

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER R-36263

LOUISIANA PUBLIC SERVICE COMMISSION, EX PARTE.

Docket No. R-36263, In re: Consideration of Whether the Commission Should Adopt Minimum Physical Capacity Threshold Requirements for Load Serving Entities.

(Decided at the June 19, 2024 Business and Executive Session.)

ORDER

I. BACKGROUND

This Docket was initiated by a *Notice of Rulemaking* filed on February 1, 2022, pursuant to Louisiana Public Service Commission (“LPSC” or “Commission”) Order No. U-35927, dated January 28, 2022, *1803 Electric Cooperative, Inc., ex parte. In re: Application for Approval of Power Purchase Agreements and for Cost Recovery* (the “1803 Order”), which directed LPSC Staff to open a rulemaking to determine whether a “capacity obligation policy” (referred to herein as a “Minimum Capacity Obligation” or “MCO”) should be established for electric utilities subject to LPSC jurisdiction. The *Notice of Rulemaking* was published in the Commission’s Official Bulletin #1264, dated February 4, 2022, for a 25-day intervention period.

Twenty-two parties participated in this Docket either through interventions, responses to discovery propounded by Staff, or comments to rules proposed by Staff (collectively, “Intervenors”): 1803 Electric Cooperative, Inc. (“1803”), Association of Louisiana Electric Cooperatives, Inc. (“ALEC”), Cabot Corporation (“Cabot”), Calpine Corporation (“Calpine”), Cleco Cajun, LLC (“Cleco Cajun”), Cleco Power LLC (“Cleco Power”), Concordia Electric Cooperative, Inc. (“Concordia”), Constellation Energy Generation, LLC (“Constellation”), Dixie Electric Membership Corporation (“DEMCO”), Entergy Louisiana, LLC (“ELL”), Jefferson Davis Electric Cooperative (“JDEC”), Louisiana Energy Users Group (“LEUG”), Lafayette Utilities System (“LUS”), Magnolia Power LLC, NextEra Energy Resources, LLC (“NEER”), Northeast Louisiana Power Cooperatives (“NELPCO”), Occidental Chemical Corporation (“Occidental”), Panola-Harrison Electric Cooperative, Inc. (“PHEC”), Pointe Coupee Electric Membership Corporation (“PC Electric”), Southern Renewable Energy Association (“SREA”), Southwest Louisiana Electric Membership Corporation (“SLEMCO”), and Southwestern Electric Power Company (“SWEPCO”). EP2 Consulting, LLC filed a notice to participate as an Interested Party.

On September 18, 2023, Staff issued its *Recommendation of Proposed Rule and Request for Comments* (“Initial Report”), which contained Staff’s Initial Proposed Rule. Eleven parties responded to the Initial Report with comments.¹ On March 21, 2024, Staff issued its *Recommendation of Modified Proposed Rule and Request for Comments* (“Second Report”), which contained Staff’s Modified Proposed Rule. The same 11 parties responded to the Second Report. After full consideration of the parties’ thorough input, Staff filed its Final Report into the record on June 6, 2024, addressing all issues raised throughout this proceeding, which included Staff’s proposed Final Rule establishing Resource Adequacy Obligations for Louisiana Electric Utilities – Midcontinent Independent System Operator, Inc. Region (the “Final MCO Rule”), with a redline comparison to the last version of the rule. The Final MCO Rule was considered at the Commission’s June 19, 2024 Business and Executive Session.

II. COMMISSION JURISDICTION

The Commission has been vested with the authority to regulate public utilities and common carriers and exercises jurisdiction in this proceeding pursuant to Article IV, Section 21(b) of the Louisiana Constitution of 1974, which 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 shall have other powers and perform other duties as provided by law.

The issues presented in this docket were initially raised in the 1803 Order, wherein the Commission declined to establish a minimum capacity threshold, while noting the concerns raised by parties.² Instead, the Commission directed the LPSC Staff to open a rulemaking to address the issue of a minimum capacity threshold:

... Commission Staff is directed to open a rulemaking docket to consider potential physical capacity threshold requirement, consistent with this Order, without offering grandfather protection to 1803.³

¹ The 11 parties responding to Staff’s Initial Report were 1803, Cleco Power, Concordia, DEMCO, ELL, JDEC, LEUG, NELPCO, PC Electric, SLEMCO, and SWEPSCO. Staff notes that 1803’s comments were filed on behalf of itself and four of its members: Beauregard Electric Cooperative, Inc. (“BECi”), Claiborne Electric Cooperative, Inc. (“Claiborne”), South Louisiana Electric Cooperative Association (“SLECA”), and Washington-St. Tammany Electric Cooperative, Inc. (“WST”). ALEC filed non-substantive comments stating that it agrees with the positions of its members, which members took different substantive positions.

² LPSC Order No. U-35927, dated January 28, 2022, *In re: Application for Approval of Power Purchase Agreements and for Cost Recovery*, page 46 (“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.”)

³ *Id.* This ordering language was based on the Administrative Law Judge’s Final Recommendation, which stated that “[t]he 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 the rules

Consistent with the 1803 Order, LPSC Order No. U-36133, dated November 10, 2022, and Order No. U-36135, dated November 10, 2022, concerning the capacity certification requests of DEMCO and JDEC, respectively, included the following language:

... Joint Applicants accept all risk of changes in Commission rules, specifically including a potential requirement for owned and/or contracted for generation being procured to meet future capacity needs.⁴

Thereafter, LPSC Order No. U-36514, dated November 7, 2023, Order No. U-36515, dated November 7, 2023, and Order No. U-36516, dated November 7, 2023, concerning the capacity certification requests of Concordia Electric Cooperative, Point Coupee Electric Cooperative, and Southwestern Louisiana Electric Membership Cooperative, respectively, included the following language:

...Joint Applicants accept all risk of changes in Commission rules, specifically including a potential requirement for owned and/or contracted for generation being procured to meet future capacity needs, without the benefit of grandfathering.

With regard to all of the aforementioned certifications, not only did the Orders contain the provisions provided above, but each utility within the Certification proceeding specifically agreed to be bound by any Commission rule which required owned and/or contracted-for generation being procured.

III. INTERVENOR PARTICIPATION

The parties participating substantively in this Docket through comments and written responses to discovery can be segregated into four groups: (1) the investor-owned utilities (Cleco Power, ELL, and SWEPCO), (2) the cooperative utilities (1803, ALEC, Concordia, DEMCO, JDEC, NELPCO, PHEC, PC Electric, and SLEMCO), (3) the end-use customers (LEUG and Occidental), and (4) and generation providers (Calpine, Cleco Cajun, and Constellation). The cooperative utilities' comments generally aligned along three groups based on the long-term capacity constructs recently approved by the Commission: (1) the 1803 Cooperatives, which consists of 1803, NELPCO, Beauregard Electric Cooperative, Inc., Claiborne Electric Cooperative, Inc., South Louisiana Electric Cooperative Association, and Washington-St. Tammany Electric Cooperative, Inc.; (2) the LREA Cooperatives, which consists of Concordia, PC Electric, and SLEMCO; and (3) DEMCO/JDEC.

without any grandfather protection.” *Final Recommendation of the Administrative Law Judge*, dated January 14, 2022, LPSC Docket No. U-35927 at 43.

⁴ LPSC Order No. U-36133, dated November 10, 2022, In re: Joint Application for Power Supply Agreements, page 18; LPSC Order No. U-36135, dated November 10, 2022, In re: Joint Application for Power Supply Agreement, page 17.

Overall, the comments ranged from outright opposition to the current implementation of a proposed rule to comments that the proposed rule was inadequate, and Staff considered all comments in its revisions to the Rule.

IV. STAFF'S ANALYSIS AND SUMMARY OF PROPOSED RULE

In addition to reviewing all comments and feedback submitted by Intervenors, Staff also reviewed the general principles of resource adequacy, including resource adequacy at the state level, resource adequacy in the Regional Transmission Organizations (“RTOs”), including the Midcontinent Independent System Operator, Inc. (“MISO”), and the Southwest Power Pool (“SPP”), as well as the resource adequacy experience in other states.

Staff also issued requests for information regarding the intervenors’ opinion on the state of resource adequacy in Louisiana, and based on the information provided, was able to prepare an outlook of resource adequacy, including an analysis of the physical resources in Louisiana over the 10-year planning horizon. The results of Staff’s analysis of the resource adequacy position of Louisiana-jurisdictional utilities was consistent with the results of analyses and information provided by the RTOs present in Louisiana, the annual 2023 Organization of MISO States-MISO Survey, the results from MISO’s 2024-2025 Planning Reserve Auction, the Federal Energy Regulatory Commission, and the North American Electric Reliability Corporation’s (“NERC”) Summer Reliability Assessment – that there are clear concerns regarding the future of resource adequacy.

The Final Rule meets the core reliability objective intended, while balancing the interest of the active participants in this docket. It requires all Louisiana Load Serving Entities (“LLSEs”) to make an annual Required Resource Adequacy Demonstration, setting forth that it has sufficiently planned to procure the required capacity for the applicable planning years. Beginning with the demonstration date of February 1, 2029, the required capacity percentage shall be 90% for each applicable planning year. This requirement currently applies only to those LLSEs in the MISO footprint, as SPP requires that each load serving entity make a showing that it can cover 100% of its projected load obligations with owned resources or power purchase agreements. Although this rule only requires a demonstration for the acquisition or procurement of up to 90% of an LLSE’s Applicable Planning Reserve Margin Requirement (“PRMR”), the purpose of the rule is for every utility to prudently plan to supply 100% of its Applicable PRMR with Qualified Capacity Resources, with the flexibility to occasionally procure less due to the lumpiness of capacity investment. The 10% variance is an allowance to account for the variable nature of year-to-year capacity investment,

such that it is recognized that there may be years where 90% is part of an overall prudent capacity procurement plan.

At this time, this rule does not impose specific restrictions on the location of a Qualified Capacity Resource; however, should the Commission determine that excessive reliance upon remote generation is threatening the reliability of electric service to Louisiana customers, or that the public interest otherwise is compromised by such reliance, the Commission has authority to impose a locational requirement, which could require that Qualified Capacity Resources (or some portion of them) be located in MISO South or another local zone.

Staff will review each LLSE's annual Required RA Demonstration and issue a report to the Commission by October 1 of each year outlining its review of the LLSE's compliance with the requirements of this Order. Additionally, by December 15 of each year, Staff will prepare an assessment of the aggregate resource adequacy of LPSC-jurisdictional utilities based on the information provided in compliance with this rule and other reasonably available information as the LPSC Staff may determine appropriate

Additionally, the Commission considered modifications to its General Order dated May 31, 2022 (R-34758) In re: Timely Disclosure of Facts and Notices, Regarding Such Matters as MaxGen Alerts, to Commission and Commissioners, and Related Matters (the "MaxGen Order"), after consideration of those issues was transferred to this rulemaking. Staff recommended changes to the MaxGen Order and several parties provided comments to those changes, which helped to further advance the discussion and ultimate recommendation; however Staff determined that approval of the final MaxGen reporting requirements would be more appropriately finalized in Docket No. R-34758. Therefore, Staff recommended that its proposed edits to the MaxGen Order be returned to and considered in that docket.

V. COMMISSION CONSIDERATION

This matter was considered at the Commission's June 19, 2024 Business and Executive Session. After discussion, Commissioner Greene made the following motion:

I move to adopt Staff's proposed rule with a modification. The definition of Applicable PRMR under the proposed rule should be modified to align it with the Planning Reserve Margin Requirement that is set by MISO and already separately defined in Staff's proposed rule. As such, I move that the definition of "Applicable PRMR" be modified to state that the Applicable PRMR is "each Louisiana Load Serving Entity's MISO PRMR." In connection with this change, Staff should modify the exhibit to the proposed rule such that the details of the calculation of Applicable PRMR are set

out to include the Company's peak load requirement, the planning reserve margin utilized, the coincident factor utilized, and the loss factor utilized.

Commissioner Skrmetta made a substitute motion to further modify Staff's Proposed Rule to change the LPSC Required Capacity percentage to 100% for each Applicable Planning Year. Commissioner Skrmetta's substitute motion failed for lack of a second.

On motion of Commissioner Greene, seconded by Chairman Francis, with Commissioner Campbell and Commissioner Skrmetta concurring, and Vice Chairman Lewis opposing, the Commission voted to accept Staff's Final Report and Recommendation of Final Rule filed into the record on June 6, 2024 with Commissioner Greene's amendment.

THEREFORE, IT IS ORDERED:

1. Staff's Final Report and Recommendation of Final Rule filed into the record on June 6, 2024, with the modifications made at the June 19, 2024 Business and Executive Session is adopted, as reflected in Attachment A hereto.
2. Staff's proposed edits to the MaxGen Order shall be returned to and considered in Docket No. R-34758.

This order is effective immediately.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
July 16, 2024



/S/ MIKE FRANCIS
DISTRICT IV
CHAIRMAN MIKE FRANCIS

OPPOSED
DISTRICT III
VICE CHAIRMAN DAVANTE LEWIS

/S/ FOSTER L. CAMPBELL
DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL

/S/ ERIC F. SKRMETTA
DISTRICT I
COMMISSIONER ERIC F. SKRMETTA

/S/ CRAIG GREENE
DISTRICT II
COMMISSIONER CRAIG GREENE

A handwritten signature in blue ink that reads "Brandon M. Frey" followed by a stylized flourish.

BRANDON M. FREY
SECRETARY

ATTACHMENT A

**RULES REGARDING RESOURCE ADEQUACY OBLIGATIONS FOR
LOUISIANA ELECTRIC UTILITIES
MIDCONTINENT INDEPENDENT SYSTEM OPERATOR, INC. REGION**

LOUISIANA PUBLIC SERVICE COMMISSION
RESOURCE ADEQUACY OBLIGATIONS FOR
LOUISIANA ELECTRIC UTILITIES
MIDCONTINENT INDEPENDENT SYSTEM OPERATOR, INC. REGION

PURPOSE

The Louisiana Public Service Commission (“LPSC”) establishes the following rule to ensure that all LPSC-jurisdictional electric utilities provide adequate capacity resources to meet their customers’ load requirements and therefore ensure safe and reliable service to Louisiana citizens and ratepayers.

AUTHORITY

Article IV, Section 21 of the Louisiana Constitution of 1974 provides the Commission with the following authority:

Powers and Duties. 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 shall have other powers and perform other duties as provided by Law.

Consistent with the above authority, the Commission has adopted rules and regulations through Commission Orders that apply to utilities in general, and in some instances, electric utilities specifically. The blanket authority to regulate public utilities granted above; however, is not absolute, as it is subject to the following limitations regarding utilities owned, operated, or regulated by a political subdivision:

Limitation. The Commission shall have no power to regulate any common carrier or public utility owned, operated, or regulated on the effective date of this constitution by the governing authority of one or more political subdivisions, except by the approval of a majority of the electors voting in an election held for that purpose; however, a political subdivision may reinvest itself with such regulatory power in the manner in which it was surrendered. This paragraph shall not apply to safety regulations pertaining to the operation of such utilities.

SECTION 100. PREAMBLE

To ensure continued resource adequacy and reliability in Louisiana, it is the policy of the Louisiana Public Service Commission that all Louisiana Load Serving Entities (“LLSEs”) operating in the Midcontinent Independent System Operator, Inc. (“MISO”) Regional Transmission Organization (“RTO”) engage in long-term resource planning with the objective to own or procure an amount of Qualified Capacity Resources that, for each LLSE, is equal to its Applicable Planning Reserve Margin Requirement (“PRMR”) for each Planning Year. This rule furthers this policy by providing greater transparency into the resource planning of LLSEs and requires an advanced demonstration of capacity procurement plans that are based on Qualified Capacity Resources.

Nothing in this rule is intended to support the particular type of Qualified Capacity Resources selected by a utility for compliance with the rule (i.e., Generating Resource, Purchased Power Agreement, Demand Response Resource, Energy Efficiency Resources, or Other Resource). As such, no utility may cite this rule as the basis for or in support of the selection of a particular type of resource and the Commission will give no weight to any attempt to do so.

Although this rule only requires a demonstration for the acquisition or procurement of up to 90% of an LLSE’s Applicable PRMR, the purpose of the rule is for every utility to prudently plan to supply 100% of its Applicable PRMR with Qualified Capacity Resources, with the flexibility to occasionally procure less due to the lumpiness of capacity investment. The 10% variance is an allowance to account for the variable nature of year-to-year capacity investment, such that it is recognized that there may be years where 90% is part of an overall prudent capacity procurement plan.

At this time, this rule does not impose specific restrictions on the location of a Qualified Capacity Resource. The Commission, however, has required that its Staff report information regarding the location of the Qualified Capacity Resources relied on by utilities to comply with the rule. The Commission will monitor this reporting and, to the extent the Commission determines that excessive reliance upon remote generation is threatening the reliability of electric service to Louisiana customers, or that the public interest otherwise is compromised by such reliance, the Commission has authority to impose a locational requirement, which could require that Qualified Capacity Resources (or some portion of them) be located in MISO South or another local zone. LLSEs will not be allowed an automatic exemption from any such locational requirements based on assertions of reliance on the provisions in the rule as currently enacted.

SECTION 101. DEFINITIONS

- 1.) **Applicable PRMR**: The Planning Reserve Margin Requirement to be used in complying with the annual Required RA Demonstration required by this Order and is to be derived utilizing the LLSE’s MISO PRMR.
- 2.) **Applicable RTO**: The Regional Transmission Organization , as approved by the Federal Energy Regulatory Commission, that an LLSE participates in as a Load Serving Entity, Load Responsible Entity, or Generator Owner. At the time of this Order, MISO is the only Applicable RTO.
- 3.) **Applicable Planning Year**: An Applicable Planning Year is any one of the four Planning Years which are included in each annual Required RA Demonstration. The First Applicable Planning Year of each annual Required RA Demonstration shall be the planning year that begins immediately after the filing date required for the Required RA Demonstration, with the first Applicable Planning Year being the 2025/2026 Planning Year beginning on June 1, 2025, following the first annual Required RA Demonstration Filing Date of May 1, 2025. The Second, Third, and Fourth Applicable Planning Year of each Required RA Demonstration Filings shall be the successive following three Planning Years following the First Applicable Planning Year. For example, for the first annual Required RA Demonstration Filing, the 2026/2027 Planning Year is the Second Applicable Planning Year, the 2027/2028 Planning Year is the Third Applicable Planning Year, and the 2029/2030 Planning Year is the Fourth Applicable Planning Year.

- 4.) CONE: The Cost of New Entry as determined by the Applicable RTO and as approved by the Federal Energy Regulatory Commission.
- 5.) Generator: Any generating or generation facility, including a storage resource.
- 6.) Louisiana Load Serving Entity (“LLSE”): A Louisiana electric utility regulated by the LPSC.
- 7.) LPSC Required Capacity: The amount of resource capacity required for each Applicable Planning Year in each annual Required RA Demonstration, which amount shall be calculated as a percentage (%) of each LLSE’s Applicable PRMR with such percentage amounts provided in the table below for each Applicable Planning Year for the Required RA Demonstration dates through 2030.

		DEMONSTRATION DATE					
		5/1/2025	5/1/2026	5/1/2027	5/1/2028	5/1/2029	5/1/2030
APPLICABLE PLANNING YEAR	PY						
	25/26	90%					
	26/27	50%	90%				
	27/28	30%	50%	90%			
	28/29	30%	50%	75%	90%		
	29/30		30%	50%	75%	90%	
	30/31			50%	75%	90%	90%
	31/32				75%	90%	90%
	32/33					90%	90%
	33/34						90%

As illustrated in the table above, beginning with the Demonstration Date of May 1, 2029, the LPSC Required Capacity Percentage shall be 90% for each Applicable Planning Year in each annual Required RA Demonstration thereafter.

- 8.) MISO: The Midcontinent Independent System Operator, Inc., which serves as the regional transmission organization for a portion of load in the state of Louisiana.
- 9.) MISO PRMR: The Planning Reserve Margin Requirement established by MISO.
- 10.) Planning Year: The period by which the Applicable RTO measures its resource adequacy obligations. At the time of this order, the MISO Planning Year begins on June 1 and ends on May 31. The MISO Planning Year is separated into the following planning seasons: Summer (June-August), Fall (September-November), Winter (December- February), and Spring (March-May).
- 11.) Planning Reserve Margin Percentage (“PRM%”): A percentage number determined by each Applicable RTO which represents the percentage amount of capacity that an LLSE must provide in excess of its projected peak load.
- 12.) Qualified Capacity Resource: The types of resources that are eligible to fulfill the LPSC Required Capacity are limited to the following resource types and collectively referred to as “Qualified Capacity Resources”:
 - a. Generating Resource: An identified Generator that, based on the information provided pursuant to Section 205 of this rule, is reasonably projected for the Applicable Planning Year to be either: (1) owned or co-owned by the LLSE and its capacity dedicated to serving the LLSEs load (i.e., the Generator is not contracted to provide its capacity to another entity or otherwise committed to provide its capacity in any form other than to the LLSE); or (2) not owned or co-owned by the LLSE, but contracted for under a Purchased Power Agreement with the LLSE as defined herein.
 - b. Purchased Power Agreement: A contract that entitles the LLSE to exclusive use of the capacity, or a portion of the capacity, from a Generating Resource for an Applicable Planning Year (i.e., the Generator is not contracted to provide the identified capacity to another entity or otherwise committed to provide that capacity in any form other than to the LLSE) Such a contract

can be a direct contract for the capacity between the owner of a Generating Resource and an LLSE or can be a contract for the procurement of a future MISO Zonal Resource Credit (“ZRC”) of a Generating Resource that will be used to satisfy the LLSE’s MISO PRMR for an Applicable Planning Year, provided that the counterparty has legal ownership or control of the capacity associated with the Generating Resource to be able to legally obligate the transfer of such future ZRC and that the counterparty has not contracted to provide that future ZRC to another entity or otherwise committed that future ZRC in any form other than to the LLSE. Further, such contract can be an existing contract with a party that owns or controls a fleet of Generating Resources where the contract provides that future ZRCs related to the Generating Resources of such fleet will only be transferred on an annual basis, prior to the PRA each year, from any one of its Generating Resources in the fleet provided that the counterparty has enough ZRCs available from its fleet to meet all contracted-for obligations.

- c. Demand Response Resource: A demand response resource (or set of aggregated resources) that is currently qualified to participate in the Applicable RTO’s resource adequacy construct for the most recent Planning Year and is under contract to provide demand response to the LLSE making the Required Adequacy Demonstration during the Applicable Planning Year. A Demand Response resource that has not been qualified to participate in the Applicable RTO’s resource adequacy construct for the most recent Planning Year may request to be considered as Qualifying Capacity, but the requesting party must make an adequate demonstration to the Commission’s satisfaction that (i) there is no double counting in regard to being counted as both a reduction of load and an accredited resource; (ii) the demand response resource will be able to be accredited for the projected accredited value being requested for consideration; and (iii) that such demand response resource will be available in the Applicable Planning Year.
- d. Energy Efficiency Resource: An energy efficiency resource that is currently qualified to participate in the Applicable RTO’s resource adequacy construct for the most recent Planning Year and is under contract to provide its capacity value to the LLSE during the Applicable Planning Year. An energy efficiency resource that has not been qualified to participate in the Applicable RTO’s resource adequacy construct for the most recent Planning Year may request to be considered as Qualifying Capacity, but the requesting party must make an adequate demonstration to the Commission’s satisfaction that (i) there is no double counting in regard to such resource being counted as both a reduction of load and an accredited resource; (ii) the energy efficiency resource will be able to be accredited for the projected accredited value being requested for consideration; and (iii) that such energy efficiency resource will be available in the Applicable Planning Year.
- e. Other Resource: An LLSE may request that the LPSC grant qualification status to a new type of proposed capacity resource by making a demonstration satisfactory to the LPSC for such qualification. Any such request needs to include the information that will be required to be included in the affidavits required by Section 205.

In addition to the foregoing, to be considered a Qualified Capacity Resource, each LLSE will have to provide the required information and affidavits related to such capacity further required by Section 205 of this rule.

- 13.) Required RA Demonstration: The annual demonstration required by Section 201 of this rule for each LLSE to demonstrate that it has sufficiently planned to procure the LPSC Required Capacity in each of the four sequential Applicable Planning Years following the filing date of the demonstration.

- 14.) Responsible LLSE Representative: An individual who is authorized to act on behalf of the LLSE and to assume responsibility for the obligations imposed by this rule.

SECTION 201. REQUIRED RESOURCE ADEQUACY DEMONSTRATION

All LLSE's are required to annually make the Required RA Demonstration to the LPSC setting forth that it has sufficiently planned to procure the LPSC Required Capacity for the Applicable Planning Years of such demonstration. The Required RA Demonstration shall be made in the form of a filing submitted annually on or before May 1. The first filing shall be made on or before May 1, 2025. If the Applicable RTO includes a seasonal resource adequacy construct for the Applicable Planning Year, the Required RA Demonstration shall include a demonstration for each of the seasons as defined under the Applicable RTO Tariff.

If, for the third or fourth Applicable Planning Year, an LLSE is unable to make the Required RA Demonstration, it may seek compliance with this order by showing, with adequate support, that

- 1.) it is in the midst of an RFP process that has solicited only Qualified Capacity Resources;
- 2.) that the RFP-required in-service-dates of Qualified Capacity Resources would allow for compliance with this rule; and
- 3.) that the LLSE has received sufficient responses to its RFP that would allow for compliance with this rule.

SECTION 202. FORM OF RESOURCE ADEQUACY DEMONSTRATION

The information required for the annual Required RA Demonstration shall be provided in the form outlined in Exhibit 1 to this rule.

SECTION 203. APPLICABLE PRMR AND RELATED INFORMATION

For purposes of the Required RA Demonstration, the Applicable PRMR shall coincide with the LLSE's MISO PRMR and be determined using

- 1.) the LLSE's load forecast for each season in each of the four Applicable Planning Years, and
- 2.) the seasonal PRM% most recently set by the Applicable RTO under its tariff approved by the Federal Energy Regulatory Commission;
- 3.) the LLSE's coincident factor to align its seasonal load forecast with the seasonal coincident peak demand established by the Applicable RTO;
- 4.) the transmission loss factor set by the Applicable RTO under its tariff approved by the Federal Energy Regulatory Commission.

If the Applicable RTO administers a capacity market using sloped seasonal demand curves, rather than vertical demand curves, the PRM% shall correspond to a 1-in-10 reliability level in each season. Staff and each LLSE will obtain such values from the Applicable RTO or, if necessary, estimate such values using information published by the Applicable RTO. Any discrepancies between the PRM% utilized by the LLSE and the Staff in this instance will be evaluated and resolved as part of Staff's review of the LLSE's Required RA Demonstration.

SECTION 204. CAPACITY ACCREDITATION

In determining the MW capability of a Qualified Capacity Resource, each LLSE shall utilize the following methods of capacity accreditation:

- 1.) For existing capacity resources, each LLSE's Required RA Demonstration should reflect the MW capacity of such existing resource as determined by the applicable RTO for the upcoming Planning Year. Any proposed deviations from that amount of accredited capacity must be adequately supported and justified and attested to by a Responsible LLSE Representative and accepted by the Commission.
- 2.) For a capacity resource yet to be accredited by an RTO, the LLSE must submit its projection of what the Applicable RTO accredited MW capacity will be based upon the RTO's class average accreditation value for that type of Qualified Capacity Resource. Such submission must be adequately supported and attested to by a Responsible LLSE Representative and accepted by the Commission. In the alternative, an LLSE may submit a projection of what the Applicable RTO accredited MW capacity will be that is based upon something other than the RTO's class average accreditation value for that type of Qualified Capacity Resource, provided that such submission is adequately supported and attested to by a Responsible LLSE Representative and accepted by the Commission.

SECTION 205. REQUIRED AFFIDAVITS AND RELATED INFORMATION

The Following affidavits from a Responsible LLSE Representative shall be provided with each Required RA Demonstration along with related information.

- 1.) Load Forecast Projections

The Company's load forecasts for each of the seasons of each of the Applicable Planning Years shall be accompanied by an affidavit from a Responsible LLSE Representative confirming that the load forecast presented in the resource adequacy demonstration was developed by the Company in its normal course of business and shall include a description of the process by which it was developed.

- 2.) Generating Resources Currently in Service

For any Generating Resource currently in service, the LLSE shall submit an affidavit from a Responsible LLSE Representative that provides:

- a. The name and location of the Generating Resource;
- b. Verification of the percent of ownership that the LLSE has in the Generating Resource;
- c. The amount of capacity that was accredited to the Generating Resource by the Applicable RTO for the most current Planning Year; and
- d. The estimated accredited capacity that the LLSE expects for the Generating Resource from the Applicable RTO for all Applicable Planning Years of each annual Required RA Demonstration, if the LLSE has reason to believe the accredited capacity for such Planning Years will differ materially from that which was accredited for the most recent Planning Year.

- 3.) Generating Resources Not Yet in Service

For Generation Resources that are yet to be in service, the LLSE shall submit an affidavit from a Responsible LLSE Representative that provides:

- a. The location of the planned Generating Resource;

- b. Verification of the percent of ownership that the LLSE will have in the Generating Resource for each season of each Applicable Planning Year of each annual Required RA Demonstration.
- c. The expected installed capacity of the Generating Resource;
- d. The estimated accredited capacity that the LLSE expects for the Generating Resource for all Applicable Planning Years included in each annual Required RA Demonstration; and
- e. A narrative description of the plans for constructing the Generating Resource, including milestones such as planned in-service date, expected regulatory approval date(s), planned date to enter the Applicable RTO generator interconnection queue, expected date for MISO generator interconnection agreement, and construction timeline. This information shall continue to be submitted as part of the LLSE's annual Required RA Demonstrations until the facility is in service. Additionally, the LLSE's annual Required RA Demonstrations shall include documentation of any filings made to the Commission for the planned Generating Resource.

4.) Demand Response and Energy Efficiency Resources

For any identified Demand Response Resource (or set of aggregated resources) or Energy Efficiency Resource for which an LLSE seeks credit as part of its Required RA Demonstration, the LLSE shall submit an affidavit from a Responsible LLSE Representative that provides:

- a. Confirmation that the identified resource has not been included in the LLSE's load projections to reduce that load obligation;
- b. The amount of capacity that was accredited for the identified resource by the applicable RTO for the upcoming Planning Year;
- c. The estimated accredited capacity that the LLSE expects for the Demand Response or Energy Efficiency Resource from the applicable RTO for all Planning Years included in each annual Required RA Demonstration;
- d. A copy of the contract pursuant to which the identified resource is responsible to provide load reduction; and
- e. Confirmation that the resource identified is located within the LLSE's service area (i.e., is supported by demand response or energy efficiency from current customers of the LLSE).

5.) Demand Response and Energy Efficiency Resource Not Currently Accredited

If the Demand Response Resource or Energy Efficiency Resource is not currently accredited by the Applicable RTO, the LLSE is making its request for consideration shall also include in its affidavit a narrative description outlining:

- a. Its plans to achieve the level of accreditation proposed for each of the Applicable Planning Years of each annual Required RA Demonstration;
- b. Specific plans to have the identified resource qualified and accredited by the Applicable RTO, and;
- c. Any retail tariffs or customer contracts associated with the newly identified demand response or energy efficiency resources, with copies provided of such tariffs or contracts.

SECTION 301. LPSC REVIEW AND COMPLIANCE

The LPSC Staff will review each LLSE Required RA Demonstration and issue a report to the Commission by October 1 outlining its review of the LLSE's compliance with the requirements of this Order. During its review period, Staff may issue data requests to the filing LLSE seeking additional information or clarification of the information provided. Such data requests shall be responded to by the LLSE within 15 days of the issuance of the requests.

1.) Staff Determination that RA Demonstration is Compliant with this Order

- a. If LPSC Staff's review of the Required RA Demonstration determines that an LLSE has demonstrated that it is adequately planning to provide the LPSC Required Capacity in the Applicable Planning Years pursuant to the requirements of this Rule, it will verify that in its report.
- b. Once the Commission has determined that the Required RA Demonstration made by an LLSE is sufficient, that sufficiency determination will not be altered by future unforeseen circumstances, including unplanned outages at a generating resource owned or contracted for by the LLSE and variations in the LLSE's load obligations. The Commission, however, maintains the authority to review a LLSE's compliance with this rule based on subsequent actions or decisions of the LLSE that might display non-compliance based on the LLSE's initial RA Demonstration filing and the information provided therein.

2.) Staff Determination that RA Demonstration is Not Compliant with this Order

- a. If the LPSC Staff's review determines that an LLSE has failed to demonstrate that it is adequately planning to provide the LPSC Required Capacity in the Applicable Planning Years pursuant to the requirements of this Rule, the LPSC Staff's report to the Commission will note such determined failure, and the LLSE's non-compliance with this order. Further, if Staff is unable to make a determination of compliance based on an LLSE's failure to cooperate in the filing or discovery process, its RA Demonstration filing will be deemed non-compliant.
- b. Upon the Commission determining that an LLSE's Required RA Demonstration does not demonstrate that the LLSE is planning on providing the LPSC Required Capacity in the Applicable Planning Years, the Commission will issue a separate order opening a docket and directing the non-compliant LLSE to not later than ninety (90) days after the date of that Commission order, file for approval with the Commission a plan to supply the LPSC Required Capacity, which plan shall include a proposed timeline for acquisition of necessary capacity and proposed compliance with the requirements of the Commission's 1983 General Order and its Market Based Mechanisms Order.
- c. Within the docket opened pursuant to Section 301(2)(b), the LPSC shall assess a regulatory fee against such non-compliant LLSE for the Planning Year seasons in which the non-compliance is not or cannot be cured. This fee will not exceed two times CONE (as published by the RTO at the time) for the unremedied short position in the Applicable Planning Year seasons that maintains the shortage. Within that proceeding, the LLSE may seek to reduce or avoid the regulatory fee by demonstrating good cause why it was unable to comply with this Order. Absent good cause shown, the Commission will impose a regulatory fee as specified hereinabove. Also, within that proceeding, the Commission will determine how the proceeds received from the collection of the assessed regulatory fee may be allocated to complying LLSE's, if the Commission were to find such an allocation just and reasonable. All parties retain their rights to challenged the just and reasonableness of any such allocation decision.
- d. If a non-compliant MISO LLSE fails to make the compliance filing ordered pursuant to Section 301(2)(b) within 90 days of the Commission's ruling of non-compliance with this Rule, the Commission shall assess a regulatory fee against such non-compliant LLSE, which fee would not exceed two times CONE (as published by the RTO at the time) for the projected short position in the Applicable Planning Year seasons in which the LLSE was deemed non-compliant.

- e. Further, if it is observed by the Commission that a LLSE, without justification, procures capacity in an actual Planning Year in a manner that is materially different from the Qualified Capacity Resources that were demonstrated for such Applicable Planning Year in the most recent annual Required RA Demonstration, the Commission may open a docket to impose any fee, cost or penalty it finds just and reasonable for a violation of the LLSE's attestation.

SECTION 401. CONFIDENTIALITY

Any confidential information required to be provided under this Order may be provided to the LPSC and its Staff pursuant to Rule 12.1 of the Commission's Rules of Practice and Procedure. The information provided to the Commission and its Staff pursuant to Rule 12.1 shall remain only viewable by the Commission and its Staff that have executed the necessary Non-Disclosure and Confidentiality Agreements.

In providing documents to support compliance with the rule, including contractual documents, an LLSE may redact information that is irrelevant to the Commission's determination of compliance with the rule; however, the Commission and its Staff may challenge such redaction if it determines that the information is necessary to its determination of compliance.

SECTION 501. LPSC STAFF REPORT ON RESOURCE ADEQUACY

Annually by December 15, LPSC Staff will prepare an assessment of the aggregate resource adequacy of LPSC-jurisdictional utilities based on the information provided in compliance with this rule and other reasonably available information as the LPSC Staff may determine appropriate (e.g., forecasts, plans, or survey data published by the Applicable RTO or its state regulators, NERC, or utility integrated resource plans). Such assessment will include, at a minimum, information on the aggregate resource adequacy of LPSC-jurisdictional utilities for the current Planning Year, the Applicable PRMR, whether each LLSE demonstrated sufficient Qualified Capacity Resources to make the Required RA Demonstration and at what level, whether the Commission has opened any dockets pursuant to Section 207(2)(d), and a quantification of what portion of the Qualified Capacity Resources of LLSEs in the aggregate are sited (i) within Louisiana; (ii) within the Applicable RTO capacity zone(s) that include(s) Louisiana or any portion of Louisiana, as applicable; (iii) within the Applicable RTO subregion that includes Louisiana; (iv) within the RTO footprint; and (v) outside the RTO footprint.

SECTION 502. RULE REVIEW

On or before December 31, 2030, any party may petition the Commission to direct Staff to perform a review of the effectiveness of this rule. If such review is commissioned Staff shall complete a report detailing whether the rule is continuing to meet its intended purposes or should be modified or terminated.

SECTION 601. OPT OUT PETITION

Any LLSE seeking to opt out of these rules may submit an opt out petition to the Commission. The opt out petition must be submitted by November 1 of the year preceding the first RA Demonstration for which the LLSE seeks to opt out. The opt out petition shall include, at a minimum, a sworn statement from an officer of the utility committing to the following:

- 1.) that the LLSE will annually provide proof to the Commission that prior to the opening of the annual PRA, it has Firm MISO ZRCs in its Module E Capacity Tracking (MECT) account totaling an amount at least equal to its MISO PRMR for each of the applicable seasons; and

- 2.) that the LLSE will pay a penalty of two-times the seasonal CONE amount for every MW for which its Firm ZRCs are less than its seasonal MISO PRMR.

If an LLSE's opt out petition is granted, the LLSE will not be subject to the requirements of this rule and instead will be subject to the commitments made in the sworn statement submitted as part of the opt out petition. The LLSE may nullify its opt out (and the associated commitments made in its sworn statement) by providing notice four years prior to the start of the Planning Year for which it seeks to nullify the opt out and be subject to these rules.

SECTION 701. SEVERABILITY

In the event that any provision or portion of this Order is ruled to be unlawful by final order of any court of competent jurisdiction, it is the intent of the Commission that the remaining portions of the rule will survive and remain in full force and effect, subject to any further action of the Commission after due proceedings in accordance with the Commission's rules and applicable law.

Exhibit 1a

SEASON: Summer										Planning Year 1	Planning Year 2	Planning Year 3	Planning Year 4
Start Date of Planning Year Season													
End Date of Planning Year Season													
Load Requirements										(MW)	(MW)	(MW)	(MW)
Load Forecast													
Reserve Margin Percentage													
Coincident Factor													
Transmission Loss Factor													
Total Load Requirement										-	-	-	-
RESOURCES										(MW)	(MW)	(MW)	(MW)
Current Resources (i.e. resources currently providing capacity to LLSE at time of filing)													
	Fuel Type	Technology	Transmission Service Type	In-Service Date	Retirement/Deactivation Date	Location of Resource	Percentage of Interest in Resource	ICAP of Resource	Accredited Capacity (MW)	Accredited Capacity (MW)	Accredited Capacity (MW)	Accredited Capacity (MW)	
Current Generating Resource													
Resource 1													
Resource 2													
Total Current Generation										-	-	-	-
Current Purchased Power Agreement Resources													
Resource 1													
Resource 2													
Total Current PPAs										-	-	-	-
Current Demand Response Resources													
Resource 1													
Resource 2													
Total Current DR										-	-	-	-
Current Energy Efficiency Resources													
Resource 1													
Resource 2													
Total Current EE										-	-	-	-
Current Other Resources													
Resource 1													
Resource 2													
Total Current Other										-	-	-	-
Total Current Resources										-	-	-	-
Planned Resources (i.e., resources not-currently providing capacity to LLSE at time of filing)													
Planned Generating Resource													
Resource 1													
Resource 2													
Total Planned Generation										-	-	-	-
Planned Purchased Power Agreement Resources													
Resource 1													
Resource 2													
Total Planned PPAs										-	-	-	-
Planned Demand Response Resources													
Resource 1													
Resource 2													
Total Planned DR										-	-	-	-
Planned Energy Efficiency Resources													
Resource 1													
Resource 2													
Total Planned EE										-	-	-	-
Planned Other Resources													
Resource 1													
Resource 2													
Total Planned Other										-	-	-	-
Total Planned Resources										-	-	-	-
Total Current and Planned Resources										-	-	-	-
Surplus/(Deficit) based on Current and Planned Resources										-	-	-	-
Percentage of Load Requirement met by Current and Planned Generation										-	-	-	-

Exhibit 1b

SEASON: <u>Fall</u>													
										Planning Year 1	Planning Year 2	Planning Year 3	Planning Year 4
Start Date of Planning Year Season													
End Date of Planning Year Season													
Load Requirements										(MW)	(MW)	(MW)	(MW)
Load Forecast													
Reserve Margin Percentage													
Coincident Factor													
Transmission Loss Factor										-	-	-	-
Total Load Requirement										-	-	-	-
RESOURCES										(MW)	(MW)	(MW)	(MW)
Current Resources (i.e. resources currently providing capacity to LLSE at time of filing)													
		Fuel Type	Technology	Transmission Service Type	In-Service Date	Retirement/Deactivation Date	Location of Resource	Percentage of Interest in Resource	ICAP of Resource	Accredited Capacity (MW)	Accredited Capacity (MW)	Accredited Capacity (MW)	Accredited Capacity (MW)
Current Generating Resource													
Resource 1													
Resource 2													
Total Current Generation										-	-	-	-
Current Purchased Power Agreement Resources													
Resource 1													
Resource 2													
Total Current PPAs										-	-	-	-
Current Demand Response Resources													
Resource 1													
Resource 2													
Total Current DR										-	-	-	-
Current Energy Efficiency Resources													
Resource 1													
Resource 2													
Total Current EE										-	-	-	-
Current Other Resources													
Resource 1													
Resource 2													
Total Current Other										-	-	-	-
Total Current Resources										-	-	-	-
Planned Resources (i.e., resources not-currently providing capacity to LLSE at time of filing)													
Planned Generating Resource													
Resource 1													
Resource 2													
Total Planned Generation										-	-	-	-
Planned Purchased Power Agreement Resources													
Resource 1													
Resource 2													
Total Planned PPAs										-	-	-	-
Planned Demand Response Resources													
Resource 1													
Resource 2													
Total Planned DR										-	-	-	-
Planned Energy Efficiency Resources													
Resource 1													
Resource 2													
Total Planned EE										-	-	-	-
Planned Other Resources													
Resource 1													
Resource 2													
Total Planned Other										-	-	-	-
Total Planned Resources										-	-	-	-
Total Current and Planned Resources										-	-	-	-
Surplus/(Deficit) based on Current and Planned Resources										-	-	-	-
Percentage of Load Requirement met by Current and Planned Generation										-	-	-	-

Exhibit 1c

SEASON: Winter										Planning Year 1	Planning Year 2	Planning Year 3	Planning Year 4
Start Date of Planning Year Season													
End Date of Planning Year Season													
Load Requirements										(MW)	(MW)	(MW)	(MW)
Load Forecast													
Reserve Margin Percentage													
Coincident Factor													
Transmission Loss Factor										-	-	-	-
Total Load Requirement										-	-	-	-
RESOURCES										(MW)	(MW)	(MW)	(MW)
Current Resources (i.e. resources currently providing capacity to LLSE at time of filing)													
	Fuel Type	Technology	Transmission Service Type	In-Service Date	Retirement/Deactivation Date	Location of Resource	Percentage of Interest in Resource	ICAP of Resource		Accredited Capacity (MW)	Accredited Capacity (MW)	Accredited Capacity (MW)	Accredited Capacity (MW)
Current Generating Resource													
Resource 1													
Resource 2													
Total Current Generation										-	-	-	-
Current Purchased Power Agreement Resources													
Resource 1													
Resource 2													
Total Current PPAs										-	-	-	-
Current Demand Response Resources													
Resource 1													
Resource 2													
Total Current DR										-	-	-	-
Current Energy Efficiency Resources													
Resource 1													
Resource 2													
Total Current EE										-	-	-	-
Current Other Resources													
Resource 1													
Resource 2													
Total Current Other										-	-	-	-
Total Current Resources										-	-	-	-
Planned Resources (i.e., resources not-currently providing capacity to LLSE at time of filing)													
Planned Generating Resource													
Resource 1													
Resource 2													
Total Planned Generation										-	-	-	-
Planned Purchased Power Agreement Resources													
Resource 1													
Resource 2													
Total Planned PPAs										-	-	-	-
Planned Demand Response Resources													
Resource 1													
Resource 2													
Total Planned DR										-	-	-	-
Planned Energy Efficiency Resources													
Resource 1													
Resource 2													
Total Planned EE										-	-	-	-
Planned Other Resources													
Resource 1													
Resource 2													
Total Planned Other										-	-	-	-
Total Planned Resources										-	-	-	-
Total Current and Planned Resources										-	-	-	-
Surplus/(Deficit) based on Current and Planned Resources										-	-	-	-
Percentage of Load Requirement met by Current and Planned Generation										-	-	-	-

Exhibit 1d

SEASON: <u>Spring</u>										Planning Year 1	Planning Year 2	Planning Year 3	Planning Year 4
Start Date of Planning Year Season													
End Date of Planning Year Season													
Load Requirements										(MW)	(MW)	(MW)	(MW)
Load Forecast													
Reserve Margin Percentage													
Coincident Factor													
Transmission Loss Factor										-	-	-	-
Total Load Requirement										-	-	-	-
RESOURCES										(MW)	(MW)	(MW)	(MW)
Current Resources (i.e. resources currently providing capacity to LLSE at time of filing)													
	Fuel Type	Technology	Transmission Service Type	In-Service Date	Retirement/Deactivation Date	Location of Resource	Percentage of Interest in Resource	ICAP of Resource	Accredited Capacity (MW)	Accredited Capacity (MW)	Accredited Capacity (MW)	Accredited Capacity (MW)	
Current Generating Resource													
Resource 1													
Resource 2													
Total Current Generation										-	-	-	-
Current Purchased Power Agreement Resources													
Resource 1													
Resource 2													
Total Current PPAs										-	-	-	-
Current Demand Response Resources													
Resource 1													
Resource 2													
Total Current DR										-	-	-	-
Current Energy Efficiency Resources													
Resource 1													
Resource 2													
Total Current EE										-	-	-	-
Current Other Resources													
Resource 1													
Resource 2													
Total Current Other										-	-	-	-
Total Current Resources										-	-	-	-
Planned Resources (i.e., resources not-currently providing capacity to LLSE at time of filing)													
Planned Generating Resource													
Resource 1													
Resource 2													
Total Planned Generation										-	-	-	-
Planned Purchased Power Agreement Resources													
Resource 1													
Resource 2													
Total Planned PPAs										-	-	-	-
Planned Demand Response Resources													
Resource 1													
Resource 2													
Total Planned DR										-	-	-	-
Planned Energy Efficiency Resources													
Resource 1													
Resource 2													
Total Planned EE										-	-	-	-
Planned Other Resources													
Resource 1													
Resource 2													
Total Planned Other										-	-	-	-
Total Planned Resources										-	-	-	-
Total Current and Planned Resources										-	-	-	-
Surplus/(Deficit) based on Current and Planned Resources										-	-	-	-
Percentage of Load Requirement met by Current and Planned Generation										-	-	-	-