

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER U-35807

CLECO POWER LLC, CENTRAL LOUISIANA ELECTRIC COMPANY, INC.,
EX PARTE

Docket No. U-35807, In re: Application for Recovery in Rates of Certain Storm Damage Costs Incurred as a Result of Hurricanes Laura, Delta, and Zeta.

(Decided at the May 19, 2021 Business and Executive Session.)

Background and Procedural History

On December 4, 2020, Cleco Power LLC ("Cleco Power" or "the Company") filed its *Application for Recovery in Rates of Certain Storm Damage Costs Incurred as a Result of Hurricanes Laura, Delta and Zeta* ("Phase I Application"). The Phase I Application was published in the Louisiana Public Service Commission's ("LPSC" or "Commission") Official Bulletin dated December 11, 2020. Timely interventions were received from: The Alliance for Affordable Energy ("Alliance"); Cabot Corporation ("Cabot"); and Packaging Corporation of America ("PCA") (collectively "Intervenors"). This docket was assigned to Administrative Law Judge Joy Guillot.

An initial status conference was convened on January 13, 2021 at which the parties agreed to a procedural schedule with a June 22, 2021 hearing date. On January 19, 2021 the Company re-urged its Phase I Application because of issues with notice of the initial December 4, 2020 filing in three parish journals. On February 5, 2021, the Phase I Application was re-published in the Commission's Official Bulletin with a 15-day intervention period. No additional interventions were filed.

In its Phase I Application Cleco Power seeks: (1) authorization to recover financing costs on the amounts expended for restoration, repair and rebuilding resulting from the damage caused by Hurricanes Laura, Delta, and Zeta (collectively the "Hurricanes"); Cleco Power calculated those carrying costs to be \$18.9 million at the Company's overall Weighted Average Cost of Capital ("WACC"), and it sought recovery on an interim basis, until the finally approved costs are securitized; (2) deferral of certain (estimated) expenses and Lost Contribution to Fixed Costs ("LCFC"), *i.e.*, lost revenues, to a Regulatory Asset; and (3) application of \$9.8 million in remaining storm reserves against the portion of the distribution Operation and Maintenance ("O&M") expense in the Regulatory Asset. In the yet-to-be-filed Phase II Application, Cleco

Power will seek the recovery of its final storm-related restoration, repair and rebuilding costs, establishment of a funded storm reserve and securitization of the final storm damage costs and any storm reserve ultimately authorized by the Commission.

On March 19, 2021, the Commission Staff filed the Direct Testimony and Exhibits of Staff witness, R. Lane Sisung. No Intervenors submitted Direct Testimony.

On April 28, 2021 Cleco Power and the Commission Staff filed a *Joint Motion to Schedule Uncontested Stipulation Hearing* ("Joint Motion") requesting the scheduling of a stipulation hearing date of May 7, 2021. Pursuant to Rule 6 of the Commission's Rules of Practice and Procedure, the Joint Motion was accompanied by an Uncontested Proposed Stipulated Settlement ("Stipulated Settlement") as well as supporting exhibits and testimonies. This docket was subsequently re-assigned to Administrative Law Judge Steve Kabel, and the Tribunal granted the Joint Motion. Cleco Power submitted a corrected version of the Stipulated Settlement on May 6, 2021. The corrected version of the Stipulated Settlement was identical to the version submitted on April 28, 2021 with the Joint Motion, but included an additional exhibit that had previously been inadvertently omitted from the April 28, 2021 version.

Jurisdiction

The Commission exercises jurisdiction over public utilities in Louisiana pursuant to Article IV, Section 21(B) of the Louisiana Constitution, which states:

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.

Staff Review and Recommended Action

Following review of the Phase I Application, the Commission Staff filed Direct Testimony recommending a number of changes to the Phase I relief sought by the Company, as well as several ratepayer protections and safeguards. Specifically, Staff objected to the use of WACC to calculate the Phase I interim relief; recommended that the interim recovery be set at \$16 million annually rather than the \$18.9 million requested by the Company; proposed a true-up mechanism to ensure that Cleco Power ratepayers pay no more than their fair share of the storm-related costs; and recommended inclusion of a provision requiring that any insurance storm-related recoveries and grants be credited against recoverable storm costs, dollar-for-dollar.

Stipulated Settlement

Following settlement negotiations, the Company and Staff (with support or non-opposition from all of the Intervenors) filed the Joint Motion. The stipulation hearing was conducted on May 7, 2021, and Judge Kabel issued a Report of Proceedings on the same day. The Stipulated Settlement agreed (or not objected) to among the parties states:

- a. Effective upon the Commission's issuance of an order in this proceeding, Cleco Power is authorized to collect \$16 million dollars annually as interim recovery (the "Phase I Interim Storm Recovery"), until such time as the final storm restoration costs have been established and verified and the Commission issues its orders authorizing recovery of the final storm costs and the securitization of those costs. The amounts recovered through the Phase I Interim Storm Recovery shall be subject to true-up in the Phase II proceeding based on what the Commission ultimately determines in Phase II, including a determination of a reasonable carrying cost to be (see paragraph "b.(3)" below). Please refer to Exhibit A, attached hereto and made a part hereof, for the allocation of the \$16 million Phase I Interim Storm Recovery amount among Cleco Power's customer classes and the pertinent surcharge recovery factors.¹ The charges for the Phase I Interim Storm Recovery will be applied to all consumption billed after June 1, 2021, except for those customers billed on a calendar month basis. For customers billed on a calendar month basis, the charges for the Phase I Interim Storm Recovery will be applied to actual consumption after May 31, 2021.
- b. The following issues shall be deferred for consideration to the Phase II proceeding or represent additional conditions of the Settlement:
 - (1) A final determination of the prudent and/or allowable costs of the storm restoration shall be determined in the Phase II proceeding.
 - (2) The final revenue requirement associated with the allowable storm restoration cost, including the determination of a prudent cost of carry (including for the Phase I Interim Storm Recovery) shall be determined in the Phase II proceeding.
 - (3) A true-up of the Phase I Interim Storm Recovery shall be made in the Phase II proceeding. Such true-up calculation would compare the amounts collected through interim relief against the final determined amount of return allowed to be collected on the retail jurisdictional rate base amount of the finally approved storm restoration costs. The over- or under-collection determined by the true-up calculation would be, as applicable, subtracted from or added to the otherwise final determined amount of storm costs to be securitized.
 - (4) The final classification between capital costs and O&M expenses, including for the application of the \$9.8 million in the existing storm reserve, shall be determined in the Phase II proceeding.
 - (5) The class cost allocation for *interim* relief shall not be subject to review in the Phase II proceeding. A determination of the appropriate class cost allocation of any *permanent* cost recovery shall be determined in the Phase II proceeding.

¹ The referenced exhibit is Exhibit A to the Stipulated Settlement filed May 6, 2021, which is an updated version of Exhibit F to Cleco Power's Phase I Application.

- (6) A determination shall be made on Cleco Power's to-be-filed request for the establishment of a restricted storm reserve and the level of that reserve, if any, in the Phase II proceeding.
- (7) In the Phase II proceeding, Cleco Power commits to make a request for the securitization of the costs associated with the final revenue requirement in connection with the Hurricanes storm restoration and any approved restricted storm reserve, such request to be decided in the Phase II proceeding.
- (8) Cleco Power commits to utilize any federal, state and/or local funds and/or insurance proceeds it is successful in obtaining to offset the storm costs requested to be recovered from Cleco ratepayers.
- (9) Lost sales revenues or lost contribution to fixed costs ("LCFC") shall not be included as a regulatory asset or deemed recoverable in Phase I or Phase II of this proceeding.
- (10) Cleco Power's request for interim storm recovery shall be fixed at \$16 million annually, subject to true-up, until a finally determined amount is securitized.
- (11) Cleco Power shall be authorized to include as a regulatory asset, for accounting purposes only, an estimated amount for depreciation from capital costs, O&M, and increased property taxes associated with the capital replacements associated with the Hurricanes.
- (12) The issue of whether the capital costs associated with the Hurricanes are to be treated as Property, Plant, and Equipment or as part of a regulatory asset to be considered for recovery from the proceeds of the Phase II securitization may be revisited by Staff and Intervenors in the Phase II proceeding.
- (13) Unless expressly provided otherwise in this Settlement, Intervenors, Cleco Power and the Commission Staff reserve their rights to take any position on any of the issues in this Docket No. U-35807 and in the Phase II proceeding, including but not limited to the matters described in paragraphs "(1)"—"(12)" of this Section b.; provided, however, that the issues addressed in the first sentence of paragraph "(5)", paragraph "(8)", and paragraph "(9)" of this Section "b." are definitively decided and not reserved for decision in the Phase II proceeding.
- (14) The Commission order issued in this proceeding should be effective immediately upon its date of issuance.
- (15) Unless specifically stated herein, this Settlement shall have no precedential effect in any future proceedings, and shall be without prejudice to the right of any party to take any position in future proceedings, or appeals therefrom.

The Commission finds that this Stipulated Settlement is in the public interest and is approved. It is supported by analysis and testimony of the Commission Staff who testified that the Stipulated Settlement provides for a fair and reasonable resolution of the issues in this proceeding. The Hurricanes and other events have had extraordinary financial impacts on Cleco Power. The relief Phase I provides would allow the Company to maintain its operations and financial metrics while providing necessary protections to ratepayers. The \$16 million in interim recovery takes into account an elimination of the estimated levels of LCFC and is not based upon a full WACC application to the interim estimated amounts. Further, the true-up mechanism will ensure that ratepayers ultimately pay no more than their share of prudently incurred storm costs.

Commission Consideration

This matter was considered at the Commission's May 19, 2021 Business and Executive Session. On motion of Vice Chairman Skrmetta, seconded by Chairman Greene, and unanimously adopted, the Commission voted to accept the Corrected Stipulated Settlement filed into the record on May 6, 2021.

THEREFORE, IT IS ORDERED:

The Uncontested Stipulated Settlement is adopted as filed.

This order is effective immediately.

**BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
May 21, 2021**



A handwritten signature in blue ink, appearing to read "Brandon M. Frey".

**BRANDON M. FREY
SECRETARY**

/S/ CRAIG GREENE

**DISTRICT II
CHAIRMAN CRAIG GREENE**

/S/ ERIC F. SKRMETTA

**DISTRICT I
VICE CHAIRMAN ERIC F. SKRMETTA**

/S/ FOSTER L. CAMPBELL

**DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL**

/S/ LAMBERT C. BOISSIERE, III

**DISTRICT III
COMMISSIONER LAMBERT C. BOISSIERE, III**

/S/ MIKE FRANCIS

**DISTRICT IV
COMMISSIONER MIKE FRANCIS**