LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER U-35927

1803 ELECTRIC COOPERATIVE, INC.,
EX PARTE

Docket No. U-35927, In re: Application for Approval of Power Purchase Agreements and for Cost Recovery.

(Decided at the January 25, 2022 Business and Executive Session.)

ORDER

I. INTRODUCTION

1803 Electric Cooperative, Inc. ("1803" or the "Applicant") is a nonprofit member corporation made up of five Louisiana Public Service Commission ("LPSC" or "Commission") regulated electric cooperatives: Beauregard Electric Cooperative, Inc. ("Beauregard"), Claiborne Electric Cooperative, Inc. ("Claiborne"), Northeast Louisiana Power Cooperative, Inc. ("NELPCO"), South Louisiana Electric Cooperative Association ("SLECA") and Washington-St. Tammany Electric Cooperative, Inc. ("WST") (referred to collectively as the "1803 Cooperatives"). On July 2, 2021, the Commission recognized 1803 as a public utility subject to its jurisdiction, formed for the purpose of supplying wholesale power to its five member cooperatives, similar to the function of generation and transmission ("G&T") electric cooperatives throughout the country.[1] The 1803 Cooperatives currently serve roughly 140,000[2] mostly rural Louisiana customers, pursuant to all-requirements power purchase agreements ("PPAs") with Louisiana Generating, LLC ("LA Gen") (the "La Gen PPAs").[3] In this proceeding, 1803 seeks Commission certification of a portfolio of six PPAs with five providers (the "1803 Portfolio") to replace the La Gen PPAs, along with the associated cost recovery.

[1] *See* LPSC Order No. S-35709, 1803 Electric Cooperative, Inc. ("1803"), ex parte. *In re: Application for Recognition as a Regulated Public Utility*, granting 1803's request to be recognized as a regulated public utility in the State of Louisiana subject to certain conditions.

[2] There are discrepancies in the record as to the number of customers served by the 1803 Cooperatives, but it was not a contested issue, nor is its resolution essential to the recommendation in this proceeding.

[3] The La Gen PPA with NELPCO will expire on December 31, 2024; the La Gen PPAs with BECi and SLECA will expire on March 27, 2025; and the La Gen PPAs with Claiborne and WST will expire on March 31, 2025.

The following contracts make up the 1803 Portfolio, which was selected as the result of 1803's 2019 Long-Term Request for Proposals ("RFP") process[4] conducted with the assistance of the Alliance for Cooperative Energy Services Power Marketing LLC ("ACES"):

1) Capacity Sale and Tolling Agreement between Magnolia Power LLC ("Magnolia" or "Magnolia Power"), a subsidiary of Kindle Energy, LLC ("Kindle"), and 1803, effective as of March 5, 2021 (a 20-year PPA for 409 MW of Combined Cycle Gas Turbine ("CCGT") capacity);

2) Renewable Generation Unit Power Purchase Agreement between 1803 and Bayou Galion Solar Project, LLC ("Bayou Galion"), effective as of March 3, 2021 (a 20-year PPA for 98.1 MW aggregate nameplate capacity, AC solar photovoltaic);

3) Solar Energy Purchase Agreement between 1803 and Bayou Chicot Solar, LLC ("Bayou Chicot"), effective as of March 4, 2021 (a 20-year PPA for 150 MW aggregate nameplate capacity, AC solar photovoltaic);

4) Solar Energy Purchase Agreement between 1803 and Bayou Teche Solar, LLC ("Bayou Teche"), effective as of March 4, 2021 (a 20-year PPA for 95 MW aggregate nameplate capacity, AC solar photovoltaic);

5) Power Supply Agreement between Exelon Generation Company, LLC ("Exelon") and 1803, effective as of March 5, 2021 (a five-year PPA for the purchase of firm electric energy, capacity and ancillary services for 27% of the 1803's real-time total load); and

6) EEI Master Purchase and Sale Agreement between Calpine Energy Services, L.P. ("Calpine") and 1803, effective as of March 11, 2021 (a five-year PPA for 185 MW energy).

The 1803 Portfolio will serve the 1803 Cooperatives' power supply needs upon the expiration of the La Gen PPAs. 1803 initially requested a decision in accordance with the 120-day certification period in the 1983 General Order,[5] but ultimately agreed to a procedural schedule allowing for a decision at the Commission's January 2022 Business and Executive Session ("B&E"). Member cooperatives, WST and NELPCO, intervened in support of the certification. Cleco Cajun, LLC ("Cleco Cajun"), owner of LaGen, and Entergy Louisiana, LLC ("ELL"), intervened in opposition. Commission Staff supported the certification, subject to certain conditions.

[4] *See* LPSC Docket No. X-35283, 1803 Electric Cooperative, Inc. ("1803"), ex parte. *In re: Notice of Intent to Conduct 2019 Request for Proposals for Long-Term Power Purchase Contracts and/or Generating Capacity Pursuant to the LPSC's Market Based Mechanism General Order.*

[5] LPSC General Order dated September 20, 1983 (*In re: In the Matter of the Expansion of Utility Power Plant: Proposed Certification of New Plant by the LPSC*), as amended by LPSC General Order (Corrected) dated May 27, 2009 (*In re: Possible Modifications to the September 20, 1983 General Order to allow (1) for more expeditious certifications of limited-term resource procurements and (2) an exception for annual and seasonal liquidated damages block energy purchases*) [hereinafter 1983 General Order].

II. COMMISSION AUTHORITY

The Commission exercises jurisdiction in this proceeding pursuant to Article IV, Sec. 21 of the Louisiana Constitution. La. Const. Art. IV, Sec. 21 provides in pertinent part:

> The Commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and perform other duties as provided by law.

Further, the 1983 General Order requires that a utility seeking certification of a generation construction project provide the Commission with specific data to be used by the Commission in deciding the utility's application.

The 1983 General Order is supplemented by the Market-Based Mechanism ("MBM") Order,[6] which requires utilities to employ an RFP competitive solicitation process, the results and analysis of which serve as part of the justification required by certification under the 1983 General Order.

III. PROCEDURAL HISTORY

Upon completion of the RFP process and resource selection in Docket No. X-35283, 1803 filed its Application for Approval of Power Purchase Agreements and for Cost Recovery ("Application") on March 17, 2021, along with the direct testimony and exhibits of Charles A. Hill, Stephen J. Zwilling, Patrick J. Maguire, Kevin P. Suhanic, Eric P. Laverty, Derek D. Waite, Ryan M. Evans, Jason M. Painter, and Brian W. Hobbs.

Notice of the Application was published in the Commission's Official Bulletin on March 19, 2021, with an intervention period of 15 days. Cleco Cajun, WST, ELL, Claiborne, SLECA, Beauregard, and NELPCO timely intervened in the proceeding. Magnolia Power, Bayou Chicot and Bayou Teche (subsidiaries of ibV Holdings, LLC ("IbV Holdings"), Exelon, DESRI Renewable Energy Development, LLC, and MISO requested interested party status.[7]

The initial status conference was held remotely via videoconferencing on April 20, 2021. At that time, the parties agreed to a procedural schedule including a hearing set for October 25, 2021, continuing as necessary until October 29, 2021, with a simultaneous post-hearing briefing

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[6] LPSC General Order dated October 29, 2008 (*In re: Possible suspension of, or amendments to, the Commission's General Order dated November 3, 2006 (Market Based Mechanisms Order) to make the process more efficient and to consider allowing the use of on-line auctions for competitive procurement*) [hereinafter MBM Order].
[7] *See* Report of Initial Status Conference, issued by Chief ALJ Melanie Verzwyvelt (April 20, 2021), clarifying the status of Magnolia Power, LLC and Exelon Generation Company, LLC.

deadline of November 29, 2021. To expedite the process, the parties agreed to waive the issuance of a proposed recommendation as provided for in Rule 56 of the Commission's Rules of Practice and Procedure and sought only a final recommendation. During the status conference, intervenors Cleco Cajun and ELL expressed concerns regarding 1803's withholding of certain confidential information. Specifically, Cleco Cajun and ELL sought the confidential portions of the Application that had been provided to the Commission Staff and the Tribunal, but not to the intervenors, despite their having signed the confidentiality agreement prepared by 1803. A deadline was set for 1803 to produce the confidential portions of the Application, or in the alternative file a motion for protective order in the event that the parties could not come to an agreement as to what information should be shared with the intervenors; the deadline passed without any such motion having been filed.[8]

Several pre-trial motions were filed and disposed of prior to the hearing. Specifically, a late-filed intervention by ICON-Energy USA, which was opposed by 1803, was denied in a ruling issued on June 30, 2021. Separate motions to compel discovery were filed by Cleco Cajun on May 17, 2021, May 28, 2021 and June 25, 2021; and ELL filed its own motion to compel discovery on June 7, 2021. In its opposition to the Cleco Cajun motions, 1803 sought a protective order. Calpine Corporation ("Calpine"), a nonparty to the proceeding, also opposed the motions to compel discovery and sought a higher confidential designation of certain data via separate filings on June 8 and June 10, 2021. Since Calpine was not a party, its pleadings were treated collectively as a motion for protective order and deferred to oral argument. On July 6, 2021, Cleco Cajun filed a motion requesting a stay of the deadline for direct testimony, and extension of the procedural schedule, as well as the scheduling of a status conference. A status conference was set to immediately follow the oral argument and the remainder of the motion was deferred to the oral argument.

The procedural and discovery motions were briefed by the parties. ELL's motion was continued without date at its request, and the remaining motions were heard in open court on July 15, 2021. Calpine waived its appearance at oral argument and its motions were dismissed. Although Cleco Cajun's request for stay was denied as written, at the status conference following the oral argument, the procedural schedule was adjusted to give the parties an opportunity to

[8] In its May 28, 2021 response to Cleco Cajun's First Motion to Compel, 1803 stated that the parties had been provided with, among other things, copies of the fully un-redacted Application and testimony of nine witnesses, including the fully un-redacted power purchase agreements for each resource selected.

comply with the anticipated ruling on the motions to compel. The parties also agreed to meet and discuss the outstanding discovery issues and ultimately modified the procedural schedule in a manner that would extend the deadlines for the filing of testimony but leave the hearing dates intact. A ruling was issued on July 22, 2021, granting the motions to compel in part, denying them in part, and directing 1803 to submit privilege logs in certain instances.[9] No additional discovery motions were filed, nor were any additional discovery-related issues raised prior to the hearing.

On August 3, 2021, Cleco Cajun submitted a motion seeking a pre-trial ruling confirming the indispensable nature of the retail customer impacts and wholesale contracts to the certification. After the parties were given an opportunity to brief the motion, a ruling was issued on August 27, 2021, denying the motion given that neither the retail customer impacts nor the wholesale contracts had been excluded by the Tribunal or withheld in discovery and such a pre-trial evidentiary decision would be extraordinary.[10]

In accordance with the modified procedural schedule, on September 8, 2021, Cleco Cajun filed the direct testimonies of David E. Dismukes, Ph.D., and James A. Heidell; ELL filed the direct testimonies of Phillip R. May, Samrat Datta, Daniel Kline and John Hurstell; WST filed the direct testimony of Francis Cefalu, M.D.; and the Commission Staff filed the direct testimony of Philip Hayet.[11] On September 24, 2021, 1803 filed the rebuttal testimony of Messrs. Hill, Suhanic, Painter, Hobbs, and Raj Singamsetti; Cleco Cajun[12] filed the cross-answering testimony of Dr. Dismukes; ELL filed the cross-answering testimony of Mr. Hurstell; and the Commission Staff filed cross-answering testimony of Mr. Hayet. On October 8, 2021, the parties filed a Joint Pre-Trial Order, outlining the issues still in dispute and the order of witnesses. On October 18, 2021, 1803, Cleco Cajun, ELL NELPCO, WST, and the Commission Staff filed their pre-hearing briefs. On October 21, 2021, the parties filed an Amended Joint Pre-Trial Order. The hearing was convened as scheduled on October 25, 2021, and continued each weekday thereafter until the afternoon of November 1, 2021.

Cleco Cajun, NELPCO and the Commission Staff submitted post-hearing briefs on November 29, 2021. A final recommendation and draft order was issued by the administrative law judge on January 14, 2022.

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[9] *See* Ruling on Motions, issued by Chief ALJ Melanie Verzwyvelt (July 22, 2021).
[10] *See* Ruling on Motions of Cleco Cajun, LLC, issued by Chief ALJ Melanie Verzwyvelt (August 27, 2021).
[11] On October 7, 2021, Cleco Cajun filed errata to supplement the direct testimony of James Heidell.
[12] On October 7, 2021, Cleco Cajun filed errata to supplement the cross-answering testimony of David Dismukes.

IV. COMMISSION CONSIDERATION

The ALJ Recommendation was considered by the Commission at its January 25, 2022 B&E. On motion of Chairman Greene, seconded by Commissioner Francis, with Commissioner Campbell and Commissioner Boissiere concurring, and Vice Chairman Skrmetta opposing,[13] the Commission voted to accept the Final Recommendation of the Administrative Law Judge with one amendment: that Magnolia Power will increase the total amount of liquidated damages it could pay to 1803 to $15 million, in the event that Magnolia Power is late in opening their plant. Vice Chairman Skrmetta's written dissent will be filed into the record separately.

THEREFORE, IT IS ORDERED:

That the Final Recommendation of the Administrative Law Judge issued January 14, 2022 (Confidential version attached as Attachment A, public version attached as Attachment B), concluding that the 1803 Portfolio, taken as a whole, serves the public convenience and necessity, is in the public interest, and is therefore prudent in accordance with the 1983 General Order is accepted, subject to the following conditions:

1. 1803 complied with met the requirements under the Commission's MBM Order.

2. In accordance with paragraph 2 of Commission Order No. S-35709, rate recovery will be determined in a separate proceeding. Further, consistent with the testimony of Staff Consultant, Phil Hayet, the wholesale contracts between 1803 and the 1803 Cooperatives should be reviewed in that proceeding. Nevertheless, 1803 will be eligible for rate recovery of its prudent investments as a general rule, subject to 1803's affirmative obligation to prudently manage the agreements for the benefit of the 1803 Cooperatives and their members, and provide input into the administration and management of the agreements, consistent with any other requirements herein and any other applicable rules and regulations of the Commission.

3. Commission Staff is directed to open a rulemaking docket to consider potential physical capacity threshold requirements, consistent with this Order, without offering grandfather protection to 1803.

4. Commission Staff is directed to open a rulemaking docket to consider modifying the IRP General Order to remove the exemption for electric cooperatives.

5. Notwithstanding the rulemaking docket above, 1803 shall file its Request to Initiate an IRP Process with the Commission within six months of receiving its certification in this docket with a timeline such that the completion of its IRP would occur within a year of filing its notification with the Commission.

6. When 1803 conducts its first IRP, 1803 should develop and file a risk management policy to be put in place in order to manage its risk exposure, including the costs of acquiring natural gas, MISO market capacity, and MISO market energy. As part of the risk management policy, 1803 should investigate the costs and benefits of acquiring capacity outage insurance as protection in the event that the Magnolia CCGT Generation Station suffers significant outages. As the Commission's IRP General Order permits parties to

[13] Vice Chairman Skrmetta's written reasons for opposition have been filed into Docket No. U-35927.

participate in a utility's IRP, any party that has concerns about 1803's risk management policy will have the opportunity to file comments, and will have the opportunity to litigate issues pursuant to the dispute procedures discussed in Section 10(f) of the IRP General Order.

7. 1803 shall issue an RFP for an energy manager. The costs of any proposal submitted by ACES may not exceed the costs for those services identified in 1803's bid evaluation analysis.

8. 1803 shall file, in this proceeding, quarterly monitoring reports, to begin 90 days after the issuance of a certification order in this proceeding, regarding the construction and applicable financing of the Magnolia CCGT and the solar PPAs. In addition, 1803 should file any significant developments within five days. Lastly, 1803 shall facilitate any site visits that Commission Staff deems necessary.

9. Magnolia Power shall increase the total amount of liquidated damages it may pay to 1802 to $15 million in the event that Magnolia Power is late in opening their plant.

10. This Order is effective immediately.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
January 28, 2022

DISTRICT II
CHAIRMAN CRAIG GREENE

OPPOSED
DISTRICT I
VICE CHAIRMAN ERIC F. SKRMETTA

DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL

DISTRICT III
COMMISSIONER LAMBERT C. BOISSIERE, III

DISTRICT IV
COMMISSIONER MIKE FRANCIS

BRANDON M. FREY
SECRETARY

LOUISIANA PUBLIC SERVICE COMMISSION
ADMINISTRATIVE HEARINGS DIVISION

DOCKET NUMBER U-35927

1803 ELECTRIC COOPERATIVE, INC.,
EX PARTE

In re: Application for Approval of Power Purchase Agreements and for Cost Recovery.

FINAL RECOMMENDATION
OF THE ADMINISTRATIVE LAW JUDGE

(PUBLIC VERSION)

I. INTRODUCTION

1803 Electric Cooperative, Inc. ("1803" or the "Applicant") is a nonprofit member corporation made up of five Louisiana Public Service Commission ("LPSC" or "Commission") regulated electric cooperatives: Beauregard Electric Cooperative, Inc. ("Beauregard"), Claiborne Electric Cooperative, Inc. ("Claiborne"), Northeast Louisiana Power Cooperative, Inc. ("NELPCO"), South Louisiana Electric Cooperative Association ("SLECA") and Washington-St. Tammany Electric Cooperative, Inc. ("WST") (referred to collectively as the "1803 Cooperatives"). On July 2, 2021, the Commission recognized 1803 as a public utility subject to its jurisdiction, formed for the purpose of supplying wholesale power to its five member cooperatives, similar to the function of generation and transmission ("G&T") electric cooperatives throughout

the country.[1] The 1803 Cooperatives currently serve roughly 140,000[2] mostly rural Louisiana customers, pursuant to all-requirements power purchase agreements ("PPAs") with Louisiana Generating, LLC ("LA Gen") (the "La Gen PPAs").[3] In this proceeding, 1803 seeks Commission certification of a portfolio of six PPAs with five providers (the "1803 Portfolio") to replace the La Gen PPAs, along with the associated cost recovery.

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[2] There are discrepancies in the record as to the number of customers served by the 1803 Cooperatives, but it was not a contested issue, nor is its resolution essential to the recommendation in this proceeding.

[3] The La Gen PPA with NELPCO will expire on December 31, 2024; the La Gen PPAs with BECi and SLECA will expire on March 27, 2025; and the La Gen PPAs with Claiborne and WST will expire on March 31, 2025.

[4] *See* LPSC Docket No. X-35283, 1803 Electric Cooperative, Inc. ("1803"), ex parte. *In re: Notice of Intent to Conduct 2019 Request for Proposals for Long-Term Power Purchase Contracts and/or Generating Capacity Pursuant to the LPSC's Market Based Mechanism General Order.*

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If approved, the 1803 Portfolio will serve the 1803 Cooperatives' power supply needs upon the expiration of the La Gen PPAs. 1803 initially requested a decision in accordance with the 120-day certification period in the 1983 General Order,[5] but ultimately agreed to a procedural schedule allowing for a decision at the Commission's January 2022 Business and Executive Session ("B&E"). Member cooperatives, WST and NELPCO, intervened in support of the certification. Cleco Cajun, LLC ("Cleco Cajun"), owner of LaGen, and Entergy Louisiana, LLC ("ELL"), intervened in opposition. Commission Staff supports the certification, subject to certain conditions.

II. COMMISSION AUTHORITY

A. Louisiana Constitution and Statutes

The Commission exercises jurisdiction in this proceeding pursuant to Article IV, Sec. 21 of the Louisiana Constitution, and La. R.S. 45:1163(A)(1) and La. R.S. 45:1176.

La. Const. Art. IV, Sec. 21 provides in pertinent part:

[5] LPSC General Order dated September 20, 1983 (*In re: In the Matter of the Expansion of Utility Power Plant: Proposed Certification of New Plant by the LPSC*), as amended by LPSC General Order (Corrected) dated May 27, 2009 (*In re: Possible Modifications to the September 20, 1983 General Order to allow (1) for more expeditious certifications of limited-term resource procurements and (2) an exception for annual and seasonal liquidated damages block energy purchases*) [hereinafter 1983 General Order].

> The Commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and perform other duties as provided by law.

La. R.S. 45:1163 provides in pertinent part:

> A. (1) The Commission shall exercise all necessary power and authority over any street, railway, gas, electric light, heat, power, waterworks, or other local public utility for the purpose of fixing and regulating the rates charged or to be charged by and service furnished by such public utilities.

La. R.S. 45:1176 provides in pertinent part:

> The Commission…shall investigate the reasonableness and justness of all contracts, agreements and charges entered into or paid by such public utilities with or to other persons, whether affiliated with such public utility or not.

B. Applicable Commission Orders

1. 1983 General Order

Since 1983, the Commission has required regulated electric utilities to obtain certification prior to the construction or acquisition of new generating resources. It provides in pertinent part:

> No electric public utility subject to the jurisdiction of the Commission shall commence any on site construction activity or enter into any contract for construction or conversion of electric generating facilities or contract for the purchase of capacity or electric power, other than emergency or economy power purchases, without first having applied to the Commission for a certification that the public convenience and necessity would be served through completion of such project or confection of such contract. … .[6]

[6] 1983 General Order, *supra* note 5, at ordering paragraph 1.

The 1983 General Order also requires that a utility seeking certification of a generation construction project provide the Commission with specific data to be used by the Commission in deciding the utility's application, as follows:

> Applications submitted pursuant to this order shall include the specific data utilized by the utility in justification of the generation project or purchased power agreement, an itemized projection of the total costs, the scheduled completion date with appropriate time schedules for the percentage of the total project to be completed by specific target dates, and, in cases of purchased power or capacity agreements, the proposed contract in its entirety.[7]
>
> A utility receiving approval or certification for a generation project or purchased power or capacity agreement shall notify the Commission immediately when it is determined that project or contract costs will exceed that stated in the application or the completion date for the commercial operation is extended.[8]

2. Market-Based Mechanism Order

The 1983 General Order is supplemented by the Market-Based Mechanism ("MBM") Order,[9] which requires utilities to employ an RFP competitive solicitation process, the results and analysis of which serve as part of the justification required by certification under the 1983 General Order. The MBM Order was enacted in 2002 and amended in 2004, 2006, 2007, and 2008, but the language most oft-cited by parties in this case is found in each version of the MBM Order, as follows:

> The electric utility shall conduct its planning and RFP process with the objective being the provision of reliable electric service at lowest

[7] *Id.* at ordering paragraph 2.

[8] *Id.* at ordering paragraph 3.

[9] LPSC General Order dated October 29, 2008 (*In re: Possible suspension of, or amendments to, the Commission's General Order dated November 3, 2006 (Market Based Mechanisms Order) to make the process more efficient and to consider allowing the use of on-line auctions for competitive procurement*) [hereinafter MBM Order].

> reasonable cost. The selection of projects or purchase power contracts also may consider public interest criteria such as: project or contract risk attributes; fuel diversity; and other factors deemed relevant.[10]

According to the MBM Order, the RFP process provides the structure and use of the wholesale market while preserving the utilities' traditional responsibility for supply planning and acquisition. The MBM Order prescribes procedures to be followed by the utility in conducting the RFP process and presenting the results of that process to the Commission Staff, including advance notification, an informational filing containing supporting information and documentation of the need for and types of resources to be acquired or constructed, the RFP schedule, methodology, and draft documents.[11] A significant portion of the MBM Order pertains to RFP processes in which a utility has a self-build proposal, permits affiliate bidding, or proposes existing utility resources that are not in base rates but will be moved into base rates upon certification. In those instances, certain procedures are required to ensure no preferential treatment is given to the utility proposal.[12]

III. PROCEDURAL HISTORY

Upon completion of the RFP process and resource selection in Docket No. X-35283, 1803 filed its Application for Approval of Power Purchase Agreements and for Cost Recovery ("Application") on March 17, 2021, along with the direct testimony and exhibits of the following witnesses:

[10] MBM Order, *supra* note 9, at ordering paragraph 11. *See also* LPSC General Order dated April 10, 2002 at ordering paragraph 9; LPSC General Order dated February 16, 2004 at ordering paragraph 9; LPSC General Order dated November 3, 2006 at ordering paragraph 10; and LPSC General Order dated April 26, 2007 at ordering paragraph 10.

[11] MBM Order, *supra* note 9, ordering paragraphs 8-11, 13-14.

[12] *Id.* Ordering paragraphs 12, 15-16.

1) Charles A. Hill, President and General Manager of 1803, testifying about the RFP process and contract negotiations;

2) Stephen J. Zwilling, Executive Director of Trading Control at ACES, testifying regarding the RFP process and the work of the Process Control Team;

3) Patrick J. Maguire, Executive Director of Resource Planning at ACES, testifying about ACES's role and specifically, Step 2A of the bid evaluation process;

4) Kevin P. Suhanic, Executive Director of Portfolio Strategy at ACES, outlining the process followed under the RFP, evaluation of offers, and conclusions reached by 1803;

5) Eric P. Laverty, Vice President of Regulatory and Reliability Services at ACES, discussing ACES's evaluation and assessment of interconnection and resource adequacy issues as a Midcontinent Independent System Operator Inc. ("MISO") load serving entity ("LSE");

6) Derek D. Waite, Director of Origination at ACES, testifying as to the background of the RFP, the RFP processes, the PPA Evaluation Team and an overview of the PPAs;

7) Ryan M. Evans, Executive Director of Credit at ACES, providing testimony regarding the evaluation of bidder creditworthiness;

8) Jason M. Painter, Vice President, Portfolio Management and Strategy at ACES, providing testimony regarding ACES's support role and compliance with Commission regulations; and

9) Brian W. Hobbs, a partner in the Oklahoma law firm of Pain, Garland and Hobbs, LLP, serving as a legal, regulatory, and budgetary consultant to 1803, identifying costs of 1803 as wholesale power supply cooperative to ensure a fair comparison of costs with other supply options.

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The initial status conference was held remotely via videoconferencing on April 20, 2021. At that time, the parties agreed to a procedural schedule including a hearing set for October 25, 2021, continuing as necessary until October 29, 2021, with a simultaneous post-hearing briefing deadline of November 29, 2021. To expedite the process, the parties agreed to waive the issuance of a proposed recommendation as provided for in Rule 56 of the Commission's Rules of Practice and Procedure and sought only a final recommendation. During the status conference, intervenors Cleco Cajun and ELL expressed concerns regarding 1803's withholding of certain confidential information. Specifically, Cleco Cajun and ELL sought the confidential portions of the Application that had been provided to the Commission Staff and the Tribunal, but not to the intervenors, despite their having signed the confidentiality agreement prepared by 1803. A deadline was set for 1803 to produce the confidential portions of the Application, or in the alternative file a motion for protective order in the event that the parties could not come to an agreement as to what information

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should be shared with the intervenors; the deadline passed without any such motion having been filed.[14]

Several pre-trial motions were filed and disposed of prior to the hearing. Specifically, a late-filed intervention by ICON-Energy USA, which was opposed by 1803, was denied in a ruling issued on June 30, 2021. Separate motions to compel discovery were filed by Cleco Cajun on May 17, 2021, May 28, 2021 and June 25, 2021; and ELL filed its own motion to compel discovery on June 7, 2021. In its opposition to the Cleco Cajun motions, 1803 sought a protective order. Calpine Corporation ("Calpine"), a nonparty to the proceeding, also opposed the motions to compel discovery and sought a higher confidential designation of certain data via separate filings on June 8 and June 10, 2021. Since Calpine was not a party, its pleadings were treated collectively as a motion for protective order and deferred to oral argument. On July 6, 2021, Cleco Cajun filed a motion requesting a stay of the deadline for direct testimony, and extension of the procedural schedule, as well as the scheduling of a status conference. A status conference was set to immediately follow the oral argument and the remainder of the motion was deferred to the oral argument.

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[14] In its May 28, 2021 response to Cleco Cajun's First Motion to Compel, 1803 stated that the parties had been provided with, among other things, copies of the fully un-redacted Application and testimony of nine witnesses, including the fully un-redacted power purchase agreements for each resource selected.

the oral argument, the procedural schedule was adjusted to give the parties an opportunity to comply with the anticipated ruling on the motions to compel. The parties also agreed to meet and discuss the outstanding discovery issues and ultimately modified the procedural schedule in a manner that would extend the deadlines for the filing of testimony but leave the hearing dates intact. A ruling was issued on July 22, 2021, granting the motions to compel in part, denying them in part, and directing 1803 to submit privilege logs in certain instances.[15] No additional discovery motions were filed, nor were any additional discovery-related issues raised prior to the hearing.

On August 3, 2021, Cleco Cajun submitted a motion seeking a pre-trial ruling confirming the indispensable nature of the retail customer impacts and wholesale contracts to the certification. After the parties were given an opportunity to brief the motion, a ruling was issued on August 27, 2021, denying the motion given that neither the retail customer impacts nor the wholesale contracts had been excluded by the Tribunal or withheld in discovery and such a pre-trial evidentiary decision would be extraordinary.[16]

In accordance with the modified procedural schedule, on September 8, 2021, Cleco Cajun filed the direct testimonies of David E. Dismukes, Ph.D., and James A. Heidell; ELL filed the direct testimonies of Phillip R. May, Samrat Datta, Daniel Kline and John Hurstell; WST filed the direct testimony of Francis Cefalu, M.D.; and the Commission Staff filed the direct testimony of Philip Hayet.[17] On September 24, 2021, 1803 filed the rebuttal testimony of Messrs. Hill, Suhanic,

[15] *See* Ruling on Motions, issued by Chief ALJ Melanie Verzwyvelt (July 22, 2021).

[16] *See* Ruling on Motions of Cleco Cajun, LLC, issued by Chief ALJ Melanie Verzwyvelt (August 27, 2021).

[17] On October 7, 2021, Cleco Cajun filed errata to supplement the direct testimony of James Heidell.

Painter, Hobbs, and Raj Singamsetti; Cleco Cajun[18] filed the cross-answering testimony of Dr. Dismukes; ELL filed the cross-answering testimony of Mr. Hurstell; and the Commission Staff filed cross-answering testimony of Mr. Hayet. On October 8, 2021, the parties filed a Joint Pre-Trial Order, outlining the issues still in dispute and the order of witnesses. On October 18, 2021, 1803, Cleco Cajun, ELL NELPCO, WST, and the Commission Staff filed their pre-hearing briefs. On October 21, 2021, the parties filed an Amended Joint Pre-Trial Order. The hearing was convened as scheduled on October 25, 2021, and continued each weekday thereafter until the afternoon of November 1, 2021.

At the hearing, 1803 presented the live testimony and accompanying exhibits of: Charles A. Hill, Kevin P. Suhanic, Jason M. Painter, Raj Singamsetti, and Brian W. Hobbs. WST presented the testimony of Francis Cefalu, M.D. Cleco Cajun presented the testimony of James A. Heidell and David E. Dismukes, Ph.D. Lastly, the Commission Staff presented the testimony of Philip Hayet. The testimony and accompanying exhibits of 1803 witnesses Stephen J. Zwilling, Patrick J. Maguire, Eric P. Laverty, Ryan M. Evans, and Derek D. Waite, and ELL witnesses Philip R. May, Samrat Datta, Daniel Kline and John Hurstell were accepted into evidence without cross-examination in accordance with the pre-trial order. Neither NELPCO nor ELL had any live witnesses at the hearing, but actively participated in cross-examination of the other parties' witnesses. 1803, WST, ELL, Cleco Cajun, NELPCO and the Commission Staff submitted post-hearing briefs on November 29, 2021. A final recommendation and draft order was issued by the

[18] On October 7, 2021, Cleco Cajun filed errata to supplement the cross-answering testimony of David Dismukes.

administrative law judge on January 14, 2022, and placed on the agenda for Commission consideration at the January 2022 B&E.

IV. FINDINGS OF FACT

Background

1. After determining that it would be most efficient, cost effective, and attractive to potential power suppliers if the 1803 Cooperatives were to combine their loads, efforts, and resources to achieve economies of scale, the 1803 Cooperatives began consulting with ACES in 2018 to explore power supply options, and to conduct an RFP on behalf of the 1803 Cooperatives pursuant to the MBM Order.

2. The 1803 Cooperatives formed 1803 on April 1, 2019, pursuant to La. R.S. 12:401, *et seq.* 1803 has a nonprofit board (the "1803 Board") made up of the General Manager of each member cooperative and one full member of each member cooperative.

3. Based on the uncontested 2020 Load Forecast Study performed by Power Stat, LLC ("Power Stat"), beginning in 2025 the 1803 Cooperatives have a combined need of approximately 1,000 MW.

RFP Process

4. 1803 initiated Docket No. X-35283 in June 2019 for the purpose of conducting an RFP pursuant to the MBM Order, with the stated goal of purchasing reliable and economically competitive power supplies to meet the long-term load-serving obligations of the 1803 Cooperatives, the reliability goals of the state of Louisiana, and the requirements of the MISO market. In its RFP documents, 1803 advised that it would not purchase, assume ownership of, or acquire any generating assets as a result of the RFP. One of the goals of the RFP was to provide the 1803 Board with the option of selecting a portfolio as opposed to a full requirements contract.

5. ACES assisted 1803 throughout the RFP process, including drafting the RFP documents in accordance with the goals of the 1803 Board. The Board's RFP objectives were set forth in the Informational Filing as follows (in the order of relative importance):
    1. Reliably serving load at the lowest reasonable cost;
    2. Minimize the potential volatility and market risk associated with 1803 rates;
    3. Minimize cost exposure to future environmental regulations and unknown environmental mitigation and/or clean-up costs;
    4. Minimize exposure to future cost increases passed through to 1803;

5. 1803 prefers fixed price contracts over cost-based contracts;
6. 1803 prefers a longer-term contract length, all else being equal;
7. Desirable counterparty creditworthiness;
8. Desired contract terms outlined in an appendix to the RFP;
9. Renewable generation attributes; and
10. The location of resources near load or in the same MISO Zone 9 and the State of Louisiana.

6. In accordance with the procedures in the MBM Order, the draft RFP document was issued in November 2019. ACES and 1803, along with the Commission Staff, held a Technical and Bidders' Conference on January 16, 2020. The Technical and Bidders' Conference was held both in person and virtually and participants were given an opportunity to ask questions and seek clarifications. Following the conference, market participants were given opportunities to submit anonymous questions and comments on the RFP website, call the RFP hotline, and email the RFP administrator.

7. Commission Staff, Cleco Cajun, and ELL submitted comments during the comment period. Cleco Cajun took the position that energy management costs – costs which would become necessary if a full requirements service was not selected – should be included in the economic evaluation. Cleco Cajun further commented that ACES had a conflict of interest, as it is an entity that could potentially provide those energy management services in the future. Commission Staff agreed that energy management costs should be addressed in the evaluation and suggested that, although it did not believe there was a significant concern related to any potential conflict of interest, ACES could alleviate any perceived conflict by separately identifying any costs that would be incurred if 1803 did not enter into a full requirements contract, including energy management services, market participant services, and all costs to setup a management structure that otherwise would not be necessary if a full requirements contract was selected.

8. ELL's comments focused on grid reliability and the need for performing proper resource planning analyses. Commission Staff responded by acknowledging that the typical Integrated Resource Planning ("IRP") process undertaken by utilities prior to issuing an RFP was not done by 1803, but that "for all intents and purposes a similar set of rigorous analyses will be performed" in the RFP itself since all of 1803's resource needs, rather than just incremental additions, was to be addressed.[19]

[19] LPSC Staff Comments to 1803's Draft 2019 Long-Term RFP, Hr'g Exh Staff 2 – *in globo.*

9. Commission Staff's consultant, Mr. Hayet, proposed solutions that he believed would address the concerns raised by Cleco Cajun and ELL. Mr. Hayet proposed that:

    1. 1803 should be required to submit a request to initiate an IRP within six months of certification, that the 1803 Member Cooperatives are full participants in the development of the IRP, and that 1803 ensure that completion of the IRP occurs within a year of filing its notification with the Commission.
    2. 1803 should be required to develop a risk management policy to manage 1803's exposure to risks (e.g. costs of acquiring natural gas, MISO market capacity, and MISO market energy), including an investigation into the costs and benefits of acquiring capacity outage insurance as protection in the event the Magnolia CCGT suffers significant outages.
    3. 1803 should use an RFP process when hiring an energy manager, and should ACES decide to submit a bid to provide those services, there should be a requirement that ACES' costs may not exceed the costs for those services identified in 1803's bid evaluation analysis.
    4. The Commission should open a rulemaking procedure to consider whether minimum physical capacity requirements should be established, and 1803 should be required to participate in the rulemaking and adhere to any standards adopted (without making exceptions for 1803).
    5. The Commission should require construction monitoring for the Magnolia CCGT and the three new solar projects, consisting of quarterly reports to Commission Staff and other interested parties, along with informal reports to Commission Staff after any significant developments within five days, and Commission Staff site visits as necessary.
    6. That cost recovery for costs identified in Docket No. U-35927 be ultimately decided in a new proceeding that 1803 will initiate following the conclusion of Docket No. U-35927, and modification of 1803's request concerning approval of the PPA terms.

10. Mr. Hayet's proposals were adopted by 1803. Mr. Hayet noted that, during the RFP process, no party informed the Commission Staff of anything further than the aforementioned concerns.

11. Some of the steps 1803 took to address the comments included: the hiring of Power Stat to perform a rigorous load forecast study; the hiring of Brian Hobbs to perform an independent analysis of 1803's overhead costs; and the addition of language to the RFP documents regarding MISO requirements: specifically, 1803's intent to procure around 90% of its zonal resource credits ("ZRCs") from MISO Zone 9.

12. The final RFP was issued on February 14, 2020. From February 14 to 19, 2020, all questions and answers were posted to the public RFP website. The initial proposal deadline was delayed three times: first to ensure that all bidders had an opportunity to sign the confidentiality agreement and access confidential information, and a second and third time due to delays related to COVID-19. 1803 also announced its intent to provide an updated load forecast, and gave bidders the opportunity to update their bids as necessary.

13. The final RFP documents listed five different types of proposals that would be considered in the RFP: (1) designated generation; (2) partial or full-requirements; (3) energy only; (4) capacity only; and (5) call option.

Tolling Agreements

14. Despite testimony from ELL and Cleco Cajun that the RFP documents and appendices were ambiguous about whether or not tolling agreements were allowed because they were not one of the types of proposals expressly mentioned in the RFP, no questions were submitted at any time regarding the applicability of tolling agreements.

15. Although tolling agreements were popular in the late 1990s and early 2000s, they are not as common today among public utilities, electric cooperatives and municipal electric utilities due to associated risks associated with tolling agreements, including the securing and transporting fuel to the plant, and then offloading the power if necessary.

16. Notwithstanding any potential ambiguity or the lack of prevalence among utilities today, four tolling agreements were submitted, including Magnolia, one of the selected resources.

17. Mr. Hobbs testified that, in his 43 years in the industry, he has never heard anyone claim that a tolling agreement was not a PPA. According to Mr. Hobbs, a PPA is a broad term that includes a contractual relationship between two parties that buy and sell capacity and energy. He cited two examples of tolling agreements where they were referred to as PPAs.[20]

18. No evidence was presented that any other tolling agreements would have been submitted into the RFP had it expressly sought a tolling agreement. Although Cleco Cajun

[20] Mr. Hobbs cites a Williams Energy Marketing and Trading Company agreement, and a Pacific Gas and Electric agreement. Rebuttal Testimony of Brian W. Hobbs on Behalf of 1803 Electric Cooperative, Inc., Hr'g Exh 1803 23, at pg. 8.

submitted a tolling agreement as an unsolicited offer on March 11, 2021, there was no indication that the unsolicited offer would have been submitted into the RFP.

RFP Analysis and Results

19. ACES utilized three teams to evaluate the proposals received: 1) The Process Control Team, led by Stephen Zwilling; 2) the Portfolio Strategy and Analysis Team, led by Kevin Suhanic; and 3) the PPA Evaluation Team, led by Derek Waite.

4-Step Process

20. 198 unique offers were submitted from 31 bidders, for a wide range of resources across the solicited proposal types, including combined cycle facilities, peaking plants, solar, battery storage, and market products such as block energy, block energy plus capacity, call options, and ZRCs.

21. In consultation with Mr. Hayet, 1803 developed a four-step process for the evaluation of bids, which was set forth in the Informational Filing. This four-step process was divided into two phase, with each phase consisting of two steps. During Phase 1, Step 1A compared all similar resources to one another, e.g. solar to solar, to analyze pricing. In Step 1B, the groupings were maintained from Step 1A, but underwent a more robust analysis looking at high case, low case and carbon case, which led to rankings similar to Step 1A. Bidders were allowed to refresh their bids during Phase 2. In Step 2A, ACES looked at eight possible portfolios, including full requirements. In Step 2B, ACES developed energy curves, capacity curves, and carbon curves based on current market trends. ACES' comparison of portfolios was done in a blind manner.

Step1A

22. Step 1A started with a screening process, whereby the ACES Process Control Team reviewed all proposals for accuracy and completeness and contacted bidders when necessary. Three bids were eliminated as nonconforming, and confirming bids were given a unique Bidder ID, Proposal ID, and Generator ID, where applicable, in order to maintain the confidentiality of the bidders' identity. Secure data folders were then created for the Process Control, Portfolio and Strategy Analysis Team, and the PPA Evaluation Teams. The Process Control Team had access to all folders and remained the primary contact for bidders.

23. The bids were then grouped into categories of the same types and compared on a levelized cost of energy ("LCOE") basis within the groups. Higher cost bids were eliminated.

Step 1B

24. In Step IB, the Net Present Value Revenue Requirement ("NPVRR") was calculated for each of the remaining bids by performing production cost analyses in the PaR Model using the forward curves, fuel basis, bidder response data, and forecast LMP basis, and determining the total annual fixed and variable costs for each bid. Again, the bids were only compared against other bids in the same group.

25. On September 9, 2020, the Process Control Team notified Bidders whether they would proceed to the second phase. 38 offers from 19 bidders were advanced to Phase 2.

26. The Phase 2 bid deadline during which the selected bidders were allowed to make their "best and final" offer was extended to October 16, 2020. Of the 19 bidders that advanced, four voluntarily withdrew from the process, and the remaining 15 submitted approximately 32 revised bids.

Step 2A

27. Step 2A was conducted to identify an optimal set of portfolios consisting of combinations of the remaining 32 bids, and ultimately produced eight potential portfolios for further analysis in Step 2B.

28. Of the eight portfolios developed in Step 2A, three were full requirements offers, one partial requirements offer, and the remaining four contained combinations of PPA resources. Four of the eight portfolios consisted of bids from either ELL or Cleco Cajun.

29. The modeling in Step 2A was conducted in EnCompass, a long-term planning and capacity expansion software developed and maintained by Anchor Power Solutions, LLC, and used by utilities across the country such as Duke, Xcel and DTE, for the purpose of establishing resource planning objectives and model portfolios that meet firm capacity requirements through 2044.

30. Full requirement bids were not included in the Step 2A capacity expansion model runs, but instead proceeded directly to the ABB Planning & Risk (PaR) model in Step 2B.

31. Key assumptions in Step 2A were similar to that of an IRP: load forecast, existing resources, reserve margins, and forward curves for power, gas and capacity. Additional bid details were included, such as installed capacity, firm capacity, fixed cost, and variable cost. Details on heat rate, emission constraints, fuel delivery costs, and fuel delivery points were added for thermal resources; and information on hourly production profile capacity factor were included for renewable resources. The assumed reserve

margin was the MISO planning reserve margin ("PRM") Unforced Capacity ("UCAP") parameter for the 2020/2021 planning year of 8.9%.

Step 2B

32. The Step 2B analysis started with PROMOD simulations to determine basis differences in the market including delivery points, and then forward curves, fuel information, proposal data, and forecast LMP basis were used to run the PaR software. This model run used the forecasted load and the eight portfolios from Step 2A. Then, a parallel run was done with a carbon tax curve and its associated impacts on energy and fuel prices.

33. Using the PaR Model, 100 iterations were performed across a range of costs resulting in an 1803 revenue requirement, with risk assessment for an expected cost and a 5th and 95th percentile cost.

34. Fixed costs (and benefits) were then added depending on the terms of each offer, with load being charged the full cost of capacity, ancillaries, MISO costs, and 1803 overheads.

35. ACES used historical experience to evaluate and model MISO administration and overhead cost forecasts, which were halved and doubled for low and high scenarios.[21]

36. 1803's overhead cost budget was developed by Mr. Hobbs in order to address the concerns raised by Cleco Cajun's comments on the proposed RFP.

37. The budget developed was approximately $[redacted] million in 2025 and is itemized by: 1) administrative costs (salaries, rent, utilities, office supplies, insurance, equipment, travel and legal expenses, training, and MISO, NRECA and NARUC membership dues); 2) finance (based on the needs of the portfolio, including things such as the cost of debt, line of credit, letter of credit necessary for MISO participation and counterparty expenses); and 3) energy management services. The budget escalates to about $[redacted] million in year 2044.

38. Based on results from Step 2A, eight portfolios were considered in Step 2B. These portfolios consisted of three full requirements offers, one partial requirement offer with additional solar PPAs, and four portfolios of varied PPA resources. Each portfolio was measured based on metrics developed by the 1803 Board. These metrics are: 20-Year PVRR; average rate; low rate; high rate; fixed cost concentration; energy hedge

[21] If a proposal included those costs already, the portfolio was credited in the amount of costs accounted for in the proposal.

percentage; capacity hedge percentage; natural gas price exposure; spot energy market exposure; renewable energy serving load percentage; and carbon emissions. The results were then presented to the 1803 Board to assist their decision making.

39. The results of the four-step process was that 1803 selected Portfolio 5 out of the eight portfolios evaluated in Step 2B, made up of six agreements from five distinct bidders: the Magnolia CCGT tolling agreement; three solar PPAs, a partial requirements contract and a heat rate call option. Each of these is described in further detail below.

40. Cleco Cajun raised numerous issues with regard to the RFP process, the economic evaluation, and the risks associated with the 1803 Portfolio. Each are addressed in turn, below.

41. Except to the extent specifically mentioned below, ELL took no position on the RFP process or economic evaluation performed by 1803, or the issues raised by Cleco Cajun or Commission Staff, including the cost, operation, or financial risks associated with the contracts for 1803's proposed resources, despite having submitted a non-winning bid into the RFP. Rather, ELL challenges the reliability of the portfolio and impacts to other Louisiana ratepayers of the 1803 Portfolio.

1803 Portfolio

42. ACES' economic evaluation resulted in the 1803 Portfolio being the low-cost portfolio by $[redacted] million or [redacted]%.[22] Further, the 1803 Portfolio has lower natural gas risks than Cleco Cajun's primary proposal, and it increases reliability by adding [redacted] MW[23] of new, in-state generation capacity.

43. In addition to reliably serving load at the lowest reasonable cost, the 1803 Portfolio minimizes volatility by including four fixed price contracts, three of which are 20-year PPAs. The 1803 Portfolio also minimizes exposure to future environmental regulations, pass-through cost increases, counterparty credit risk by diversification, and nearly all of the resources are located near load or in MISO Zone 9 in Louisiana.

44. ELL customers will benefit from the addition of a generation resource located close to the load in Amite South, a load pocket that has had significant congestion for 20 years.

[22] Factoring in CO2 costs, the savings increase to $[redacted] million or [redacted]%.
[23] This includes [redacted] MW of merchant generation associated with the Magnolia Generation Station.

45. The 1803 Portfolio maintains flexibility and allows 1803 to take advantage of technology improvements.

Magnolia

46. The Magnolia Generating Station is anticipated to be a clean, flexible, and highly efficient approximately [redacted] MW (nameplate) natural gas-fired CCGT, located in Plaquemine in Iberville Parish, Louisiana.[24] It will consist of a General Electric ("GE") 7HA.03 natural gas turbine, among other components. It will be constructed with the capability to utilize up to 50% hydrogen fuel as a fuel source. The PPA with Magnolia is a Capacity Sale and Tolling Agreement that will provide 1803 with [redacted] of the output of the Magnolia Generating Station.

47. Of the PPAs in the 1803 Portfolio, Magnolia has the most risk as it is the largest and most complex. 1803 calculated a one-year delay of Magnolia would cost approximately $5 million in additional costs to replace the capacity and energy.

48. Magnolia will have its own operating committee consisting of members other than 1803, and the joint governance committee will select an energy manager, which could be distinct from 1803's energy manager, to procure fuel and fuel transport. However, 1803 will have 51% of the vote of the operating committee for most decisions, however.

49. Mr. Hobbs, an attorney who was also the energy manager at Western Farmers Electric Cooperative ("Western Farmers") for 12-15 years until he retired in 2018, was involved extensively with contract negotiations (both at Western Farmers and in the instant proceeding) and opined that the design and function of the Magnolia operating committee that will be directing the activities of the energy manager provides significant protections to 1803 and its ratepayers.

GE 7HA.03 Natural Gas Turbine

50. The GE natural gas turbine presents a risk to Magnolia and 1803, as it is not currently in commercial operation. Mr. Singamsetti provided testimony that, although there are currently no GE 7HA.03 gas turbines in commercial operation, there are several being installed in the United States that will have over 180,000 hours of operation before Magnolia will enter commercial operation.

[24] The Magnolia Generating Station is situated in the Amite South load pocket.

51. The first two GE 7HA.03 gas turbines are being installed at Florida Power & Light's Dania Beach power plant for planned commercial operation in June of 2022.

52. By way of background, the HA platform is a highly efficient air-cooled platform that was introduced in 2014 and began commercial operation in 2017. There are 43 installed HA platforms with over 8,000 operating hours each, which is industry standard for proven technology.

53. At the hearing, Cleco Cajun took issue with the technology, given that it is not currently in commercial operation. Cleco Cajun cited ELL's 2015 Long Term RFP document in which ELL stated that it would consider the GE 7HA technology an unproven technology. The Tribunal took judicial notice of both ELL's filing and testimony by Independent Monitor Elizabeth Benson in Commission Docket No. U-33770[25] that a utility should let bidders know if it considers a certain technology unproven. Given that this testimony was offered over six years ago in an RFP issued around the same time the technology was introduced, this testimony has little, if any, probative value.

54. Dr. Dismukes acknowledged that the Magnolia heat rate is impressive and efficient, but the fact that the plant has not been built yet makes the heat rate speculative. He recalled example of challenges with the turbine blades oxidizing. To account for this risk, Dr. Dismukes made a "correction" by increasing Magnolia's heat rate by 10% and adjusting fuel costs upwards to the effect that Cleco Cajun's Portfolio 1 becomes more economic. This 10% was not based on any independent analysis, but by increasing the heat rate to be more in line with other natural gas CCGT facilities.

55. Mr. Hayet testified that he investigated the issue with the turbines and found that although there were problems initially, particularly as they use higher firing temperatures, GE had urgently worked to resolve the problems. Mr. Hayet agreed that there is a "bathtub curve" with new turbines, wherein they have early failures and get less efficient over time, but this was accounted for in the evaluation.

56. 1803 does not agree with Dr. Dismukes' correction to the Magnolia heat rate. According to Mr. Singamsetti, there is no real justification for increasing the heat rate as the current heat rate is supportable and accepted in the marketplace, and Dr. Dismukes' support for increasing the heat rate is based on historical Energy Information Administration information from older turbines.

[25] *See* LPSC Docket No. U-33770, Entergy Louisiana, LLC, Entergy Gulf States Louisiana, L.L.C and Entergy Louisiana Power, LLC. *In re: Joint Application for Approval to Construct St. Charles Power Station, and for Cost Recovery.*

57. In the context of the performance guarantee, Mr. Hayet confirmed that there could be additional costs to ratepayers if the projected heat rate is not reached, but the contract has a true-up provision which protects ratepayers once the heat rate is established.

Hydrogen

58. Mr. Suhanic testified that no value was assigned to the possibility of Magnolia using hydrogen as fuel. According to Mr. Hayet, Magnolia does not yet have the necessary permits to burn hydrogen and there are additional steps that would have to be taken before it would even become an option. While it is emerging technology that may become economically viable in the future, the costs and benefits of burning hydrogen at Magnolia were not factored into the economic analysis; therefore, Cleco Cajun was not subject to bias by 1803's failure to explore whether Cleco Cajun's Cottonwood facility also had the capability of burning hydrogen.

Financing Risk

59. Magnolia does not yet have a binding agreement for financing. However, both Mr. Hobbs and Mr. Hayet testified that they are confident Magnolia will be able to meet its commercial operation date. They further testified that this is not dependent on Magnolia being fully subscribed.

Construction Risk

60. According to Mr. Hayet, the cost of the unit is approximately $[redacted]M to $[redacted]M. Mr. Hayet testified that, with regard to construction costs, there can be no costs charged beyond what is provided in the contract.

61. Mr. Hayet believes that Magnolia and Kindle have the ability to complete the project. 1803 expects Magnolia to be completed by March of 2025. If the construction is delayed, Mr. Hayet points out that there are additional costs associated with market purchases, but 1803 would be entitled to liquidated damages in the event of a delay. Liquidated damages are limited by the agreement, and Dr. Dismukes believes they are insufficient.

62. While there are risks, Mr. Hayet believes that the project will proceed without having the entirety of the facility under contract.

Natural Gas Risks

63. According to Mr. Heidell, the proposed tolling agreement exposes 1803 to significant market risk, because 1803 will rely on MISO market sales to offset the fixed costs, which are not tied to margins. In other words, if 1803 is unable to procure natural gas for the plant, it would not be able to offset its costs with the MISO market sales.

64. Mr. Hayet confirmed that 1803 will be responsible for natural gas purchasing, transportation, delivery, and hedging services under its proposed tolling agreement. Further, Mr. Hayet confirmed that ratepayers will bear additional costs if natural gas costs are higher than those assumed in the RFP analysis.

65. While natural gas price exposure is always a risk, the diversity of the 1803 Portfolio will act as a hedge against that risk.

Solar PPAs

66. The 1803 Portfolio contains three solar PPAs: Bayou Galion, Bayou Chicot and Bayou Teche. These PPAs were not materially different aside from size and were not distinguished at the hearing or in testimony. The only real dispute with regard to the solar PPAs was the capacity value they were given in the economic analysis, or Effective Load Carrying Capability ("ELCC").

67. According to Mr. Hayet, the solar resources are expected to add 343 MW to reliability; this consists of less than 20% of the energy in the preferred portfolio. Although it is intermittent, this portion of the capacity is considered firm reliable. The solar resources also do not have a demand charge.

68. ACES did not add any extra value for renewable energy credits ("RECs") in its analysis of the solar PPAs. According to Mr. Painter, 1803 plans to hold on to the RECs, because they are a good long-term hedge against load price. Nevertheless, Mr. Hayet determined that, based on current REC prices, 1803 can sell renewable energy credits associated with solar energy and gain $3 to 4 million in 2025. This is a benefit that should be passed along to ratepayers and should be monitored in any follow-up proceedings or audits for prudence.

Bayou Galion

69. The Bayou Galion Project will be a 98 MW nameplate solar photovoltaic power plant located in Morehouse Parish, Louisiana, on up to 900 acres of leased property. The Bayou Galion PPA is a 20-year fixed price agreement for the purchase of the full output

of the facility, which includes the energy, MISO Zone 9 capacity, ancillary services and environmental attributes associated with the facility.

Bayou Chicot

70. The Bayou Chicot PPA is a 150 MW nameplate solar power generation project that will be located on approximately 1,035 acres of agricultural land in Evangeline Parish, Louisiana. The Bayou Chicot PPA is 20-year fixed price arrangement for the purchase of the full output of the facility, which includes the energy, MISO Zone 9 capacity, ancillary services, and environmental attributes associated with the facility.

Bayou Teche

71. Bayou Teche is a 95 MW nameplate solar generation project that will be located on 650 acres of agricultural land near Baldwin in St. Mary Parish, Louisiana. The Bayou Teche PPA is a fixed price 20-year agreement for the purchase of the full output from the facility, which shall include the energy, MISO Zone 9 capacity, ancillary services, and environmental attributes.

Exelon

72. The Exelon contract is a five-year power supply agreement for 27%, or 247 MW, of 1803's real-time total load. It provides firm electric energy, MISO Zone 9 capacity and ancillary services.

73. The Exelon PPA does not specify a particular generator supplying 1803 load in 2025, and could, conceivably be fulfilled by Exelon with market purchases.

74. The Exelon contract provides all energy management services for 27% of the load.

75. ELL introduced testimony regarding Exelon subsidiaries engaging in criminal conduct, and Exelon potentially failing to meet its obligations to 1803. Mr. Painter stated that he has 20 years of experience with Exelon contracts, and in that time has experienced no issues with delivery. Mr. Hayet notes that they have supplied full requirements service in MISO for the past 15 years. We find that the possibility of a deficiency charge and reputational harm will act as a safeguard against Exelon failing to meet its capacity obligation under the PPA.

76. There are advantages and disadvantages to the shorter term contract with Exelon. The fixed price contract lowers the risk associated with natural gas prices in the first five years, or hedges, 27% of the energy requirement, while allowing for flexibility after the first five years to explore technological advances in the market, and to explore other options if any of the assertions made by ELL regarding Exelon's performance are of a concern.

Calpine

77. The Calpine PPA, also referred to as the heat rate call option ("HRCO"), is an energy-only contract for 185 MW of the Pine Bluff Energy Center, a natural gas-fired cogeneration facility located in Pine Bluff, AR.

78. In rebuttal testimony, 1803 asserted that the Calpine PPA could be backed by capacity should the Commission find it to be necessary. This would not add costs to the 1803 Portfolio, because the cost is covered in the economic analysis, and is, in fact, lower than the forward capacity curve assumed by ACES in the analysis.

79. According to Mr. Painter, ACES did not select Calpine in the RFP at the time because there were challenges with the transmission system, allowing only 60 MW to be deliverable to the grid, but upgrades in MISO that are scheduled to be completed in 2022, should alleviate those concerns.

80. Mr. Hayet characterized the Calpine PPA as backup power for the solar units, or a financial hedge when market prices are high.

Commission Staff's Conditions for Approval

81. Mr. Hayet recommends approval of the 1803 Portfolio, and although he testified that he believed 1803 had complied with the requirements of the MBM Order and the 1983 General Orders, he made six recommendations, absent which, he does not believe the 1803 Portfolio should be approved. These are:

    1) IRP

    1803 should be required to submit a request to initiate an expedited IRP within six months of certification in this matter.

    2) Risk Management Policy

In conjunction with IRP, 1803 should develop and file a risk management policy to manage risk exposure (natural gas, MISO market capacity and MISO market energy) including an investigation of the costs and benefits of acquiring capacity outage insurance as protection in the event the Magnolia CCGT suffers significant outages.

3) Potential Conflict for ACES

In order to alleviate any perceived windfall to ACES for energy management services, 1803 could be required to issue an RFP for energy management services and any bid by ACES could be capped at the costs presented as part of the bid evaluation analysis.

4) Physical Capacity Rulemaking

To address ELL's concern regarding minimum capacity obligations, the Commission should open a rulemaking to consider whether minimum requirements should be established, 1803 should be required to participate and adhere to any standards adopted (without grandfathering).

5) Construction Monitoring

The Commission should require construction monitoring for the Magnolia CCGT and the three new solar projects, consisting of quarterly reports to Commission Staff and other interested parties, along with informal reports to Commission Staff after any significant developments within five days, and Commission Staff site visits as necessary.

6) Cost Recovery

That cost recovery for costs identified in Docket No. U-35927 be ultimately decided in a new proceeding that 1803 will initiate following the conclusion of Docket No. U-35927, and modification of 1803's request concerning approval of the PPA terms.

82. 1803 agreed to the Commission Staff's recommendations in rebuttal testimony.

83. Dr. Dismukes dismisses the Commission Staff's recommendations as insufficient or too late to address the issues with the 1803 Portfolio. Commission Staff recommends an RFP process for energy management, with ACES bids being capped, but Dr. Dismukes believes this remedy is insufficient because the resources in the portfolio will have

already been approved. Further, Dr. Dismukes believes that the recommendations do not address the risks in the portfolio. Dr. Dismukes does not believe that the recommended construction management and monitoring programs will do anything except inform the Commission. In addition, some recommendations, such as outage insurance and risk management plans, are not accounted for in the economic evaluation.

84. Mr. Hayet counters that some of the costs were already included in the evaluation, and others are similar to after the fact reviews typically done by the Commission in certification proceedings, regardless whether the utility included the costs in the RFP evaluation.

85. As pointed out at the hearing, Cleco Cajun is also not regulated by the Commission and there are similar risks and costs associated with its proposals. In particular, the Cleco Cajun offerings: [redacted][26]

Market Purchases

86. There are approximately 100 MW of capacity to which no physical generation is assigned in the first five years of the 1803 Portfolio. This grows to around 350 MW in 2030.

87. 1803 could purchase 185 MW of capacity from Calpine starting from 2025-2030; this is already accounted for in the economic analysis.

88. Neither Mr. Painter nor Mr. Suhanic believe provisions for meeting the 100 MW capacity shortfall with physical generation is necessary, since they believe it is prudent to have flexibility to take advantage of new technologies in lieu of tying 1803 to specific generation.

[26] Confidential Version of 1803 Electric Cooperatives, Inc.'s Post-Hearing Brief, filed on November 29, 2021, at pg. 25.

89. Apart from purchasing capacity from Calpine, there are a number of other ways that 100 MW could be covered, such as firm capacity PPA, demand response, MISO's planning reserve auction, or a bilateral contract. However, given the risk associated with the potential for higher costs, particularly in extreme weather situations such as Winter Storm Uri in 2021, we find that the Calpine capacity could result in cost savings and mitigation of those risks through 2030.

90. Mr. Maguire, ACES' Executive Director of Resource Planning, developed the Phase 2A resource planning, and performed a 2030 and beyond study to look at what potential resource options for 1803 in 2030, when its five-year contracts expire. The conclusion of the study was that a combination of solar and battery storage starting in 2030 would be the most cost-effective option, leading to $115 million of savings relative to the 1803 Portfolio, without considering carbon costs. The savings could grow if carbon costs are factored in, possibly close to a billion dollars.

91. There were discussions at the hearing about the possibility of Louisiana utilities leaving MISO and what impact that could have on the availability of capacity purchases. While this is a serious concern, Mr. Hayet discussed other potential options were that to occur. Mr. Hayet stated that, while MISO is important, a MISO exit does not, in and of itself, change the amount of capacity available. Such an exit would add to the friction[27] of acquiring capacity, assuming that the utilities do not join another regional transmission organization such as the Southwest Planning Pool.

92. All else being equal, the 1803 Portfolio will add to grid reliability because it will result in capacity being added to the marketplace.

93. Mr. Hayet discussed the ELL 2015 IRP, which included a significant amount of unmet capacity in its long term resource plan, noting that no utility identifies all sources of its capacity during the planning process. ELL attempted to distinguish its resource planning process stating that it was an IRP and not a certification; however, we find that, through its 2019 Long Term RFP, 1803 did conduct a process similar to what would be done in an IRP.

94. Mr. Hayet points out that, since 1803 is a winter peaker, and MISO South utilities are summer peakers, all electric utilities benefit from having winter peaking utilities in MISO. 1803 can sell excess energy during the summer, when customers need it more; this even results in benefits to customers outside of MISO.

[27] That is, 1803 and other utilities would need to conduct bilateral contract negotiations, as opposed to relying on market purchases.

Modeling Inputs

95. While Cleco Cajun did not contest the four-step process or the economic evaluation itself, Cleco Cajun disputed many of the inputs into the models in Steps 1B through 2B, as set forth in more detail below.

96. To determine whether 1803 relied on overly optimistic forecasts and underestimated risk, Mr. Hayet considered three main categories of assumptions: price forecasts, stochastic distributions, and bid-specific data. Price forecasts included MISO capacity market costs, carbon dioxide costs, MISO spot market energy prices, and natural gas prices. After analysis, Mr. Hayet determined that the processes 1803 used to develop its forecasts were reasonable.

Forward Price Curves

Energy

97. ACES used forward curves based upon market experience and IHS Markit price fundamental forecasts to develop energy and gas price forecasts in both the carbon and no-carbon price scenarios. These forecasts are widely used in the industry: Mr. Painter testified that IHS Markit is an industry standard vendor that is also used by ELL in its IRP.

98. ACES blended the data from the two sources, transitioning from a future forecast to a fundamental-based forecast as these are preferred in the industry for long-term forecasts.

99. It is not unusual for utilities to rely on IHS Markit forecasts in bid evaluations and IRP analyses.

Natural Gas

100. For natural gas prices, ACES relied on NYMEX forward price data from March 1, 2020. Cleco Cajun also used ACES' assumptions with regard to natural gas prices.

101. Mr. Hayet and his colleagues at J. Kennedy and Associates compared 1803's gas price forecast with other publicly available data, and found that 1803's forecasts were within the range of other utility forecasts.

102. While there was no dispute regarding the historical price of natural gas or the forward curves for natural gas, there was some discussion regarding the volatility risk. Dr. Dismukes opined that gas prices will remain low and stable for the next several years.

103. Both the Magnolia and Cleco Cajun contracts have risk associated with the price of natural gas, but that risk is significantly higher with Cleco Cajun. Magnolia also has risk with regard to transportation and delivery.

Capacity

104. 1803 used the capacity-only bids received during the RFP to develop capacity forward curves, averaging the three bids to create a base case, then supplemented it with high and low cases.

105. Mr. Suhanic believes that the capacity curves used by ACES were reasonable and what the market expects.

106. Mr. Heidell testified that the costs assumed by ACES were too low. He then discussed four methods of developing capacity price curves but stated that two were inapplicable. One of the applicable methods was derived based on cost of new entry ("CONE"), which he estimated for both a CT and CC resource. With regard to this, he stated that the levelized cost of capacity will increase substantially between now and when new capacity is needed in 2030, but provided no detail. The second method is to derive a contract extension price (using the Magnolia contract as an example) but he was unable to do this because he was unable to sign the confidentiality agreement and access confidential data due to the nature of his work.

107. When Dr. Dismukes, who was able to review the confidential data, performed the capacity price estimate discussed by Mr. Heidell, he used the Exelon contract, a five-year contract, rather than the 20-year Magnolia contract, which 1803 believes overestimated the cost of a contract extension.

108. The hearing testimony regarding whether or not Mr. Heidell used CONE or net CONE (capital cost less revenues) was confusing. We find that net CONE is a more accurate reflection of the costs.

109. Mr. Hayet testified that while it is possible that 1803's capacity costs are understated, MISO capacity costs are extremely low and have been for many years. He believes the capacity costs assumed by Cleco Cajun are overstated, leading to the biggest change in the 1803 and Cleco Cajun estimates of costs.

110. In addition, the Exelon capacity offer is actually lower than 1803's assumptions regarding capacity costs, a very good indication that the projections were not too low.

1803 Overhead Costs

111. Cleco Cajun witnesses took a lot of exceptions to the 1803 overhead costs developed by Mr. Hobbs. They testified that the costs were understated, and then compared the costs to nine other cooperatives on a cost per MWH basis.

112. Mr. Suhanic disputed that the nine cooperatives in the sample used by Cleco Cajun witnesses were comparable, given that many owned generation and transmission resources. Even so, the cost per MWH that Dr. Dismukes deduced from Mr. Hobbs' budget was within the range of reasonable costs testified to by Mr. Heidell.

113. Nevertheless, Dr. Dismukes inexplicably testified that ACES' costs were low because they were less than the middle of Mr. Heidell's range.

Effective Load Carrying Capacity

114. According to Mr. Suhanic, to calculate the solar PPAs, ACES used effective load carrying capacity ("ELCC"), which is designed to look at renewables and calculate how much that contributes to grid and capacity reliability. Because wind and solar are intermittent generators, they cannot be given full credit for their nameplate. The more solar resources 1803 builds, the less capacity it gets from that solar in the analysis; if solar goes up, ELCC goes down and vice versa. ACES did not use a set value for ELCC, but instead set up a table which measures ELCC that changes with the amount of solar generation.

115. Dr. Dismukes testified that the [redacted] ELCC assumed by ACES is too high across the planning period. Dr. Dismukes and Mr. Heidell instead used 50% until 2028, 33% from 2028 to 2040, and 25% from 2040 to 2044 because there is less solar contribution as more solar generation is added. Because of this lower ELCC, 1803 will have to purchase more capacity in the market. According to Dr. Dismukes, this correction alone puts the Cleco Cajun bid up by $42 million.

116. Mr. Suhanic believes that the [redacted]

Carbon Dioxide Costs

117. The assumption of carbon dioxide regulations was not essential to the 1803 Portfolio selection in this proceeding. Nevertheless, when carbon dioxide costs were input into the model, the costs savings of the 1803 Portfolio became much greater.

118. Dr. Dismukes disputed the addition of any carbon dioxide costs and does not believe a "carbon tax" should be included at this point, because it is a political public policy issue and is unlikely to happen in Louisiana. He characterized the inclusion of carbon dioxide costs in the model as "making a decision" from a regulatory standpoint.

119. While it is true that carbon dioxide costs are speculative, and it is near impossible to know which way the political winds will blow over the next 20 years, accounting for the possibility of carbon regulation is not "making a decision" any more than assuming a certain gas price or capacity price is doing so. Likewise, the reference to a "carbon tax" is not indicative of a specific regulation: it is a proxy for some form of regulation that places greater costs as a result of governmental attempts at de-carbonization.

120. Mr. Heidell agrees that, in general, a portfolio that offers solar and natural gas is less susceptible to risk from carbon dioxide regulation than a gas-only portfolio. However, that does not necessarily reflect higher costs.

121. Mr. Hayet believes that it is prudent to give some consideration to carbon dioxide, because 1803 is planning for 20 years. Accounting for carbon, the selected portfolio confers even greater advantages.

Median vs. Mean

122. Dr. Dismukes changed the variable cost modeling, adjusting because in his opinion the ACES model seemed to be skewed because the results were concentrated. Further, Dr. Dismukes felt it more appropriate to adjust to the central tendency by using the median versus the mean. With this change made, the Cleco Cajun bid becomes $76 million lower.

123. According to Mr. Suhanic, the mean is more important because it captures the risk in all of the iterations. Mr. Suhanic disagrees with Dr. Dismukes' approach because the median only selects the most typical iteration. The mean, on the other hand, captures data from all 100 iterations.

Cleco Cajun Bids

124. Cleco Cajun submitted six proposals in total. During Phase 2, Cleco Cajun advanced three offerings given the portfolio numbers FRS-P2, FRS-P3, and PRS-P2. FRS-P2 is identified as Portfolio 1, FRS-P3 is identified as Portfolio 2, and PRS-P2 is identified as Portfolio 4. Cleco Cajun made an additional refresh bid during Phase 2, which was not given a portfolio number. Lastly, Cleco Cajun an unsolicited bid outside of the RFP process. None of these proposals were selected by 1803.

125. According to Dr. Dismukes, the proposals made by Cleco Cajun were designed to minimize economic, regulatory and performance risk. Dr. Dismukes testified that Cleco Cajun has more than enough existing physical generation to meet all of 1803's load, but instead 1803 has selected a portfolio that has a CCGT that has not been built yet, three solar resources that have not been built yet, and two short-term contracts.

126. Cleco Cajun did not present any witness with authority to bind Cleco Cajun, to enter into contracts on behalf of Cleco Cajun, or who had reviewed all of the proposals. Cleco Cajun's testimony was confusing regarding which proposal it was comparing to the 1803 Portfolio, at times even admitting that the comparison was really to a hypothetical full requirements service agreement and not to any of the specific proposals offered by Cleco Cajun.

127. The primary Cleco Cajun bid – FRS-P2 or Portfolio 1 – was considered a full requirements contract, but would not meet all of 1803's requirements when [redacted]. They will pay a [redacted]

128. Dr. Dismukes' "corrections" for additional costs to the 1803 Portfolio mean that the 1803 ratepayers would see a 32% decrease in their overall costs if Portfolio 1 were selected.

129. Mr. Painter disagreed with the notion that Cleco Cajun would be taking on all of the risks for which he added costs in his corrections. Specifically, Mr. Painter testified that [redacted], would be passed on to 1803 under Portfolio 1.

130. Mr. Hobbs believes that the fuel and delivery risks present in the 1803 selected portfolio are very similar to that of the Cleco Cajun full requirement service. The two biggest drivers of fuel risk are heat rate and exposure in the portfolio to natural gas, Portfolio 1 fully exposes 1803 to risk. By contrast, only about 70% of the 1803 selected portfolio

is exposed to fuel risk. Cleco Cajun's heat rate, when compared to the selected portfolio, means that it is less efficient than the selected portfolio.

131. Mr. Suhanic likewise criticizes Cleco Cajun's offerings. Portfolio 1 does not provide all the capacity 1803 will need over 20 years. Under Cleco Cajun's Phase 2 refresh bid, 1803 was allowed to bring third party solar to supply the remainder of the full requirements service being offered by Cleco Cajun, but the refresh bid exposes 1803 to ELCC risk. If the [redacted], then Cleco Cajun has [redacted]. Lastly, Cleco Cajun's offer is short on winter capacity. The energy industry has become more efficient over the years. Cleco Cajun locking 1803 into a long contract would prevent 1803 from taking advantage from those improvements.

Potential Bias

132. According to Dr. Cefalu, ACES had previously performed exemplary work for WST in the past, and thus was recommended to 1803 by WST. Other companies were considered, and ACES was ultimately selected.

133. Dr. Cefalu was satisfied with the thoroughness of ACES' process. ACES presented every proposal to the 1803 Board in a formal, organized fashion. ACES also made presentations to the individual cooperatives, including WST. The 1803 Board did not know that Cleco Cajun made a proposal during the RFP process until the contracts were approved.

134. Mr. Hill provided testimony on the progress of the RFP in the instant proceeding. He is a member of the 1803 Board, and was provided information by ACES throughout the RFP process. Mr. Hill confirmed that ACES presented full requirements offers, and presented them alongside partial requirement offers. None of the 1803 Board are experienced with risk management, and relied on ACES analysis.

135. According to Mr. Hill, ACES conducted the bid analysis for both 1803 and WST as separate entities. Mr. Hill presented ACES information to the WST Board. In presenting options to the WST Board, he and Dr. Cefalu made a recommendation based on information provided by ACES.

136. Mr. Painter testified that he has never heard anyone at ACES biasing a model to pick one contract over another. According to Mr. Painter, ACES is a non-profit LLC, operating on cooperative principles: return the profits to the member owners, which are

cooperatives. ACES has a service motive: their reputation is dependent on service. They do not have a profit motive.

137. Mr. Painter testified that ACES officer compensation is not based on the amount of business that exists in terms of membership and customers. As of now, none of the 1803 member cooperatives are ACES members, and 1803 itself is not a member.

138. Mr. Hayet testified that the RFP was conducted in an unbiased manner. All bid analyses were performed in a blind manner, so that neither the 1803 Board nor the ACES Portfolio Strategy and Analysis Team knew the identity of any bidders until the tentative selections were made. Mr. Hayet was involved throughout the process and saw no evidence to suggest that the bid evaluation process was unfair.

139. Dr. Dismukes explains that his concern with conflict of interest is that somebody advising 1803 makes their money in energy management. He believes the portfolio is too complex for a new cooperative that has never sold electricity to manage without external assistance.

140. Dr. Cefalu does not believe Cleco Cajun's unsolicited offer was made in good faith. He did not review the bid, but ACES did, and advised that it was not the best deal.

141. Mr. Heidell testified that the 1803 Portfolio involves risks that are managed under a full requirements contract such as: wholesale market price exposure, fuel procurement and price risk, short and long-term load forecast risk, generation outage risk, capacity risk, and credit risk.

Reliability

142. ELL Witness Daniel Kline admitted that Magnolia will "provide a helpful contribution to reliability in Amite South and is sufficient to meet 1803's share of the need for generation in Amite South."[28]

143. Mr. Kline discussed at length the importance of siting generation in the Amite South load pocket, and then admitted that none of the power stations Cleco Cajun indicated that it would use to reliably serve the 1803 load are locating in Amite South.

[28] Direct Testimony of Daniel Kline on Behalf of Entergy Louisiana, LLC Hr'g Exh ELL 2, at pg. 3.

144. Mr. Kline also admitted that the solar PPAs, while not located in Amite South, will "make a positive, but limited, contribution to reliability in the areas of Louisiana in which they are located."[29]

V. ANALYSIS

A. Whether the 1803 Portfolio in the Public Interest.

The Commission's 1983 General Order requires that Commission-regulated electric public utilities seek certification that the public convenience and necessity will be served prior to entering into long-term PPAs for the purchase of capacity or electric power. In this proceeding, 1803, on behalf of its five-member cooperatives, is proposing a slate of six PPAs of various lengths and types of resources which were selected out of approximately 200 proposals. Whether or not the 1803 Portfolio is in the public interest and should be certified in accordance with the Commission's 1983 General Order, and therefore each of the PPAs is prudent and eligible for cost recovery, depends upon whether 1803's decision-making process was reasonable, logical, and based upon available information and planning techniques.[30]

The Commission's analysis is two-fold. First, the Commission determines whether there is a need. If there is a need, the Commission then determines whether the process used to meet that need was reasonable and in the public interest.[31] In this matter, no party contested 1803's assertion that the 1803 Cooperatives have a combined capacity need of approximately 1,000 MW beginning in the year 2025. Therefore, the Commission can bypass the underlying question of need and proceed to a determination of reasonableness of the 1803's process for filling that need.

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[29] Direct Testimony of Daniel Kline on Behalf of Entergy Louisiana, LLC Hr'g Exh ELL 2, at pg. 9.
[30] *Id.* 85.

[31] Entergy Louisiana, LLC, Entergy Gulf States Louisiana, L.L.C. & Entergy Louisiana Power, LLC, No. U-33770, 2016 WL 7337362, at *13 (Dec. 14, 2016).

As discussed in more detail, *supra*, the 1803 Cooperatives currently have full requirements service power supply contracts, which will expire over the next three years. The 1803 Board identified ten objectives and sought the assistance of ACES in developing an RFP from which it could select resources to replace the current contracts, in the order of relative importance, as follows:

1. Reliably serving load at the lowest reasonable cost;
2. Minimize the potential volatility and market risk associated with 1803 rates;
3. Minimize cost exposure to future environmental regulations and unknown environmental mitigation and/or clean-up costs;
4. Minimize exposure to future cost increases passed through to 1803;
5. 1803 prefers fixed price contracts over cost-based contracts;
6. 1803 prefers a longer-term contract length, all else being equal;
7. Desirable counterparty creditworthiness;
8. Desired contract terms outlined in an appendix to the RFP;
9. Renewable generation attributes; and
10. The location of resources near load or in the same MISO Zone 9 and the State of Louisiana.

ACES, 1803's consultant, developed RFP documents with these objectives. The 1803 Board was involved in each step of the process, and ultimately selected the 1803 Portfolio based upon the analysis performed by ACES using the Board's objectives. 1803 received a robust response and undertook a four-step evaluation process to arrive at an optimal portfolio of resources. Commission Staff's long-time consultant was involved in every step of the process and found it to be reasonable.

Cleco Cajun, on the other hand, disputes the reasonableness of the process. Cleco Cajun, owner of the current La Gen PPAs which service the 1803 Cooperatives, offered several proposals into the RFP, and one unsolicited offer outside of the RFP process. All of Cleco Cajun's proposals were rejected, and Cleco Cajun alleges that its proposals were unfairly prejudiced in the RFP

evaluation. Cleco Cajun criticizes several aspects of the economic evaluation, and those are addressed in more detail, *infra*. As a general matter, however, we do not believe the RFP was biased or skewed against full requirements contracts, and we believe the evaluation was conducted in a fair and unbiased manner.

We point out that, of the other non-winning bidders, the only party contesting certification is ELL. ELL does not contest the economic evaluation, stating that "ELL's focus and recommendations in this docket regard resource adequacy and reliability. ELL takes no position on the economic issues raised by 1803, Cleco Cajun, and the Commission Staff, including the cost, operation or financial risks associated with the contracts for 1803's proposed resources."[32]

According to 1803, the 1803 Portfolio will provide reliable, efficient, diverse, and competitively-priced purchased power, and substantially contribute to MISO reliability due to their location within the MISO South region, particularly in MISO Zone 9. The 1803 Portfolio will add approximately 1000 MW of physical generation in Louisiana, including a significant portion in the transmission-constrained Amite South load pocket. 1803's economic analysis shows substantial savings when compared to the next favored portfolio and even greater savings if carbon dioxide regulations are implemented over the next 20 years.

When certifying generation resources, the Commission considers whether the selected resources are consistent with the utility's obligation to provide safe and reliable electric service at the lowest reasonable cost. The utility's resource supply plan and objectives, and whether the resources meet those objectives inform the Commission as to whether or not the acquisition is

[32] Post-Hearing Brief on behalf of Entergy Louisiana, LLC, filed on November 29, 2021, pg. 1, fn. 1.

reasonable. Likewise, the utility's competitive solicitation process, if conducted in accordance with the MBM Order, serves to demonstrate that the selection was made after careful consideration of comparable supply alternatives. While "lowest reasonable cost" is the ultimate objective, other factors deemed relevant may be considered such as project or contract risk attributes and fuel diversity.

This proceeding is somewhat unique in that most, though not all,[33] certification proceedings before the Commission have been single-resource certifications. Here, 1803 presents a slate of resources that were selected in a single RFP process in which various proposals were packaged for optimization. We believe that the information and planning techniques used by ACES in the RFP process and economic evaluation were reasonable and designed to achieve a result consistent with the objectives of the 1803 Board.

Although this is a certification proceeding, we find that 1803 undertook an evaluation akin to that required by the Commission's integrated resource planning rules.[34] While electric cooperatives are currently exempt from the IRP General Order, we think it is informative that the IRP General Order provides that the ultimate planning decisions remain with the utility, providing:

> Resource planning under these rules does not change the fundamental relationship between the utilities and the Commission. The IRP Rules do not mandate a specific outcome, nor do they mandate any specific investment decisions to be made. Resource planning should

[33] *See* LPSC Order No. U-27192-A, Entergy Louisiana, Inc. and Entergy Gulf States, Inc., ex parte. *In re: Joint Application Of Entergy Louisiana, Inc. And Entergy Gulf States, Inc. For Authorization To Participate In Contracts For The Purchase Of Capacity And Electric Power For The Summer Of 2003. See also* LPSC Order No. U-24889, Entergy Louisiana, Inc. and Entergy Gulf States, Inc., ex parte. *In re: Joint application of Entergy Louisiana, Inc. and Entergy Gulf States, Inc. for authorization to participate in contracts for the purchase of capacity and electric power for the summer of 2000;* LPSC Order No. U-26361, Entergy Louisiana, Inc. and Entergy Gulf States, Inc., ex parte. *In re: Joint application of Entergy Louisiana, Inc. and Entergy Gulf States, Inc. for Authorization to participate in contracts for the purchase of capacity and electric power for the summer of 2002.*

[34] LPSC General Order dated April 18, 2012 (*In re: Development and Implementation of Rule for Integrated Resource Planning for Electric Utilities* (hereinafter "IRP General Order").

> reflect each utility's unique circumstances and the judgment of its management, and each utility will continue to bear the full responsibility for the consequences of its decisions.[35]

Many of the concerns raised by Cleco Cajun concern the inputs into the models used to perform its economic evaluation. For the reasons stated more fully, *infra*, we do not believe the economic evaluation was biased or unfair.

Further, we disagree with Cleco Cajun's assertion that "the 1803 [Portfolio] must be lower cost than the Cleco Cajun proposals based on production cost modeling with appropriate assumptions."[36] First, whether or not assumptions are appropriate is a subjective determination. As with any resource certification proceeding, this proceeding and the analyses rely on assumptions related to uncertain future events. It is the nature of this type of proceeding that many assumptions are made including market forecasts and environmental regulations. The Commission must look at all of these factors and determine whether the assumptions that have been put forward are within a range of plausible assumptions.

ELL did not weigh in on the economic evaluation at all. ELL did raise serious concerns about reliability that are not taken lightly by this Commission. ELL's concerns are misplaced in this proceeding, however. ELL raises concerns about what could happen in the future if a policy is not implemented to require Louisiana utilities to have a minimal level of their physical generation in Louisiana. We do not think this is the standard for determining prudence. The Commission looks at a utility's decision-making based on the conditions that exist at the time. Currently, there is an excess of capacity in the MISO market, and we agree with 1803 when it

[35] *See* IRP General Order, *supra* note 35, Attachment A, pg. 1.

[36] Cleco Cajun Post-Hearing Brief, filed on November 29, 2021, pg. 5.

discusses offers being a better indication of market fluidity than projections. The robust response in the RFP including the offer from ELL and the multiple offers by Cleco Cajun suggest that there are no overriding concerns about the availability of capacity in the immediate future. Otherwise, it seems that it would be prudent for Cleco Cajun and ELL to retain such capacity for their own customers as well as the economic benefit that would be derived from a tight capacity market.

Further, the proposals by Cleco Cajun do require physical generation in Louisiana. The testimony at the hearing suggested that the capacity could come from the Cottonwood plant located in Texas. ELL did not take a position on the Cleco Cajun proposals versus the 1803 Portfolio so it is unclear whether they would find Portfolio 1 – Cleco Cajun's primary offer – superior to the 1803 Portfolio. The cross-examination of Mr. Hayet at the hearing, however, suggested that ELL considered Exelon's proposal unreliable, at least in part because Exelon is not regulated by the Commission. It is important to note, however, that Cleco Cajun is also not regulated by the Commission.

Nevertheless, Cleco Cajun and ELL raised important concerns during the proceeding that we believe should be addressed in the form of the following conditions, which were recommended by Mr. Hayet:[37]

1) Given that 1803 will be comprised of five LPSC-regulated electric member cooperatives with an aggregated load of over 800 MW, 1803 should be required to comply with the Commission's General Order for conducting Integrated Resource Planning.[38] In the case of 1803 and its Member Cooperatives, the exemption for cooperatives should be eliminated, and 1803 should be required to file its Request

[37] Mr. Hayet actually made six recommendations. However, the last recommendation directly applies to 1803's request for cost recovery addressed separately herein. The remaining recommendations have been modified to retain the intended conditions. For the entirety of Mr. Hayet's recommendations, which are accepted, *see* Hr'g Exh 4 *in globo*.

[38] *See* IRP General Order, *supra* note 35.

to Initiate IRP Process with the Commission within six months of receiving its certification in this docket. It should be clear that the Member Cooperatives would be full participants in the development of the IRP, including assisting in the development of current load forecasts used in the IRP analysis. 1803 should also be required to provide a timeline such that the completion of its IRP would occur within a year of filing its notification with the Commission.

2) When 1803 conducts its first IRP, 1803 should develop and file a risk management policy to be put in place in order to manage its risk exposure, including the costs of acquiring natural gas, MISO market capacity, and MISO market energy. As part of the risk management policy, the 1803 should investigate the costs and benefits of acquiring capacity outage insurance as protection in the event that the Magnolia CCGT generation station suffers significant outages. As the Commission's IRP General Order permits parties to participate in a utility's IRP, any party that has concerns about 1803's risk management policy will have the opportunity to file comments, and will have the opportunity to litigate issues pursuant to the dispute procedures discussed in Section 10(f) of the IRP General Order.

3) In the future, 1803 will have to hire an Energy Manager to manage its portfolio of resources, and ACES could potentially seek to be hired for that role. At the time that 1803 plans to hire an Energy Manager, it should do so using an RFP process, and should ACES decide to submit a bid to provide those services, there should be a requirement that its costs may not exceed the costs for those services identified in 1803's bid evaluation analysis.

4) The Commission should open a rulemaking [docket] and encourage participation by all interested stakeholders to consider if the LPSC should establish a capacity obligation policy containing requirements that go beyond those that have already been established by MISO and require that 1803 shall comply with rules without any grandfather protection.[39]

5) 1803 shall file, in this proceeding, quarterly monitoring reports, to begin 90 days after the issuance of a certification order in this proceeding, regarding the construction and applicable financing of the Magnolia CCGT and the solar PPAs. In addition, 1803 should file any significant developments within five days. Lastly, 1803 shall facilitate any site visits that Commission Staff deems necessary.[40]

[39] This condition contained language that the Commission require 1803's participation in the rulemaking; we do not believe this is necessary in order to apply any rules that may be established to 1803, without grandfather protection and therefore have removed that language.

[40] This condition was modified to remove informal reports to Commission Staff as we do not believe this is a good practice. 1803 is not precluded from having informal discussions with Commission Staff; however, these reports should be formally filed into this proceeding.

With these conditions, and based on the testimony and evidence from Mr. Hayet and 1803 witnesses in this matter, we believe the 1803 Portfolio, taken as a whole, serves the public convenience and necessity, subject to the aforementioned regulatory conditions.

Further, we conclude that each of the PPAs[41] in the 1803 Portfolio serves the public convenience and necessity, and is in the public interest. Therefore, we believe that the 1803 Portfolio is prudent, in accordance with the 1983 General Order. Specifically, Magnolia will be a highly efficient CCGT located in proximity to the critically-constrained MISO South Zone 9 load pocket known as "Amite South" and as such, will assist the reliability of the MISO South region. While there are risks associated with Magnolia, those risks are mitigated by the terms of the PPA as well as the monitoring requirements recommended by Commission Staff.

The three solar PPAs are fixed cost contracts with no escalation, providing a significant hedge against increases in capacity, fuel and transportation. Further, they are low cost resources with environmental attributes. Like Magnolia, there are risks associated with the construction of the solar facilities; however, those risks are mitigated by the conditions requested by Commission Staff, and the liquidated damages provision in the PPA.

The Exelon PPA will provide 27% or approximately 250 MW of 1803's capacity from 2025 to 2030. Exelon is a fixed cost contract that will be managed by Exelon. Unless, as was suggested by ELL at the hearing, Exelon defaults on its contract for nefarious reasons, the Exelon contract bears little risk for 1803.

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[41] The PPAs were filed into this proceeding in their entirety as required by Ordering Paragraph 2 of the 1983 General Order, subject to the confidentiality provisions of Rule 12.1 of the Commission's Rules of Practice and Procedure.

Finally, the Exelon PPA provides a call option for purchase of 185 MW of energy from the Pine Bluff Energy Center in Arkansas, an existing resource with a demonstrated track record of performance, which will serve as back-up generation if needed. In addition, the Commission could require 1803 to purchase capacity along with the call option if it is concerned that 1803 has unmet capacity in the portfolio. Since the cost to acquire the Exelon capacity is lower than the cost of market capacity purchases assumed in the RFP, this will not add costs to the 1803 Portfolio, and could act as a hedge if market prices increase.

B. Whether 1803 has complied with and met the requirements under the MBM Order, to the extent applicable, in seeking and selecting its proposed portfolio of agreements.

1803 undertook a rigorous RFP process and economic evaluation in this matter. The broad scope and reach of the RFP is evidenced by the robust response. No party has alleged that 1803 failed to meet the procedural requirements of the MBM Order. Cleco Cajun does, however, claim that the RFP was ambiguous as to whether or not tolling agreements, like the PPA with Magnolia, would be allowed. Our findings in this regard are detailed in Section IV, *infra*. [42] As stated below, we do not think Cleco Cajun was prejudiced by the potential ambiguity in the RFP documents.

In addition, Cleco Cajun lodged a general complaint that ACES was biased, and that the scorecard analysis was designed to lead to the selection of a portfolio rather than a full requirements contract. We think the portfolio versus full requirements service distinction made by Cleco Cajun is misleading, as three of the portfolios generated from the optimization analysis were full requirements service contracts that were assigned a portfolio number. There were many safeguards in the economic analysis to ensure that all portfolios were on a level playing field. This

[42] *See* Findings of Fact 14 - 18.

was attested to at the hearing by 1803 and Commission Staff witnesses, and we are unconvinced that the results are skewed simply because they did not land in Cleco Cajun's favor.

The economic evaluation involved a four-step process and over 100 iterations of potential outcomes and, even when adjusted for Cleco Cajun's "corrections," the 1803 Portfolio is still competitive. In addition, Dr. Dismukes' corrections are questionable in many instances. For instance, it is unclear why the 1803 overhead costs were unacceptable when they were in Mr. Heidell's range. It is also is unclear why he used the Exelon, rather than the Magnolia contract when estimating a contract extension price. Lastly, Dr. Dismukes admitted that he did not know if his use of the median rather than the mean was industry standard.

C. Whether all costs associated with each of the agreements in the 1803 proposed portfolio are deemed eligible for rate recovery by 1803 subject to 1803's affirmative obligation to prudently manage the agreements for the benefit of the 1803 Cooperatives and their members and to review and provide input into the administration and management of the agreements.

In accordance with paragraph 2 of Commission Order No. S-35709[43], rate recovery will be determined in a separate proceeding. Further, consistent with the testimony of Staff Consultant, Phil Hayet, the wholesale contracts between 1803 and the 1803 Cooperatives should be reviewed in that proceeding. Nevertheless, 1803 will be eligible for rate recovery of its prudent investments as a general rule, subject to 1803's affirmative obligation to prudently manage the agreements for the benefit of the 1803 Cooperatives and their members, and provide input into the administration and management of the agreements, consistent with any other requirements herein and any other applicable rules and regulations of the Commission.

[43] LPSC Order No. S-34303, 1803 Electric Cooperative, Inc, ex parte. *In re: Application for Recognition as a Regulated Public Utility.*

D. Whether all terms, conditions, rights, remedies, and limitations set forth in each of the agreements in the 1803 proposed portfolio should be approved, and whether it should be confirmed that 1803 shall not be responsible, beyond the remedies specified in the agreements in the 1803 Portfolio for the acts or omissions by the agreement counterparties and their employees and contractors in connection with the counterparties' ownership or operation of any facility, including, without limitation, their failure to deliver the products under the respective agreements and the resulting effects on 1803's rates, with 1803 being entitled to recovery of costs prudently incurred to address any such circumstances.

We decline to make such a pronouncement in this case. While Mr. Hayet recommended approval of 1803's request, he also recommended the addition of language that was approved when a similar request was made by ELL in Commission in Order Nos. U-34303[44] and U-34401[45], those were Commission decisions based on stipulated settlements. It is unnecessary to pre-determine at this time whether 1803 will be responsible for some unknown future event.

E. Whether the Commission should establish in the instant docket minimum physical capacity threshold requirements for LPSC-jurisdictional Load Serving Entities, and whether the 1803 portfolio meets such requirements.

We decline to establish minimum physical capacity threshold requirements in this proceeding. While we share ELL's concerns regarding grid reliability and the potential tightening of capacity that could occur if all regulated utilities relied on the market, given that the 1803 Portfolio will add physical capacity in the state, and specifically in MISO South Load Zone 9, we do not believe this is a concern in the current proceeding, and is one that should be undertaken in a generic rulemaking.

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[44] LPSC Docket No. U-34303, Entergy Louisiana, LLC, ex parte. *In re: Application for Authorization to Amend a Contract for the Purchase of Capacity and Electric Power from Occidental Chemical Corporation's Taft Facility.*

[45] LPSC Docket No. U-34401, Entergy Louisiana, LLC, ex parte. *In re: Application for Authorization to Participate in a Contract for the Purchase of Capacity and Energy from the Carville Energy Center.*

F. Whether the Commission, should it approve some or all of the 1803 portfolio, should condition its approval with a requirement that 1803 make an additional filing within 12 months that seeks certification of additional physical generation.

For the same reasons that we decline to respond to Item E in the affirmative, we decline to require such a filing. Should the Commission open a rulemaking and establish minimum physical capacity threshold requirements, it could require 1803 to make such a filing at that time, should it deem such a filing necessary.

G. Whether the Commission should open a rulemaking docket to modify the IRP General Order to remove the exemption for electric cooperatives.

The Commission should open a rulemaking docket to consider modifying the IRP General Order to remove the exemption for electric cooperatives. While we are aware of no reason to maintain the exemption, we will not prejudge the rulemaking or advise the Commission regarding the outcome of the rulemaking unless asked to do so, and only after notice and comment therein.

VI. CONCLUSION

The ALJ Recommendation was considered by the Commission at its January 25, 2022 B&E.

[PLACEHOLDER FOR COMMISSION VOTE]

IT IS HEREBY ORDERED THAT:

1. Subject to the following conditions, and based on the testimony, evidence and argument considered in this matter, we conclude that the 1803 Portfolio, taken as a whole, serves the public convenience and necessity, is in the public interest, and is therefore prudent in accordance with the 1983 General Order.

2. 1803 complied with met the requirements under the Commission's MBM Order.

3. In accordance with paragraph 2 of Commission Order No. S-35709, rate recovery will be determined in a separate proceeding. Further, consistent with the testimony of Staff Consultant, Phil Hayet, the wholesale contracts between 1803 and the 1803 Cooperatives

should be reviewed in that proceeding. Nevertheless, 1803 will be eligible for rate recovery of its prudent investments as a general rule, subject to 1803's affirmative obligation to prudently manage the agreements for the benefit of the 1803 Cooperatives and their members, and provide input into the administration and management of the agreements, consistent with any other requirements herein and any other applicable rules and regulations of the Commission.

4. We decline to establish minimum physical capacity threshold requirements in this proceeding and instead direct the Commission Staff to open a rulemaking consistent with this Order, without offering grandfather protection to 1803.

5. We direct the Commission Staff to open a rulemaking docket to consider modifying the IRP General Order to remove the exemption for electric cooperatives.

6. Notwithstanding the rulemaking docket above, 1803 shall file its Request to Initiate an IRP Process with the Commission within six months of receiving its certification in this docket with a timeline such that the completion of its IRP would occur within a year of filing its notification with the Commission.

7. When 1803 conducts its first IRP, 1803 should develop and file a risk management policy to be put in place in order to manage its risk exposure, including the costs of acquiring natural gas, MISO market capacity, and MISO market energy. As part of the risk management policy, the 1803 should investigate the costs and benefits of acquiring capacity outage insurance as protection in the event that the Magnolia CCGT Generation Station suffers significant outages. As the Commission's IRP General Order permits parties to participate in a utility's IRP, any party that has concerns about 1803's risk management policy will have the opportunity to file comments, and will have the opportunity to litigate issues pursuant to the dispute procedures discussed in Section 10(f) of the IRP General Order.

8. 1803 shall issue an RFP for an energy manager. The costs of any proposal submitted by ACES may not exceed the costs for those services identified in 1803's bid evaluation analysis.

9. 1803 shall file, in this proceeding, quarterly monitoring reports, to begin 90 days after the issuance of a certification order in this proceeding, regarding the construction and applicable financing of the Magnolia CCGT and the solar PPAs. In addition, 1803 should file any significant developments within five days. Lastly, 1803 shall facilitate any site visits that Commission Staff deems necessary.

10. This Order is effective immediately.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA

DISTRICT II
CHAIRMAN CRAIG GREENE

DISTRICT I
VICE CHAIRMAN ERIC F. SKRMETTA

DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL

DISTRICT III
COMMISSIONER LAMBERT C. BOISSIERE, III

BRANDON M. FREY
SECRETARY

DISTRICT IV
CHAIRMAN MIKE FRANCIS