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LA PUBLIC SERVICE COMM  
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October 9, 2023

Ms. Terri Lemoine Bordelon  
Records and Recording  
Louisiana Public Service Commission  
602 North 5<sup>th</sup> Street, 12<sup>th</sup> floor  
Baton Rouge, Louisiana 70802

VIA HAND DELIVERY

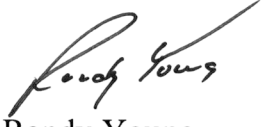
Re: In Re: Consideration of Whether the Commission Should Adopt Minimum  
Physical Capacity Threshold Requirements for Load Serving Entities  
LPSC Docket No. R-36263  
KM File No. 4388-362

Dear Ms. Bordelon:

We have enclosed for filing an original and three (3) copies of Louisiana Energy Users Group's Comments to Louisiana Public Service Commission Staff's Recommendation of Proposed Rule in the referenced docket.

If you have any questions, please do not hesitate to contact us. Thank you for your assistance.

Very truly yours,

  
Randy Young

JRY/mac  
Enclosures  
cc: Official Service List (via electronic mail)

Hand

**BEFORE THE**

**LOUISIANA PUBLIC SERVICE COMMISSION**

**LOUISIANA PUBLIC SERVICE COMMISSION,  
ex parte**

**DOCKET NO. R-36263**

**IN RE: CONSIDERATION OF WHETHER THE  
COMMISSION SHOULD ADOPT MINIMUM  
PHYSICAL CAPACITY THRESHOLD  
REQUIREMENTS FOR LOAD SERVING  
ENTITIES.**

**LOUISIANA ENERGY USERS GROUP COMMENTS  
ON LPSC STAFF RECOMMENDATION OF PROPOSED RULE**

The Louisiana Energy Users Group (“LEUG”) submits these comments to the Louisiana Public Service Commission (“LPSC”) on the LPSC Staff Recommendation of Proposed Rule issued September 18, 2023 in the captioned proceeding, for which comments are due by October 9, 2023.

**Applicable Planning Year - - Proposed Rule Sections 101, 201 and 206:**

LEUG is opposed to the LPSC Staff proposed “four years forward” advance requirement for electric utilities in Louisiana to have completed their contracting to meet power generation capacity needs to serve ratepayers,<sup>1</sup> as such requirement will prejudice Purchase Power Agreements (“PPA”s) and Demand Response resources which can provide lower cost resources for the benefit of ratepayers, and unjustly serve to promote and help

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<sup>1</sup> “Staff is proposing that each regulated utility be required to make a demonstration, four years forward, that it has responsibly planned to have acquired qualified generation capacity to meet 90% of its projected PRMR.” LPSC Staff Recommendation, September 18, 2023, page 34 (emphasis added).

utilities justify constructing new generation units at what could be much higher costs imposed on ratepayers.

While LEUG understands that some advance demonstration of capacity is needed under the Proposed Rule, a PPA contract and a Demand Response resource contract may not be contracted as early as four years forward of the Planning Year - - having these resources contracted and in place one year in advance would meet the capacity needs of the utility. If utilities are mandated by the LPSC, or even allowed by the LPSC, to cut off options for PPAs and Demand Response resources from consideration four years in advance of the capacity need, then the utilities will be able to leverage the forward requirement to their advantage in attempting to justify self-build projects that grow their rate base and returns for shareholders at the expense of ratepayers.

The “four years forward” advance requirement proposed by Staff also does not consider the realities that capacity accreditation levels have become more uncertain from year to year within the MISO process, and the outlook is for increasing uncertainty. Thus, the ability to determine resource capacity levels four years in advance has and is becoming increasingly more difficult. For example, generation and also cogeneration resources can be subject to changing capacity accreditation values each year under recently enacted MISO accreditation protocols which require a look back to three years of historical capacity performance. Moreover, MISO is currently contemplating pursuit of similar historic

analysis for capacity accreditation for Load Modifying Resources (“LMRs”) such as Demand Response resources and Behind the Meter Generation.<sup>2</sup>

Further, of very important note, and in sharp contrast to the “four years forward” requirement that would prejudice PPAs and Demand Response, both the LPSC and its Staff have in other proceedings before the LPSC been supporters of pursuing the lowest reasonable cost resources for the benefit of ratepayers including requiring evaluation of PPAs and supporting and encouraging utilization of Demand Response. In particular, for example, the LPSC Market Based Mechanisms Order (“MBMO”) has long required utilities to pursue both reliable and lowest reasonable cost generating resources,<sup>3</sup> and the LPSC Staff has just recently proposed to amend the MBMO to codify requirements that utilities include PPAs in their resource evaluations - - according to Staff: *“In recent*

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<sup>2</sup> MISO, beginning with its 2023/2024 Planning Year, has changed the capacity accreditation for thermal Generation Resources such that the accreditation is being phased into being 80% based on the specific historical availability of each resource in each season for the most recent past three years during what MISO refers to as Resource Adequacy hours. These hours typically consist of the 65 tightest hours of each season with respect to Resource Adequacy. This is a very narrow sample period, which makes it difficult to precisely predict the capacity accreditation for these resources to the extent the applicable historical data is not yet available. Under a “four years forward” approach, none of the required historical data would be available for the affected resources. In contrast, under a “one year forward” approach, the required historical data will be available for two of the three years upon which the capacity accreditation will be based for each resource. It should also be noted that MISO is currently proposing to make similar changes with respect to the capacity accreditation of renewable generation resources and battery storage resources along with that for LMRs. This will introduce a similar capacity accreditation uncertainty problem for these resources similar to that which currently exists for thermal Generation Resources. Specifically, under MISO’s current Direct Loss of Load Capacity Accreditation proposal, which MISO expects to file with FERC in Q1 2024, the capacity accreditation for each renewable generation resource and battery storage resource would also be 80% based on the resource’s specific historical availability during Resource Adequacy hours for the most recent three year period. Similarly, under MISO’s current short-term LMR capacity accreditation straw proposal, which MISO expects to file with FERC in mid-2024, the accreditation for each LMR would be based on its specific historical availability to be curtailed during Resource Adequacy hours during the most recent three year period. Once again, under a “four years forward” approach, none of the required historical data would be available for these resources. In contrast, under a “one year forward” approach, the required historical data will be available for two of the three years upon which the capacity accreditation will be based for each of these resources.

<sup>3</sup> “The electric utility shall conduct its planning and RFP process with the objective being the provision of reliable electric service at lowest reasonable cost.” LPSC Market Based Mechanisms Order, Ordering Paragraph 11, October 29, 2008.

*dockets, it has been shown that allowing for all potential generating facilities to be considered, including the consideration of Power Purchase Agreements (“PPAs”), can lead to savings for customers and that a failure to allow for comparison of those options does not permit the Commission to consider all options that could provide benefits to customers.”<sup>4</sup>. Moreover, the LPSC has recognized the importance and value of Demand Response - - including: “DR can be a reliable source of power during peak load periods. It can potentially help to delay or avoid the construction or acquisition of new power resources and transmission. It can assist with resource adequacy and act as a substitute for electricity in peak load periods or emergencies, thus potentially avoiding or mitigating price spikes or, under very extreme circumstances, load shedding. It can even be used for ancillary services to help provide grid stability, grid frequency, or grid regulation reserves. These products can provide benefits to the participating entities, but they also can provide benefits to all customers by lowering wholesale energy costs, creating capacity benefits, and avoiding the costs and inconveniences associated with forced outages.”<sup>5</sup>*

Thus, considering the above, and consistent with the LPSC and Staff support for PPAs and Demand Response in other proceedings before the LPSC, LEUG urges the LPSC Staff to reduce its proposed “four years forward” requirement to one full year in advance of the Applicable Planning Year. In other words, for the initial required filing due May 1, 2024, the required Resource Adequacy Demonstration would be for the Planning Year

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<sup>4</sup> Staff’s Phase I Report, LPSC Docket R-35462, pages 8-9. See also, LPSC Order U-36385, issued July 14, 2023, rejecting a portion of generating resources proposed by SWEPCO pending evaluation of PPAs relative to proposals for generation construction.

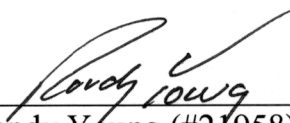
<sup>5</sup> LPSC Order R-35136, May 26, 2021, pages 11-12.

beginning June 1, 2025, and such pattern would continue annually for each utility annual Resource Adequacy Demonstration filing thereafter. And, if the LPSC has concerns that more time is needed for utilities to come into compliance, then the initial filing could be established as May 1, 2025, with a required Resource Adequacy Demonstration for the Planning Year beginning June 1, 2026.

**Public Notice and Transparency - - Proposed Rule Sections 201 and 207:**

Regarding Section 201 and 207 of the Proposed Rule, LEUG requests and urges that additional provisions be added in each section to provide for public notice and stakeholder participation. Section 201 requires that Louisiana electric utilities regulated by the LPSC file annual Resource Adequacy Demonstrations with the LPSC, and Section 207 provides for LPSC Staff to evaluate the annual filings and issue a report to the LPSC on each such annual utility filing. However, neither Section identifies or explains the procedures that will be followed to provide transparency to the public and to allow for stakeholder review and input. LEUG recommends that a docket be opened at the LPSC for each utility annual filing to provide for stakeholder access to the utility filing and to provide for receipt and review of the Staff report. Procedures should also be provided to allow for stakeholder discovery and input following receipt of the Staff report, and to address any disputed issues.

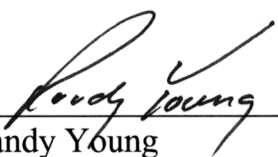
RESPECTFULLY SUBMITTED:

  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of Louisiana Energy Users Group's Comments to Louisiana Public Service Commission Staff's Recommendation of Proposed Rule has been served via electronic mail, facsimile and/or by placing same in the U.S. Postal Service, postage prepaid and properly addressed, on all parties on the Official Service List.

Baton Rouge, Louisiana this 9<sup>th</sup> day of October, 2023.

  
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Randy Young