

Louisiana Public Service Commission



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April 28, 2023

VIA HAND DELIVERY

Ms. Terri Bordelon
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2023 APR 28 PM 3:37
LA PUBLIC SERVICE
COMMISSION

**In Re: DOCKET NO. R-34003, Louisiana Public Service Commission, ex parte. In re:
Proposed Modification to the Commission's Market Based Mechanism Rules.**

**DOCKET NO. R-34247, Louisiana Public Service Commission, ex parte. In re:
Rulemaking to consider changes to Commission General Order dated October 29,
2008 (Docket No. R-26172 Subdocket C) ("Market Based Mechanisms Order") to
incorporate formal complaint procedures.**

Dear Ms. Bordelon:

Enclosed for filing in Docket No. R-34003 and R-34247, please find Staff's *Consolidation of Rulemakings by Dismissal of Docket No. R-34003*. As indicated in the attached filing, this filing dismisses Docket No. R-34003 and merges the subject matter of Docket No. R-34003 into Docket No. R-34247.

Please file this document in both dockets, add Southwest Louisiana Electric Membership Corporation and Dixie Electric Membership Corporation as intervenors to Docket No. R-34247, and close Docket No. R-34003.

Should you have any questions, please feel free to contact me.

Sincerely,

Arvind Viswanathan
Staff Attorney

Encl.
cc: Service List

**BEFORE THE
LOUISIANA PUBLIC SERVICE COMMISSION**

**DOCKET NO. R-34003
DOCKET NO. R-34247**

**LOUISIANA PUBLIC SERVICE COMMISSION,
EX PARTE**

Docket No. R-34003, In re: Proposed Modification to the Commission's Market Based Mechanism Rules

Docket R-34247, In re: Rulemaking to consider changes to Commission General Order dated October 29, 2008 (Docket No. R-26172 Subdocket C) ("Market Based Mechanisms Order") to incorporate formal complaint procedures.

**CONSOLIDATION OF RULEMAKINGS BY DISMISSAL
OF DOCKET NO. R-34003**

Docket No. R-34003 was published in the Commission's Official Bulletin No. 1110 dated March 11, 2016, with seven (7) parties intervening. The intervenors were Cleco Power, LLC., ("CLECO"), Dixie Electric Membership Corporation ("DEMCO"), Entergy Louisiana, LLC., ("ELL"), Louisiana Energy Users Group ("LEUG"), Occidental Chemical Corporation ("Occidental"), Southwest Louisiana Electric Membership Corporation ("SLEMCO"), and Southwestern Electric Power Company ("SWEPCO").¹ This docket was opened for Staff to look into a single modification of the Commission's market-based mechanism ("MBM") rules found in General Order dated October 29, 2008.² Staff initially proposed a change to ordering paragraph (2)(a). Comments were received by ELL, LEUG, and CLECO. A Staff Recommendation on Proposed Rule was filed on November 09, 2021 with no comments being provided.

Docket No. R-34247 was published in the Commission's Official Bulletin No. 1124 dated September 23, 2016 with six (6) parties intervening. The intervenors were CLECO, ELL, LEUG,

¹ NRG Power Marketing, LLC., initially intervened however withdrew from the docket on May 3, 2019.

² LPSC Docket No. R-26172 Subdocket C.

Marathon Petroleum Company, LP., (“Marathon”), Occidental, and SWEPCO.³ This docket was opened for Staff to consider changes to the MBM Order that could require that:

- 1) Any complaints or concerns of any party regarding a draft Request for Proposals (“RFP”) concerning the acquisition or construction of additional generation must be raised at one time, or be forever waived, prior to the issuance of the final RFP;
- 2) Any such complaints or concerns will be reviewed solely by the full Commission during an open meeting on an expedited basis (e.g. 45-60 days – to be determined);
- 3) Failure of any party or Intervenor to raise complaints or concerns, 90 days or more, prior to the issuance of a final RFP shall constitute a complete and total waiver for those issues not properly raise; and
- 4) All issues regarding the RFP must be raised prior to the issuance of a final RFP and no issues regarding the structure and/or content of the RFP may be raised during certification phase of the proceeding.

Staff filed a *Notice of Issuance of Initial Report and Proposed Amendments and Request for Comments* on April 11, 2017. Staff received comments from ELL, CLECO, LEUG, Occidental, and SWEPCO. Staff has still yet to provide a final Staff Report and Recommendation in this docket.

After a review of Docket Nos. R-34003 and R-34247, it is Staff’s opinion that any final recommendations put forth in Docket No. R-34003 could be incorporated into Staff’s recommendations in Docket No. R-34247. Furthermore, any recommendations made in either docket would result in revisions to the MBM General Order, further concluding that a consolidation of these dockets is appropriate. Because of the duplicative nature of these dockets and the potential for conflicts to arise between the same, Staff recommends that Docket No. R-34003 *Proposed Modification to the Commission’s Market Based Mechanism Rules* be dismissed

³ NRG Power Marketing, LLC., initially intervened however withdrew from the docket on May 2, 2019.

with dialogue between Staff and the intervenors regarding amendments to the MBM Order to continue in Docket No. R-34247.

SLEMCO and DEMCO are intervenors in Docket No. R-34003, but not Docket No. R-34247. Marathon is an intervenor in Docket No. R-34247 and not Docket No. R-34003. The remaining parties are intervenors in both dockets. Staff is of the opinion that by making SLEMCO and DEMCO intervenors in Docket No. R-34247, the companies will not be prejudiced and still have the opportunity to comment in a rulemaking that modifies the MBM order. Marathon as an intervenor in Docket No. R-34247 would not be negatively impacted by this change as they did not intervene in the Docket No. R-34003 docket.

Based on the foregoing, Staff dismisses Docket No. R-34003.

Baton Rouge, Louisiana, this 28th day of April 2023.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been served upon all parties of record by email, fax or United States Mail, properly addressed and postage prepaid, on this April 28, 2023.



Arvind Viswanathan

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as of 4/28/2023**

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