajun unilaterally created a new formula in the back of that contract equating that

1 CCP in which we also paid that under protest. They came to us saying this is how  
2 we're going to bill you. There was no discussion, it was a unilateral decision by  
3 them. So yes, we paid under protest for those two months and those are still  
4 outstanding. And then in 2023, now Cajun doesn't want to entertain any type of  
5 alternative pricing mechanism. So yes, there is a little rub there and we are --  
6 pending litigation, we're going through the mediation, we're going through our  
7 process in our contract. And the other thing, you know, we through around 3 cents  
8 like oh, it's just 3 cents. Three cents is on a thousand kilowatt hours for one of our  
9 customers, \$30 to \$35. It's not three cents like three pennies you find on the ground,  
10 it's a lot of money and I think that also should resonate with you all. Mike Heinen,  
11 if you want to say anything?

12 **MR. HEINEN:** No. In fact, 3 cents when you talk about it, I came up here after  
13 the hurricane and asked for ten mils to help me with all the expenses and it went  
14 down to eight mils after the Staff and everyone looked at it. When you're talking  
15 about 3 cents, that's 300 mils. We're talking about biggest increase to our members  
16 that I've ever seen since I've been working at the co-op. So it's not just 3 cents, it's  
17 major to our members in what they had to pay. Along with the other thing that  
18 happened in 2020, the force majeure was not because of low water levels, it's  
19 because of high water levels. They couldn't get the barges under the loading dock  
20 to load it, so it had nothing to do with low water levels. It had everything to do  
21 with high water levels because 2020 is when all the damn hurricanes hit and the  
22 water levels were too high for them to load the barges. So when they came to  
23 putting coal on the ground as the contract says you must do, they couldn't put coal

1 on the ground. So when they went through the calculations, they all of a sudden  
2 figured out, hey, this is incalculable because there's no way you can pay or divide  
3 by zeros. And in my opinion, I suggest you can zero zero, so we owe you nothing  
4 because you didn't put coal on the ground. And that's when the weighted average  
5 came in, and that's why I paid under protest because I still think it should be zero,  
6 and that's why I'm not giving it up, paying under protest because I still think it  
7 should be zero if you're going to follow the contract. They didn't put any coal on  
8 the ground in 2020, we shouldn't had to pay any fuel costs for that time. In 2022,  
9 again my opinion, they [INAUDIBLE] put coal on the ground to follow the  
10 contract, so we wouldn't go through this pay under protest and we didn't follow the  
11 contract according to the law. All the audits are going to show is that they  
12 calculated it correctly. It's not going to say if it was force majeure, they had coal  
13 on the ground, and they didn't really need coal if they were burning the plants, and  
14 just didn't have to burn the plants. That's not what the auditor's going to say  
15 because that's not what the audit in the contract says you should do. The audit in  
16 the contract says you look at these calculations under the formulas, did they do  
17 them right? And yes, they did them right because they put a smidgen of coal on the  
18 ground because they knew if they didn't, we'd have the same fight as we had in  
19 2020, so he put a small amount of coal on the ground. Again, this is my opinion, I  
20 can't verify this as I'm sitting here, but they put a small pit of coal on the ground so  
21 they can do all their fixed costs on that average of the coal that they brought. All  
22 they needed to do was get coal on the ground so they could make this calculation  
23 work. So that's what they did, put a small amount and it went up from 4 cents for

1 fuel to 7 cents for fuel in one month. And we got a notice a week before, two weeks  
2 before, whatever it was, and I actually found out before the bills went out. Then all  
3 of a sudden, they came up well, we'll spread it over four months, but we give you  
4 these conditions to do it, you have to drop all of these things.

5 **CHAIRMAN FRANCIS:** When was this contract signed? Twenty years ago?

6 **MR. HEINEN:** 1999.

7 **CHAIRMAN FRANCIS:** And did the Public Service Commission approve your  
8 contract?

9 **MR. HEINEN:** Yes, sir, they did.

10 **CHAIRMAN FRANCIS:** So they saw it and they approved it?

11 **MR. HEINEN:** Well, they locked us in the room and said you either approve it or  
12 nobody gets to go to the bathroom is pretty much what they said.

13 **CHAIRMAN FRANCIS:** So we voted on that?

14 **MR. HEINEN:** Yeah.

15 **CHAIRMAN FRANCIS:** The Public Service Commission voted to approve that  
16 contract?

17 **MR. HEINEN:** Yes.

18 **CHAIRMAN FRANCIS:** So we're in the middle of the negotiations and the  
19 complaints again, right?

20 **MR. HEINEN:** Sir?

21 **CHAIRMAN FRANCIS:** So we're right in the middle of all the negotiations and  
22 complaint?

23 **MR. HEINEN:** It was unforeseen, it was a very fast contract [INAUDIBLE] --

1     **CHAIRMAN FRANCIS:** That was one of the things I was wondering if --

2     **MR. HEINEN:** Cajun was running out of money because they were in bankruptcy

3     and they had no more money left and that's when [INAUDIBLE] --

4     **CHAIRMAN FRANCIS:** Some of those old board members would tell me look,

5     we're running this co-op, we're the ones signing these contracts, y'all get out of the

6     way. But we're right in the middle of this; is that right, Commissioners, legally?

7     **MS. KANTROW:** Towards the tail end of it, and just to clarify, Kara Kantrow,

8     on behalf of WST, Claiborne, Beauregard, SLECA, and Jeff Davis. And I know,

9     Glenn, you wanted to say something.

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

11    **COMMISSIONER SKRMETTA:** And I guess any of the attorneys can answer

12    this question for us.

13    **MS. BOWMAN:** I don't think his mic is on. Thank you.

14    **COMMISSIONER SKRMETTA:** Yeah. The question I have, in the contract is

15    there a forum clause, is there a jurisdiction clause, is there any element of that in

16    the contract?

17    **MR. EDWARDS:** It's the state of Louisiana, Commissioner, and to your point --

18    or and to your point, Commissioner, this contract is the contract that came out of

19    the Cajun Electric bankruptcy.

20    **COMMISSIONER SKRMETTA:** Well, that's not answering my question, so

21    it's a standard state of Louisiana --

22    **MR. EDWARDS:** State courts, yes.

23    **COMMISSIONER SKRMETTA:** -- state court system.

1 **MR. EDWARDS:** In a proper venue -- proper venue in the state of Louisiana.

2 **COMMISSIONER SKRMETTA:** Okay. Proper venue between -- so it could be

3 either, I mean, we've got multiple parties --

4 **MR. EDWARDS:** It could be where Cleco is, where we are.

5 **COMMISSIONER SKRMETTA:** It could be Pineville, it could be where you

6 are, wherever. Okay. So my point is, and while I appreciate what y'all are going

7 through, y'all are trying to get through a -- find a way to settle this issue with the

8 Commission's help. You're not asking the Commission to make a decision on this

9 because if you've got a contract, we can't impede on the contract.

10 **MS. KANTROW:** No.

11 **MR. EDWARDS:** We are not here for -- and I'm here speaking on behalf of

12 SLEMCO, we are not today -- we are here in response to the Commission's request

13 that we come to the table and discuss this issue.

14 **COMMISSIONER SKRMETTA:** Okay. So we're here for the discussion

15 purposes.

16 **MR. EDWARDS:** For the discussion purposes.

17 **COMMISSIONER SKRMETTA:** Okay.

18 **MR. EDWARDS:** I recognize the jurisdiction issues and I don't, as a lawyer, I

19 don't disagree with you.

20 **COMMISSIONER SKRMETTA:** No, I get it.

21 **MR. EDWARDS:** You know, this will ultimate be decided through the ultimate

22 dispute resolution provisions of the contract and perhaps ultimately a court.



1 **COMMISSIONER SKRMETTA:** Do you have -- does the contract have  
2 mandatory or binding arbitration elements or does it go to strictly through the civil  
3 litigation.

4 **MS. KANTROW:** It depends.

5 **MR. EDWARDS:** It depends on the --

6 **MS. KANTROW:** Most of them have binding arbitration -- most of them have  
7 binding --

8 **COMMISSIONER SKRMETTA:** So in a way it depends on --

9 **MS. KANTROW:** There's three form contracts that are existing right now for the  
10 cooperatives, Form A, Form B, Form C. We're dealing right now with Form A and  
11 Form C contracts. The Form C contracts have a short, kind of, mediation where  
12 you talk and then they need to go to court, where the Form As have this internal  
13 mediation, external mediation, and then binding arbitration.

14 **COMMISSIONER SKRMETTA:** Okay. So let me ask you a question, of all the  
15 co-ops, are there co-ops that are going to be forced into binding arbitration?

16 **MS. KANTROW:** Yes, the Form As.

17 **COMMISSIONER SKRMETTA:** Okay. Which one go to that?

18 **MS. KANTROW:** All the ones up here besides Claiborne and WST.

19 **COMMISSIONER SKRMETTA:** Okay. Who gets to go to district court?

20 **MS. KANTROW:** WST and Claiborne.

21 **COMMISSIONER SKRMETTA:** Okay. So WST and Claiborne on their form,  
22 they get to go to district court, the ones up here have to go to binding arbitration.

23 **MS. KANTROW:** I mean, I suppose the parties could agree to have --

1 **COMMISSIONER SKRMETTA:** No, no, no. But I mean --

2 **MS. KANTROW:** Okay. But yes, in their contract, they're not to go to binding  
3 arbitration.

4 **COMMISSIONER SKRMETTA:** Right. So binding arbitration is a part of their  
5 contract, not civil litigation and district court. WST, Claiborne, civil litigation,  
6 district court. Anybody else out there?

7 **MS. KANTROW:** There's other co-ops that are not involved in this issue.

8 **COMMISSIONER SKRMETTA:** Not in this particular issue. Okay. So I just  
9 wanted to -- I'm just trying to get the players and the forums. Okay.

10 **MR. EDWARDS:** I just wanted to briefly speak on behalf of SLEMCO to some  
11 of the points that were brought up and the way this issue was framed by Cleco. In  
12 my view, Commissioner, and referring back to Professor Litvinoff and the  
13 obligations classes and you'll remember all --

14 **COMMISSIONER SKRMETTA:** He was my professor. Better Call Saul.  
15 Right.

16 **MR. EDWARDS:** He was mine as well, but in my mind's eye, this issue for us,  
17 this issue is about the good faith performance of contracts. There are contracts and  
18 there are obligations that are set forth in this contract, but we don't dispute that this  
19 current fuel bill was calculated mathematically correctly by Cleco. That is not the  
20 point, but let's bring you back to 2020 and what actually happened. So in 2020  
21 they say it was impossible to calculate a fuel bill, therefore we offered the co-ops  
22 WACOG pricing and they rejected it. Okay. That is not true. Mathematically zero  
23 divided by a number, zero the price of delivered coal divided by a number is zero.

1 So mathematically there's a calculation, it was zero. Cleco took the position that's  
2 not fair, nobody ever contemplated that zero would be the fuel bill, therefore we  
3 propose WACOG pricing. So they proposed WACOG pricing, and I'm speaking  
4 on behalf of SLEMCO, I'm not speaking on behalf of any of the other co-ops. When  
5 they proposed WACOG pricing to SLEMCO, in good faith we said, you know,  
6 that's a fair solution because it's not fair that we pay nothing for coal and therefore  
7 we paid the bill, we accepted their proposal, and we did not pay under protest. So  
8 I don't want to be accused of back in 2020 of rejecting their proposal for what they  
9 thought was an unanticipated situation that wasn't fairly handled. So let's fast  
10 forward now to 2023. Okay. 2023 the same mathematic formula, okay, results in  
11 coal prices doubling in December. Do they reach out and say oh, well, that's not  
12 fair, we never anticipated this, we're going to bill you double, okay, and we're  
13 going to bill you double, and we're going to notify you that you're going to be  
14 billed double because there's a force majeure that happened three months ago, and  
15 we didn't tell you about it, we told you about it five days before you got this bill.  
16 Okay. So to your point and to the point they tried to make, Commissioner Skrmetta,  
17 when, you know, it could've worked to our advantage, SLEMCO by saying the bill  
18 should've been zero, we said no, we accept your proposal for WACOG pricing and  
19 we paid WACOG pricing and we didn't protest. Fast forward to 2023 when they  
20 get to double bill because they took a small amount of coal, an amount by the way  
21 that they won't tell us and they won't disclose to us, there's a reason they won't  
22 because it was a small amount of coal. You know, we were threatened verbally in

1 the 2020 discussions. Well, if you do this again, we'll pick up a five-gallon bucket  
2 of coal.

3 **COMMISSIONER SKRMETTA:** I mean, and look -- hang on one sec. Are we  
4 trying to sidestep legal discovery? Okay. And look, I get it because hey, look, this  
5 ain't our first rodeo, right. All the questions and answers, are the interrogatories  
6 we're doing today designed to find the information that you guys want, right,  
7 without having to go through proper legal discovery, depositions, interrogatories,  
8 requests for production, whatever you want to do, right. Because you have that  
9 open to you through your process of next step, whatever the lawyers are going to  
10 carry, right. And you're going to be able to find that information because if they  
11 don't want to give it to you then, a judge or an arbitrator going to go [CLAP, CLAP,  
12 CLAP], right. You're going to get it.

13 **MR. EDWARDS:** Exactly.

14 **COMMISSIONER SKRMETTA:** You're going to get it, so now that means that  
15 you have to follow a process. Okay. That process does not exist for the  
16 Commission to [INAUDIBLE]. Now, if you think somebody's trying to hide the  
17 peanut, I get it, but at the same time you've got to go through the exercise that  
18 allows for you to make that discovery, but this -- you know, and look, you're here  
19 and at our beck and call, I get it. Well, half of our beck and call. But the point is,  
20 you now know what you got to do, right.

21 **MR. EDWARDS:** Absolutely. And we are prepared to do that and I'm not here  
22 today to ask the Commission to force them to give us answers. Okay. I'm just --  
23 we were --

1 **COMMISSIONER SKRMETTA:** Because we can't.

2 **MR. EDWARDS:** Exactly.

3 **COMMISSIONER SKRMETTA:** Right.

4 **MR. EDWARDS:** We were asked to be here today to discuss this issue and, in all  
5 fairness, they got to tell you their side of the story. Well, to quote Commissioner  
6 Campbell, I'm giving you the rest of the story from our perspective and we, you  
7 know, despite being accused of all the co-ops rejected it, all the co-ops sent them a  
8 letter that threatened them. We didn't do that.

9 **COMMISSIONER SKRMETTA:** Well, I'm a big believer in pre-judgement  
10 interest, so I'd get filed, I'd get it on, and I'd demand pre-judgement interest. And  
11 if you think you're going to win, you win, and if you don't think you're going to  
12 win, well, you know, just reel that sucker in and just figure out a way to settle it.  
13 You know what I mean?

14 **MR. EDWARDS:** Understand that. We simply wanted to, for the record, state  
15 our position, our perspective, our view of this. Appreciate the opportunity to do  
16 that. Kara already made the point, but I will make the point as well, you know, the  
17 offer to spread the cost didn't come for the first invoice, it came for the second  
18 invoice. Okay.

19 **COMMISSIONER SKRMETTA:** Well, maybe it'll come on the third one.

20 **MR. EDWARDS:** And it only came -- and it only came with the condition that  
21 you give up your rights to assert your position under this contract or what you think  
22 we should've done. And you know, it was significant, I mean, for SLEMCO and  
23 SLEMCO customers, it was almost \$6 million one month and it was over \$6 million

1 the next month. You know, we spread -- we internally spread our costs for our  
2 customers over a 12-month period, so when they came with the offer to spread the  
3 costs, it doesn't help me, I've already done that. Okay. You know, so again I don't  
4 want the characterization of us rejecting an offer to come across as if we're being  
5 recalcitrant, you know, et cetera.

6 **COMMISSIONER SKRMETTA:** And I get it because, you know, at the end, it  
7 doesn't mean anything to me because we don't make a decision on it. You know,  
8 and we get to see who's playing what and all the games, but, you know, at the end  
9 of the day, your solution lies in a different venue, right. And we get it, but I  
10 appreciate the fact that I've gotten to, you know, see the play. But, you know, I  
11 would like to move on since, you know --

12 **MS. JENNIFER VOSBURG:** Commissioner, on behalf of Pointe Coupee  
13 Electric, if we can make a brief statement.

14 **COMMISSIONER SKRMETTA:** Yeah.

15 **MS. VOSBURG:** You know, we're here and if you remember last meeting, there  
16 was actually one of our members here who was complaining about the bill that they  
17 had received as she was here part of the energy efficiency. And because -- and I  
18 think even Cleco mentioned it, because of how our billing cycles are, we did pass  
19 through the bills first in December and we were the -- you know, Commissioner  
20 Campbell's list of -- we were number one highest rates in December and I believe  
21 also in January. The reason we're here is because we've had so many customer  
22 complaints and we have been contacted by our Commissioners, both Commissioner  
23 Greene [INAUDIBLE] Commissioner Lewis' office because they have had so

1 many complaints to be able to make sure that we can explain what was going on  
2 and the facts. You know, we did get notice on November 30<sup>th</sup>, we didn't have any  
3 type of pre-meeting, our bill came in right after, and as they were indicating, the  
4 way our billing cycle is we only have one billing cycle and it was literally like the  
5 week after that we got the bill in. So from a Pointe Coupee perspective, you got  
6 notice, you get the bill the next week, and then the billings go out. And thankfully  
7 for us, even though the bills were higher, they were about \$30 higher for that month,  
8 it was a lower usage month. So while we got complaints it was not as elevated of  
9 an issue as it was the following month. So the following --

10 **COMMISSIONER SKRMETTA:** Right. And winter's always harder.

11 **MS. VOSBURG:** Yeah. So the following month, you had a much higher usage,  
12 our bill impact was more 50, and that's where we had significant -- and like they  
13 said, our bills had already gone out, so when we're communicating back to Cleco  
14 it was like hey guys, thanks, but this doesn't help us.

15 **COMMISSIONER SKRMETTA:** The board gets cut the closer it gets to the  
16 blade and the more you do this, the longer it takes to get it to a resolution.

17 **MS. VOSBURG:** And we have actually been working with Cleco to try to have  
18 conversations and I will echo SLEMCO, you know, we'll provide copies from the  
19 correspondence from 2020.

20 **COMMISSIONER SKRMETTA:** Because I will love to see you all expedite this  
21 into pushing it closer towards its intended contractual solution mechanism and then  
22 showing us what y'all do.

1 **MS. VOSBURG:** Yeah. And I think that's part of the one -- the big issues that  
2 we've had. Back in 2020 it was a unilateral change and I know from Pointe  
3 Coupee's opposition was like, we need to go to -- this is a material modification,  
4 we believe the Commission needs to have jurisdiction over it to look at it. We can't  
5 just go change our contract without the Commission's involvement and that's been  
6 part of the question here as well.

7 **COMMISSIONER SKRMETTA:** And again, that's a civil issue at that moment  
8 when someone unilaterally changes a contract it becomes a civil violation.

9 **MS. VOSBURG:** But it's the Commission's review of the jurisdictional  
10 [INAUDIBLE] so we'll have to --

11 **COMMISSIONER SKRMETTA:** Yeah. Well, at that moment it gave you the  
12 opportunity right then and there to go for a default.

13 **CHAIRMAN FRANCIS:** All right. Well, thank y'all for coming.

14 **COMMISSIONER SKRMETTA:** All right. Thank you.

15 **CHAIRMAN FRANCIS:** Let's move on.

16 **VICE CHAIRMAN LEWIS:** Mr. Chairman, really quickly, I just wanted to thank  
17 Cleco and the co-ops for coming. As Ms. Vosburg just mentioned, we had  
18 significant complaints and where I want to end this conversation with is the  
19 customer impact. Look, I avoided law school for a reason and I get that, but these  
20 decisions and these contracts, the decisions of the interpretation, the stipulations  
21 have real impacts on people and when it is something that impacts people, I believe  
22 the people need to understand and know. And I hope that both of you, co-ops and  
23 Cleco and my friend works to a solution so we do not see this because when people



1 get a \$60, \$75 bill right at Christmas when they are already probably pinching  
2 pennies to just give their child a normal day, that's hard. And there are people that  
3 made a lot of hard choices because of this interpretation or of this challenge. And  
4 so the reason I ask this to be on the agenda, along with Commissioner Greene, is  
5 because we can't lose sight of that. And that is the most important because every  
6 day that we do as I said, this Commission serves the public and we have to  
7 remember that. And so I hope that throughout the legal process you all keep that  
8 in mind and we find a solution so Louisiana ratepayers don't see a significant issue  
9 like this ever again. Thank you.

10 **CHAIRMAN FRANCIS:** Thanks again.

11 **COMMISSIONER SKRMETTA:** Thank you.

12 **CHAIRMAN FRANCIS:** Do you have a French Settlement Mayor here?

13 **COMMISSIONER SKRMETTA:** It's the next item. They're going to read it.

14 **MS. BOWMAN:** Yes, sir. It's the next item. Yeah. And so -- perfect, thank you  
15 guys.

16 **COMMISSIONER SKRMETTA:** Yeah. You can stay.

17 **CHAIRMAN FRANCIS:** Next item, please.

18 **MS. BOWMAN:** The next item is discussion with Southwest Water Company  
19 regarding water issues in and around the Village of French Settlement and if the  
20 Mayor would like to come on up, he is welcome to.

21 **COMMISSIONER SKRMETTA:** He can start. He can express what's going on  
22 first.

1 **MS. BOWMAN:** Yeah. And, Mr. Aydell, if you'd like to start. I'm not sure  
2 which one is Mr. Aydell, but if you guys would like to just start and explain the  
3 issue and then Southwest Water Company --

4 **COMMISSIONER SKRMETTA:** Yeah. If you want to introduce yourself, Mr.  
5 Mayor, and say what's going on. And then we'll get the company up to work and  
6 express what's going on.

7 **MS. BOWMAN:** Also sign the yellow card, please, just -- but you can do it after  
8 the fact. It doesn't need to be done right now. Thank you very much.

9 **MR. JEREMY AYDELL:** All right. Thank you all for the opportunity to speak  
10 today about some issues with our water supply in the Village of French Settlement  
11 and surrounding areas. I'm Jeremy Aydell. I'm the Mayor Pro Tem locally. I  
12 typically don't like to read, but in focus of time here, I want to just be short and  
13 sweet. We've had these issues going on for multiple years through multiple water  
14 companies, and had it just been recently, we would've worked it out outside of this  
15 arena, but our constituents are tired of hearing elected officials, you know, with  
16 promises that are undelivered. So I have some specific asks of Southwest French  
17 Settlement Water today, and before I do that, I want to give a short history of kind  
18 of this journey. We used to have a very small local water company with boots on  
19 the ground that would help facilitate problems, customer service, what have you.  
20 They sold to Baton Rouge Water. Without getting into Baton Rouge Water issues,  
21 they sold to Southwest Water, which is now our supplier. So the biggest issue that  
22 we're having is --

1 **COMMISSIONER SKRMETTA:** You can pull the microphone closer to  
2 yourself if it's easier for you.

3 **MR. AYDELL:** Okay. The biggest issue we're having is, you refer to the  
4 customers, the customers aren't getting their problems resolved. And the  
5 complaints regarding the water quality, these complaints are coming into our very  
6 small municipality with just a clerk and it's overburdensome and, you know, we  
7 need someone on the ground that's addressing these issues. Speaking generally  
8 regarding the complaints that we receive, you know, the water is very brown, it has  
9 an odor, it ruins appliances, what have you, water pressure. Also complaints at our  
10 local townhall of customers being overcharged and not getting resolutions, again.  
11 They may not be overcharged, but we have no way locally to verify that. Speaking  
12 specifically, you know, we have multiple business in the area that had to shut down  
13 because of these water issues, so it's causing an economic impact on our  
14 community, loss of tax revenue, loss of people locally who have the ability to work.  
15 It's affecting our school system. Talked to both principals at the high school and  
16 elementary school and we all know that our kids are very, very important having  
17 quality water. And, you know, our local grocery stores, they're having to shut down  
18 their deli on a consistent basis, which is very profitable, because of this water issue.  
19 We have a lot of elderly residents, local, that, you know, can't afford a well, they're  
20 on fixed income. So I guess I'll be short and sweet with my proposed resolution is  
21 very simple. There's three things that we want from the water company. We don't  
22 blame them for the past water company's shortfalls, but what we need, two  
23 specifically from them and one, the reason I'm here, is permission for a third; is

1 someone locally with a landline or, you know, office that can address these issues.  
2 It's currently a hotline that's called frequently and no resolution is being obtained.  
3 Secondly, we want, and I know there's agreement here that Southwest will be  
4 having monthly communication at our meetings, which I'm very happy to talk about  
5 the capital improvements that they're going to be doing so I can effectively be a  
6 supporter of them and communicate effectively to them, to my constituents, the  
7 improvements that are going on to help them solve the problems. And third, I know  
8 in the sale process they retained the name French Settlement Water as a division of  
9 Southwest. We would like at the Village for -- and I know that they would like for  
10 that to be approved to be changed down the road because it's giving a false sense  
11 that the Village is actually responsible for the water and it's overburdensome and  
12 it could effectively harm us economically as well, tying the word French Settlement  
13 to our Village. Meaning what business wants to relocate there without quality  
14 water. So that's my ask very specifically in a public forum here. You know, we  
15 just want to get these things resolved and Southwest to commit to them going  
16 forward.

17 **COMMISSIONER SKRMETTA:** Mr. Mayor, I think -- thank you for being here  
18 today, by the way, and we wanted to get you over here so we could kind of get this  
19 hammered out as quickly as possible. I think what the Mayor is asking for and all  
20 three things are easily done. Number one, you don't need the Commission to  
21 authorize you to change the name, do you?

22 **MS. MELISSA RICH:** We do.

1 **COMMISSIONER SKRMETTA:** Okay. Do you need to -- do we need to do  
2 that through some formal mechanism, Brandon?

3 **SECRETARY FREY:** It would be a non-opp process. I mean, we do that on a  
4 regular basis and they would just have to update their tariff pages to reflect --

5 **COMMISSIONER SKRMETTA:** Do we have to do that by Commission vote?

6 **SECRETARY FREY:** No. No, that would be done on the Staff level.

7 **COMMISSIONER SKRMETTA:** Can you go ahead and work with Kara to  
8 make that happen as soon as possible? Is that okay with you, Mr. Mayor?

9 **MR. AYDELL:** Fantastic.

10 **COMMISSIONER SKRMETTA:** Okay. Second thing is about a phone and a  
11 designated person that they contact. Have you got that organized, ma'am? And  
12 you say your name for the record, please.

13 **MS. RICH:** Yes. I'm Melissa Rich. I'm the vice president of operations for  
14 Southwest Water. And yes, we do have local representation. We have a field office  
15 here that isn't open to the public, but we do have an office with local people that  
16 are working in the area.

17 **COMMISSIONER SKRMETTA:** Will they be able to call them and have a  
18 phoneline where they call?

19 **MS. RICH:** Yes. We do have customer service reps that work in the area that are  
20 able to receive calls.

21 **COMMISSIONER SKRMETTA:** And he'll be able to provide a cell number to  
22 the Mayor as well, so the Mayor will be able to contact as well.

23 **MS. RICH:** Yes.

1 **COMMISSIONER SKRMETTA:** And you're satisfied with that, Mr. Mayor?

2 **MR. AYDELL:** Well, if that's the current people that are addressing the issues,  
3 they're not getting addressed. So, you know, if it's someone different, then  
4 absolutely, that sounds great.

5 **MS. RICH:** Yes.

6 **COMMISSIONER SKRMETTA:** All right. So can you work on, you know,  
7 improving the people that are actually handling the calls with the Mayor to solve  
8 that issue?

9 **MS. RICH:** Absolutely. We will address --

10 **COMMISSIONER SKRMETTA:** All right. And they did commit to me earlier  
11 at a meeting I had with them that they would make sure that they have a  
12 representative at your City Council meetings to be there to handle any type of  
13 informational mechanisms that you need for the public or your council at every  
14 monthly meeting to stay on top of this. Now, is that satisfactory to you?

15 **MR. AYDELL:** Sure. And just to specify, this is for the Village of French  
16 Settlement, but it serves surrounding areas as well and --

17 **COMMISSIONER SKRMETTA:** Right. So it goes through the parish as well?

18 **MR. AYDELL:** Correct, yes.

19 **COMMISSIONER SKRMETTA:** So then you can coordinate with the parish  
20 president and make not only the Village, but work with the parish council as well.  
21 Now, one thing I would like them to explain to you, because they came and  
22 explained to me, that a part of the problem with the water system is because of its  
23 age, that they, instead of running a mechanical pig through the system, they want

1 to run an ice pig through the system to remove the ecological debris that's in the  
2 system and clean it out. So they'll run the ice pig through, the ice that'll come out  
3 will take the debris with it, and they'll recover that and bring that to a waste  
4 receiving facility. And they said that that's going to be done fairly quickly, which  
5 should mitigate the water quality issue to a degree, you know, obviously Louisiana  
6 suffers from high mineral content water. But could you tell us a little bit more about  
7 that and explain timeframe and process on that action?

8 **MS. RICH:** Yes. So it's going to take us a couple of months to mobilize. We're  
9 going to have to go in and install some isolation valves for us to be able to do this.  
10 What they do is they inject it's a ice slurry, kind of like a slush, that is injected into  
11 the lines and it will form a pig more or less, and then --

12 **COMMISSIONER SKRMETTA:** A pig is a plug, right?

13 **MS. RICH:** Yes, it's like a plug. And so then you turn the valve back on and then  
14 it's going to send that plug through the lines and then as it gets through the line--

15 **COMMISSIONER SKRMETTA:** And the concept is it scrapes the interior of  
16 the pipes as it goes and removes the debris.

17 **MS. RICH:** Yes. And using this versus the other method, it's more effective, it's  
18 going to get the line cleaner, we have more scrub power with the ice versus the  
19 regular pig, and it also uses less water.

20 **COMMISSIONER SKRMETTA:** Right. Now, the one thing I wanted you to  
21 understand, Mr. Mayor, is we do not regulate water quality. You know, that is a  
22 Louisiana Department of Hospitals issue, but we wanted to make sure that you  
23 recognize that the Commission operates to regulate rates and calculation of rates.

1 We are an economic body, but we wanted to make sure that we engage with the  
2 company to satisfy your issues and, you know, we're here to help. And I hope this  
3 satisfies, you know, the questions and needs that you had.

4 **MR. AYDELL:** Right. And certainly, I appreciate you guys giving me the  
5 opportunity today with, you know, certain complaints regarding the bills and stuff.  
6 I brought it to y'all's attention and, like, this is not combative. We want to work  
7 with them and, you know, our biggest issue is the communication and effectively  
8 getting back to the customer because the customer is who's being harmed here. We  
9 don't want to be the messenger, we want to help, but we need someone -- you know,  
10 again, that sounds great, but if we have issues, if someone's there effectively  
11 communicating, I'll be the biggest cheerleader that, hey, this went wrong. But if  
12 we don't know what's going on, we can't be a partner here.

13 **COMMISSIONER SKRMETTA:** Well, my message to the company is make  
14 sure that you receive the calls from the Mayor and expedite whatever the problems  
15 are whenever you can.

16 **MS. RICH:** Absolutely, we will do that.

17 **COMMISSIONER SKRMETTA:** Well, thank you very much for being here  
18 today, sir. Appreciate it.

19 **MR. AYDELL:** All right. Thank y'all.

20 **CHAIRMAN FRANCIS:** Thank y'all.

21 **MS. RICH:** Thank you.

22 **MS. KANTROW:** Thank you, guys.

23 **COMMISSIONER SKRMETTA:** Thank you.



1 **MS. BOWMAN:** So we have two more under Exhibit Number 11. It's two  
2 ratifications. One needs to be deferred until next month because it's a ratification  
3 of Chairman Francis' SPP votes and if Chairman Francis is abstaining.

4 **COMMISSIONER SKRMETTA:** Oh, he can't do it.

5 **MS. BOWMAN:** He cannot do it.

6 **COMMISSIONER SKRMETTA:** What?

7 **CHAIRMAN FRANCIS:** We can't do any of them?

8 **COMMISSIONER SKRMETTA:** You can't ratify yourself.

9 **MS. BOWMAN:** Yeah. So we can ratify the intervention, which is also under 11.  
10 It's a discussion and possible vote to ratify the intervention of the Commission in  
11 an RTO-related and other Federal Energy Regulatory Proceedings. This is a  
12 ratification based on UPC and Stone Pigman's hire at the February 24, 2021 B&E  
13 and it's an intervention and advance notice of the Commission if approval is not  
14 possible, the Executive Secretary authorizes the intervention with a ratification at  
15 the next B&E. This is an intervention filed on behalf of the Commission in FERC  
16 Docket AD24-6, which is a rulemaking at FERC on blanket investment  
17 authorizations and the consideration of whether FERC should change its rules  
18 regarding ownership of utilities related to those blanket investments. Staff  
19 recommends --

20 **COMMISSIONER SKRMETTA:** Move to ratify the recommendation.

21 **VICE CHAIRMAN LEWIS:** Second.

22 **CHAIRMAN FRANCIS:** Second by Commissioner Lewis. No objections so it's  
23 passed.

1 **MS. BOWMAN:** The last item is an executive session. I will ask everyone to  
2 remain seated until it is read into the record and there is a motion and a second to  
3 go into executive session. It's Exhibit Number 12. It's Docket Number EL21-56,  
4 EL18-204, and EL18-152. It's the Louisiana Public Service Commission versus  
5 System Energy Resources. It's a possible executive session to discuss litigation  
6 strategy pursuant to Revised Statute 42:16, et seq. And I'll entertain a motion.

7 **COMMISSIONER SKRMETTA:** Move to go into executive session

8 **VICE CHAIRMAN LEWIS:** Second.

9 **CHAIRMAN FRANCIS:** Move by Skrmetta, seconded by Lewis.

10 **MS. BOWMAN:** And if everyone could please exit the room.

11 **[OFF THE RECORD]**

12 **[BACK ON THE RECORD]**

13 **COMMISSIONER SKRMETTA:** Move to come out of executive session.

14 **VICE CHAIRMAN LEWIS:** Second.

15 **CHAIRMAN FRANCIS:** Move and a second. Okay.

16 **MS. BOWMAN:** And then we had a discussion of taking up a item out of order.

17 **COMMISSIONER SKRMETTA:** Go ahead -- I move to bring the item regarding  
18 the FERC out of order up for vote. Need a second.

19 **VICE CHAIRMAN LEWIS:** Second.

20 **COMMISSIONER SKRMETTA:** No opposition.

21 **MS. BOWMAN:** And then the item -- I'm sorry, let me grab --

22 **CHAIRMAN FRANCIS:** No opposition.

1 **MS. BOWMAN:** So the item is to move to retain CTC for Phase III of the Grand  
2 Gulf litigation, which is EL21-56 for the Louisiana Public Service Commission's  
3 share of \$313,980.54 in fees and \$12,591.60 in expenses.

4 **COMMISSIONER SKRMETTA:** So moved.

5 **VICE CHAIRMAN LEWIS:** Second.

6 **CHAIRMAN FRANCIS:** So moved and second by Mr. Lewis.

7 **COMMISSIONER SKRMETTA:** Move to adjourn.

8 **VICE CHAIRMAN LEWIS:** Second.

9 **CHAIRMAN FRANCIS:** [INAUDIBLE].

10

11 **(WHEREUPON THE MEETING WAS ADJOURNED)**

12

1 I certify that the forgoing pages 1 through 169 are true and correct to the best  
2 of my knowledge of the Open Session of the Business and Executive Meeting  
3 held on February 21, 2024 in Baton Rouge, Louisiana.

4 \*\*\*\*\*

5 **Rough Draft prepared by:**

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