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12922-0515

May 17, 2024

VIA HAND DELIVERY

RECEIVED

MAY 17 2024

Mr. Brandon M. Frey
Executive Secretary
Louisiana Public Service Commission
Galvez Building, 12th Floor
602 North Fifth Street
Baton Rouge, LA 70802

LA Public Service Commission

Re: LPSC Docket No. U-_____, Cleco Power LLC, ex parte. In re: Application for:
(1) a Financing Order Authorizing the Securitization Financing of Certain Costs
Related to the Dolet Hills Power Station and Associated Mines; (2) Establishment
of an Energy Transition Reserve; and (3) Expedited Treatment

Dear Mr. Frey:

Enclosed on behalf of Cleco Power LLC are one (1) original and three (3) copies of the
captioned Application, dated May 17, 2024, together with the following items of supporting
testimony:

- (1) The Direct Testimony of Christina C. McDowell on behalf of Cleco Power LLC,
dated May 17, 2024; and
- (2) The Direct Testimony of Mark Gilmore/J.P. Morgan on behalf of Cleco Power LLC,
dated May 17, 2024.

Please return one (1) date-stamped copy of each of the foregoing items to us. If you have
any questions, or require any additional information whatsoever, please do not hesitate to contact
us.

Respectfully submitted,

Daniel T. Pancamo

Enclosures

DTP/lls

cc: Nathan G. Huntwork (Phelps Dunbar, L.L.P.)
Collin Buisson (Phelps Dunbar, L.L.P.)

FD-13215

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MAY 17 2024

LA Public Service Commission

**BEFORE THE
LOUISIANA
PUBLIC SERVICE COMMISSION**

**CLECO POWER LLC, EX PARTE.
IN RE: APPLICATION OF CLECO
POWER FOR: (1) A FINANCING ORDER
AUTHORIZING THE SECURITIZATION
FINANCING OF CERTAIN COSTS
RELATED TO THE DOLET HILLS
POWER STATION AND ASSOCIATED
MINES; (2) ESTABLISHMENT OF AN
ENERGY TRANSITION RESERVE; AND
(3) EXPEDITED TREATMENT.**

DOCKET NO. U-_____

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Attachments:

1. Direct Testimony of Christina C. McDowell, dated May 17, 2024
2. Direct Testimony of Mark Gilmore/J.P. Morgan, dated May 17, 2024

NOW BEFORE THE COMMISSION COMES Cleco Power LLC (“Cleco Power” or the “Company”), which hereby requests that the Louisiana Public Service Commission (“LPSC” or the “Commission”) grant the specific requests for relief made in this application in order to allow Cleco Power to finance through a securitization financing transaction the costs associated with the retirement of Dolet Hills Power Station (“DHPS” or the “Plant”) and the closure of the Dolet Hills and Red River Mines (collectively the “Mines”) servicing the Plant, as authorized by Order No. U-35753-A, issued May 16, 2024 (the “Revenue Requirement Order”), as well as to establish a restricted segregated energy transition reserve. The foregoing transaction would be effectuated by the issuance of energy transition bonds under the Louisiana Electric Utility Energy Transition Securitization Act (the “Act”), as amended, codified at La. R.S. 45:1271-1281, in the amount authorized by the Commission in this proceeding.¹ For the avoidance of doubt, this application constitutes an “application” and a “petition” under the Act.

As described in further detail in this application and its supporting testimony, in Cleco Power’s application in LPSC Docket No. U-35753, filed on January 31, 2022, Cleco Power proposed a potential securitization financing of certain as-yet unrecovered costs associated with DHPS and the Mines, pending the passage of either a new statute or an amendment of an existing statute by the Louisiana Legislature, which has now occurred.

Cleco Power’s outside structuring agent has analyzed the appropriate bond structure that would reflect a levelized annual billing requirement in order to mitigate rate impacts to customers, as compared with a conventional method of financing the Dolet Hills-related energy transition costs and funding an energy transition reserve for further demolition and remediation. Therefore,

¹ See the Louisiana Electric Utility Energy Transition Securitization Act, La. R.S. 45:1271, et seq., as amended. The terms “energy transition charges,” “energy transition costs,” “energy transition property,” and “energy transition bonds” as used in this application shall have the meaning ascribed to them in the Act.

Cleco Power is requesting that the Commission issue a financing order (the “Financing Order”) authorizing, among other things, the financing of Cleco Power’s Dolet Hills-related energy transition costs, and the establishment of the restricted energy transition reserve for such further demolition and remediation, using the securitization as the means of finance. Cleco Power is requesting financing authority for the issuance of energy transition bonds. The energy transition bonds would be structured to result in a projected stable billing requirement for Cleco Power’s customers. The proceeds of the sale of the energy transition bonds would be used to reimburse Cleco Power for the costs authorized by the Revenue Requirement Order. Cleco Power is also seeking Commission authorization to establish an energy transition charge to be collected on customer bills over the expected approximately 20-year life of the energy transition bonds, with the possibility of collecting any remaining balance of uncollected charges over an additional two years, depending on any remaining balances which must be collected.

I. INTRODUCTION AND SUMMARY

A. Docket No. U-35753

Docket No. U-35753 was initiated by the filing of a Joint Application by Cleco Power and Southwestern Electric Power Company (“SWEPCO”) on October 6, 2020, to close the Oxbow Mine, which provided lignite to fuel generation at DHPS. The Joint Application was noticed in the Commission’s October 16, 2020, Bulletin, and multiple parties intervened.

On January 31, 2022, Cleco Power and SWEPCO filed a second Joint Application, this time requesting, among other things, Commission authorization to retire DHPS. No new interventions were filed in connection with the second Joint Application. As described above, Cleco Power indicated that it would pursue a securitization financing of the costs to retire DHPS and close the Mines.

After extensive discovery and multiple rounds of written testimony and briefing, a hearing was held before Administrative Law Judge (“ALJ”) Joy Guillot on May 8-9, 2023. The ALJ issued a Proposed Recommendation on November 28, 2023, and a Final Recommendation on February 2, 2024.

Following the hearing in this proceeding, Cleco Power, Staff, and the intervenors engaged in extensive settlement negotiations and achieved consensus regarding all issues in Docket No. U-35753, in the form of an uncontested stipulated settlement agreement, which was authorized by the Revenue Requirement Order. The Revenue Requirement Order authorized Cleco Power to recover \$305 million in energy transition costs with a securitization financing.

B. Summary of Total Combined Costs

Per the Revenue Requirement Order, the initial securitization principal amount is \$305 million. Included in the \$305 million of requested securitization principal amount are: (1) approximately \$257.2 million representing the remaining amount of the regulatory assets for DHPS and the Mines authorized for recovery after the write-down of \$40 million pursuant to the Revenue Requirement Order as of March 31, 2024; (2) an approximately \$37.8 million requested demolition and remediation energy transition reserve; and (3) \$10 million in upfront bond issuance costs.

C. The Revenue Requirement Order

The Revenue Requirement Order resolves all issues as to the costs of the Plant and Mines except those issues relating to securitization financing of the approved energy transition costs. The resolved issues include the retirement of the Plant, the closure of the Mines, a \$100 million benefit to customers (by Cleco Power writing down its regulatory asset value by \$40 million and refunding a total of \$60 million), a further reduction in the requested securitization amount by \$15 million

attributable to cost savings that Cleco Power was able to realize, the establishment of the amount of recoverable energy transition costs, the establishment of the total securitization original principal amount of \$305 million, the establishment of surcredits to customers, provision for an energy transition reserve, carrying costs, and the conceptual allocation of the recoverable energy transition costs among Cleco Power's customer classes and customers.

Cleco Power now files its securitization application with the Commission requesting to finance, through the issuance of energy transition bonds, the original principal amount of \$305 million, equal to the sum of: (i) \$295 million of the energy transition costs, including the costs of funding an energy transition reserve in a restricted segregated account, plus (ii) upfront financing costs, which were estimated at \$10 million but which would be subject to further review and adjustment as provided in this Financing Order. The securitization application also requests approval and authorization of the proposed financing structure, including the ongoing financing costs, the creation of energy transition property and its sale by Cleco Power to its special purpose entity financing subsidiary (the "SPE"), and rate schedules implementing these requests.

In its securitization testimony, Cleco Power seeks and supports a financing order under Section 1273(A) of the Act to finance and to cause the issuance of energy transition bonds in the aggregate original principal amount of \$305 million.

Cleco Power's application in this proceeding is supported by the Direct Testimony of 2 witnesses, as follows:

- Christina C. McDowell, Director – Regulatory Filings of Cleco Power: Ms. McDowell's testimony supports Cleco Power's application in this proceeding requesting the securitization financing of the energy transition costs authorized by the Revenue Requirement Order, pursuant to a financing order as described in her

testimony and in the Company's application. More specifically, Ms. McDowell's testimony addresses: the amount of unrecovered plant costs and unrecovered lignite costs already paid by Cleco Power, as well as plant and mine demolition and remediation costs that Cleco Power requests be securitized; the amount of the energy transition charge, including periodic adjustments of the energy transition charge through a true-up mechanism; the ratepayer benefits of a securitization financing compared to alternative recovery mechanisms; the allocation of the revenue requirement and other rate design issues; the amount and uses of the restricted demolition and remediation (energy transition) reserve; and the accounting entries that will be required for the proposed energy transition financing and the accounting for the funded restricted energy transition reserve.

- Mark Gilmore, Managing Director in J.P. Morgan Securities LLC's ("J.P. Morgan") Securitized Products Group: Mr. Gilmore's testimony: (1) provides an overview of the securitization process; (2) describes the structure of the proposed energy transition bond offering by a subsidiary of Cleco Power; (3) discusses the pricing of the energy transition bonds; (4) explains the role of certain transaction parties, such as the servicer; (5) explains certain of the upfront and ongoing costs of the securitization; (6) discusses the primary rating agency criteria for the energy transition bonds to obtain triple-A ratings; (7) describes the proposed pre-issuance process; and (8) provides an illustrative bond structure and debt service schedule based on current market conditions and a levelized annual billing requirement.

II. DESCRIPTION OF CLECO POWER

Cleco Power is a Louisiana limited liability company, and a wholly-owned subsidiary of Cleco Corporate Holdings LLC (“Cleco Corp”), also a Louisiana limited liability company. Cleco Power generates, transmits, and delivers electricity to approximately 295,000 customers located in three, non-contiguous service territories. Together, these service territories comprise four service districts throughout the State of Louisiana and include part of 24 of the 64 parishes in Louisiana. A significant portion of Cleco Power’s service territory is located in the central part of Louisiana, with an additional area located north of New Orleans, commonly referred to as Northlake. Energy growth for the Cleco Power service territory is moderate and within a range of 0.3% to 0.4% annually. Cleco Power is a member of Midcontinent Independent System Operator, Inc. (“MISO”).

III. COMMUNICATIONS

Cleco Power requests that communications concerning this application be directed to:

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IV. SECURITIZATION FINANCING

As further described in the Direct Testimony of Cleco Power witnesses Christina McDowell and Mark Gilmore, the securitization financing technique has been used previously in Louisiana, including by Cleco Power itself, most recently in 2022, and around the United States to fund various utility costs, including storm recovery costs, and is anticipated to significantly reduce the financing costs to Cleco Power's customers of the energy transition costs, as compared to traditional means of utility financing. The proposed securitization financing transaction is discussed more fully below.

As described further below and in the testimony supporting this application, securitization financing will require clearly protective regulatory language in the Commission's Financing Order in order for the energy transition bonds to receive triple-a ratings, including making the energy transition charges nonbypassable and making the Financing Order irrevocable.

A. Legal Authority for the Proposed Securitization Financing

There are two legal authorities of primary importance. The first is I.R.S. Revenue Procedure 2005-62, as amended by Revenue Procedure 2024-15 (collectively, the "Revenue Procedure"). A copy of the Revenue Procedure is attached to the Direct Testimony of Christina

C. McDowell as Exhibit CCM-1. The second is the Act. A copy of the Act is attached to the Direct Testimony of Christina C. McDowell as Exhibit CCM-2.

The Revenue Procedure provides for the beneficial tax treatment of legislatively-authorized transactions entered into by electric utilities to recover certain specified costs incurred by those utilities, and accordingly any energy transition securitization should comply with the Revenue Procedure. If a public utility company securitization complies with the Revenue Procedure, the utility will be treated as not recognizing gross income upon the issuance of a financing order, or its receipt of cash in exchange for the sale of its intangible property right (here, the energy transition property), or the issuance of securitization bonds. The Revenue Procedure sets forth the manner in which a public utility company may treat the issuance of a financing order by a state agency authorizing the recovery of certain specified costs incurred by the utility and the securitization of the rights created by the financing order. To summarize the requirements of the Revenue Procedure pertinent to the financing order:

- The financing order must determine the amount of the specified costs the utility will be allowed to recover.
- The financing order must provide that the utility acquires an intangible property right to charge, collect, and receive amounts necessary to provide for the full recovery of the approved specified costs and assure that the charges are nonbypassable (*i.e.*, that they will be paid by retail customers within the utility's historic service territory who receive utility services through the utility's transmission or distribution system, even if those customers elect to purchase these services from a third party). The financing order expressly creates a property right in the amount of the approved costs to be recovered through securitization, *i.e.*, the energy transition property.

- The financing order must be irrevocable. The public utility commission must guarantee that the commission shall not rescind or amend the financing order to revise the amount of the approved specified costs, or in any way to reduce or impair the value of the intangible property right, except as may be contemplated by the periodic true-up mechanism authorized by the financing order.
- The financing order must approve the true sale of the utility's property right to recover the fixed amount of the approved costs and authorize the securitization through the issuance of utility rate reduction bonds.

The purpose of the Act is to allow a Louisiana electric utility to achieve beneficial tax and accounting characteristics of financing certain energy transition costs, on an equal basis with utilities in other states. This includes treating the energy transition bonds as debt of the electric utility for federal and state income tax purposes, consistent with the Revenue Procedure. Additionally, an electric utility is treated as not recognizing gross income upon its receipt of a financing order or cash in exchange for the sale of the energy transition property or the issuance of the energy transition bonds.

Under the Act, an electric utility may petition the Commission for a financing order that grants the electric utility authority for it, or its affiliate, to issue energy transition bonds. The Act defines a financing order granted by the Commission, to comport with the Revenue Procedure, as an order which allows for: the issuance of energy transition bonds; the imposition, collection, and periodic adjustments of energy transition charges; the creation of energy transition property; and the sale, assignment, or transfer of energy transition property to an assignee.

The Act then specifically requires that for a financing order issued by the Commission to create “energy transition property” (as required by the Revenue Procedure), the financing order shall:

- Specify the amount of energy transition costs and any level of energy transition recovery reserves, and provide with respect to the amount of financing costs which may be recovered through energy transition charges, and specify the time period over which all such costs may be recovered. Such amounts are to be imposed on customer bills and collected by an electric utility or its successors or assignees, or a collection agent, in full through a charge, which may be collected as part of the electric utility’s base rates or in any other manner deemed appropriate by the Commission, for the time period specified in the financing order, paid by all existing and future customers receiving retail electric service from the electric utility or its successors or assignees under rate schedules or special contracts approved by the Commission.
- Specify and create the energy transition property of an electric utility or its successors or assignees that shall be used to pay or secure energy transition bonds and financing costs.
- Provide that such energy transition property shall be sold, assigned, or transferred by the electric utility to a subsidiary which is wholly owned, directly or indirectly, by the electric utility and which will be the issuer of the energy transition bonds. The true sale status is established by the Act.
- Provide that the energy transition charges shall be sufficient at all times to pay the principal of and interest on the energy transition bonds as the same shall become due and payable and all other financing costs, and establish a true-up mechanism requiring

that the energy transition charges be reviewed and adjusted at least annually to correct any over-collection or under-collection during the period since the issuance or preceding adjustment and to ensure the projected recovery of amounts sufficient to provide timely payment of all financing costs.

- Provide and pledge that, after the earlier of the transfer of energy transition property to an assignee or the issuance of energy transition bonds authorized thereby, a financing order is irrevocable until the indefeasible payment in full of the energy transition bonds and the financing costs and provide that, except for future refinancings or to implement any true-up mechanism adopted by the Commission, the Commission may not amend, modify, or terminate the financing order by any subsequent action or reduce, impair, postpone, terminate, or otherwise adjust energy transition charges approved in the financing order, provided nothing shall preclude limitation or alteration if and when full compensation is made for the full protection of the energy transition charges collected pursuant to a financing order and the full protection of the holders of energy transition bonds and any assignee or financing party. The financing order must be irrevocable, both to qualify for the necessary tax treatment under the Revenue Procedure, and to obtain triple-a ratings for the energy transition bonds.
- Specify how amounts collected from a customer shall be allocated between energy transition charges and other charges.
- Provide that a financing order remains in effect until the energy transition bonds issued pursuant to the order have been indefeasibly paid in full, and the financing costs of such bonds have been recovered in full.

- Provide that a financing order shall remain in effect and unabated notwithstanding the reorganization, bankruptcy, or other insolvency proceedings, or merger or sale, of the applicable electric utility or its successors or assignees.
- Authorize and require the electric utility, to the extent that any interest in energy transition property is sold or assigned, to contract with the assignee or any financing party that it will continue to operate its system to provide service to its customers, will collect amounts in respect of the energy transition charges for the benefit and account of such assignee or financing party, and will account for and remit such amounts to or for the account of such assignee or financing party, including pursuant to a sequestration order authorized by the Act. The financing order should confirm that the true sale of, and the bondholders' continuing security interests in, collections of the energy transition charges are not adversely affected by the utility's temporary commingling of the collections with other funds of the utility.
- The Commission must provide for payment of the energy transition charges by customers within the utility's historic service territory who receive utility service under rate schedules or special contracts approved by the Commission, even if the customer elects to purchase electricity from an alternative electricity supplier including as the result of a fundamental change in the manner of regulation of public utilities in this state.
- The financing order must specifically authorize the affiliate of the electric utility to issue the energy transition bonds.

- The financing order must grant the consent of the Commission to the utility's use of proceeds of the energy transition bonds for the purpose(s) specified in the Commission's financing order.

Additionally, among other things, the financing order may:

- Authorize the utility to form a subsidiary organized under Louisiana law to issue the energy transition bonds; and authorize the subsidiary to provide and establish in its articles of incorporation, partnership agreement, or operating agreement, as applicable, that in order for a person to file a voluntary bankruptcy petition on behalf of that assignee, the prior unanimous consent of the directors, partners, or managers, as applicable, shall be required.
- To the extent provided in a financing order, the interest of an assignee or secured party in energy transition property specified in a financing order is not subject to setoff, counterclaim, surcharge, or defense by the electric utility or any other person or in connection with the reorganization, bankruptcy, or other insolvency of the electric utility or any other entity.
- To the extent provided in a financing order, any successor to an electric utility, whether pursuant to any reorganization, bankruptcy, or other insolvency proceeding or whether pursuant to any merger or acquisition, sale, or other business combination, or transfer by operation of law, as a result of electric utility restructuring or otherwise, shall perform and satisfy all obligations of, and have the same rights under a financing order as the electric utility under the financing order in the same manner and to the same extent as the electric utility, including collecting and paying to the person entitled to

receive them, the revenues, collections, payments, or proceeds of the energy transition property.

All financing orders by the Commission shall be operative and in full force and effect from the time fixed for them to become effective by the Commission.

B. Structure and Term of the Proposed Securitization Financing

As described in more detail in the Direct Testimony of Cleco Power witness Mark Gilmore, securitization is a financing technique in which the rights to a specific revenue stream are legally isolated within a SPE to de-link the credit quality of the securities from the credit quality of the utility/servicer to achieve higher credit ratings and lower financing costs than would be achievable were Cleco Power to issue traditional corporate debt. In order to accomplish this in a typical utility securitization and consistent with a specific enabling statute and the Revenue Procedure, the utility/sponsor sells a property right to impose, bill, charge, collect, and receive a dedicated charge created under the financing order to a newly-established, bankruptcy-remote SPE in what constitutes a “true sale” for bankruptcy purposes. In the context of Cleco Power’s proposals in this proceeding, this sale insulates the energy transition property from the credit risk of the utility. The SPE then issues bonds backed by the energy transition property and other related collateral to investors/bondholders. A trustee acts on behalf of the bondholders, remits payments to bondholders, and ensures bondholders’ rights are protected in accordance with the terms of the transaction. The utility will perform routine billing, collection, and reporting activities as an administrator and servicer for the SPE pursuant to an administration agreement and a servicing agreement between the utility and the SPE. Collections of energy transition charges from the utility’s customers will be used primarily to pay interest and principal on the bonds. In addition to the bankruptcy remote status of the SPE, credit enhancements, such as an initial capital

contribution from the utility/sponsor and a mandatory true-up mechanism, are necessary to obtain the desired triple-A ratings from two or more major rating agencies for the energy transition bonds.

Although there are variations, it is common for the issuing entity (the SPE) to be set up by, and 100% owned by, the operating utility company that sells its right, title, and interest in the specified revenue stream to such issuing entity in exchange for the cash proceeds of the sale of the securities and for a “residual interest” in the entity’s assets (net of its liabilities). Such an operating company may be referred to as the “sponsor” of the transaction. As is more fully discussed below, Cleco Power is the sponsor of the proposed securitization.

Generally, the issuing entity enters into contractual arrangements under which the sponsor continues to provide activities such as maintaining its separate existence, keeping its books and records, making filings with regulators and taxing authorities, billing and collecting from the underlying obligors, pursuing remedies against delinquent or defaulting obligors, and preparing reports for investors. In the proposed transaction, Cleco Power will perform these activities under the terms of an administration agreement and a servicing agreement. In a well-structured securitization, great care is taken to preserve the integrity of the issuing entity as an entity separate from the sponsor and to preserve the isolation of the assets from the sponsor and any of its creditors, even in the event of the bankruptcy of the sponsor. Even though Cleco Power, as servicer, will be collecting cash from underlying obligors on behalf of the SPE, Cleco Power, as administrator, will maintain separate books, records, and accounts to reflect that this cash is the property of the SPE.

The proposed securitization financing transaction will involve the creation by Cleco Power of a new, wholly-owned, bankruptcy-remote special purpose entity (*i.e.*, the SPE), which, as noted above, will be a Louisiana limited liability company referred to in this application as “BondCo.”

BondCo will be a new and separate entity from the bankruptcy-remote special purpose entity that issued the 2022 storm recovery bonds. BondCo will serve as the issuer. Cleco Power, pursuant to authorization granted it by the Commission in a financing order, will sell certain energy transition property to BondCo. Energy transition property is an existing, present contract right which consists primarily of the irrevocable right to impose, bill, charge, collect, and receive non-bypassable energy transition charges and to periodically true up the rates applicable to such charges, together with the rights and interests under the financing order related thereto. BondCo will finance its purchase of the energy transition property by selling energy transition bonds. The energy transition property along with BondCo's rights under the transaction documents and the other related collateral will be pledged by BondCo as collateral to the trustee under the indenture pursuant to which the energy transition bonds are issued. The energy transition bonds will be amortized by the energy transition charges collected by BondCo through its servicer, Cleco Power. The transaction will be structured to achieve the highest rating from two or more of the major bond rating agencies. The criteria of these agencies are further detailed in the Direct Testimony of Cleco Power witness Mark Gilmore.

Per the Revenue Requirement Order, the initial securitization principal amount is \$305 million. Please see Exhibit CCM- 3 to the Direct Testimony of Christina C. McDowell, which describes in detail the initial securitization principal amount. Included in the \$305 million of requested securitization principal amount are: (1) approximately \$257.2 million² representing the remaining amount of the regulatory assets for DHPS and the Mines authorized for recovery in the Revenue Requirement Order after the write-down of \$40 million pursuant to the Revenue

² The actual amount of the regulatory assets for the DHPS and the Mines will be determined as of the end of the calendar month immediately preceding the date that the energy transition bonds are issued. It should be noted that the amount of the regulatory assets will change between the date of filing this application and the date referenced in the foregoing sentence.

Requirement Order as of March 31, 2024; (2) an approximately \$37.8 million³ requested demolition and remediation energy transition reserve; and (3) \$10 million in upfront bond issuance costs.

The energy transition charge will be imposed and collected until the energy transition bonds have been paid in full or legally discharged, and the other financing costs have been paid in full or fully recovered. Cleco Power has analyzed an approximately 20-year bond with an estimated all-in debt rate of 6.446%. The 20-year bond would result in a \$3.78 monthly charge for a customer with a usage of 1,000 kWh. Please refer to Exhibit CCM-5 to the Direct Testimony of Christina C. McDowell. Cleco Power is proposing issuing energy transition bonds with multiple tranches or classes with the longest having an expected maturity of approximately 20 years.

C. The Energy Transition Charge and the True-Up Mechanism

Cleco Power is requesting financing authority for the issuance of energy transition bonds. The energy transition bonds would be structured to result in a projected stable billing requirement for Cleco Power's customers. Also as discussed in Mr. Gilmore's Direct Testimony, Cleco Power is seeking approval from the Commission to establish an energy transition charge to be collected on customer bills over the expected approximately 20-year life of the energy transition bonds, with the possibility of collecting any remaining balance of uncollected charges over an additional two years, depending on any remaining balances which must be collected.

The energy transition charge will be imposed and collected until the energy transition bonds have been paid in full or legally discharged, and the other financing costs have been paid in full or fully recovered. The energy transition charge will also be subject to a periodic true-up

³ The actual initial amount of the energy transition reserve will depend on the final value of the regulatory assets as of the end of the calendar month immediately preceding the date that the energy transition bonds are issued, as well as on the actual upfront financing costs.

mechanism. A true-up mechanism is a formula-based mechanism for making periodic adjustments to the energy transition charge. The adjustments are necessary to correct for any over-collections or under-collections of the energy transition charge and to otherwise provide for the timely payment of the energy transition bonds and other financing costs. The true-up mechanism helps to ensure that customers pay no more or less than what is required for the energy transition financing. It also helps mitigate bondholders' exposure to differences in actual and estimated sales forecasts, uncollectible accounts receivable, and cash flow variability. The true-up mechanism also provides for maintaining cash collections at a sufficient level to meet debt obligations in the event of significantly large changes warranting recalculation of the energy transition charge. As discussed in the Direct Testimony of Mr. Gilmore, a true-up mechanism is mandatory for achieving triple-a ratings for the energy transition bonds. Cleco Power will make filings applying the formula-based mechanism with the Commission at least semi-annually. If any energy transition bonds remain outstanding after the scheduled final payment date of the last bond tranche or class, mandatory true-up adjustments shall be made quarterly until all energy transition bonds and associated financing costs are paid in full. Cleco Power's proposed true-up adjustment filings are more fully described in the Direct Testimony of Christina McDowell.

D. Rating Agency Concerns

It is a given in the electric utility industry that the actual stream of utility revenues varies with weather and other factors. The primary forms of credit enhancement necessary to convert this potentially volatile revenue stream into a dependable revenue stream that supports triple-a ratings are provided by the required true-up and the state pledge, the SPE structure, and the waterfall, with the capital and excess funds subaccounts designed to smooth out variability in

collections. All these features are described in additional detail in the testimonies of Cleco Power witnesses Mark Gilmore and Christina C. McDowell.

Given the credit enhancement already provided by the proposed transaction structure and nature of the energy transition property, Cleco Power is not aware of any form of additional credit enhancement that could be expected to reduce the cost of funds of the energy transition bonds by more than the fees that would be charged for the enhancement. Nonetheless, the Company proposes the use of additional forms of credit enhancement (including overcollateralization accounts or additional reserve or other subaccounts, letters of credit, surety bonds, and other mechanisms designed to promote credit quality) and arrangements to enhance marketability of the energy transition bonds, if necessary, but only if such enhancements and arrangements are reasonably expected to result in net benefits to customers. It may not be known until the energy transition bonds are about to be issued whether the use of credit enhancements and arrangements will be necessary. That decision therefore is appropriate to be made as part of the issuance advice letter process. Cleco Power also proposes that the costs of any credit enhancements as well as the costs of arrangements to enhance marketability be included in the amount of upfront financing costs to be financed. Cleco Power requests Commission authorization to recover the upfront financing and ongoing financing costs of credit enhancements and arrangements to enhance marketability, provided that the Commission's financial advisor and Cleco Power agree in advance through the issuance advice letter process that such enhancements and arrangements provide benefits greater than their tangible and intangible costs. If Cleco Power proposes the use of such credit enhancements or arrangements, Cleco Power will provide to the Commission's financial advisor copies of cost/benefit analyses, if any, performed by or for Cleco Power that support the request to use such enhancements and arrangements. Cleco Power maintains that it would not be

equitable for the Company to have to bear any of the costs for such credit enhancements and arrangements when the only reason for their incurrence would be to achieve lower energy transition costs to customers than would result without the credit enhancement. The costs of any such credit enhancements or arrangements provided for herein would not be subject to the \$10 million cap on upfront financing costs. Any such additional upfront costs would be reflected in the issuance advice letter.

E. Issuance Advice Letter Process

To ensure consistency with the terms of the Revenue Requirement Order and the Financing Order, the final terms and conditions of the energy transition bonds, including the schedule of principal amortization, the frequency of principal or interest payments, the interest rates, the manner of sale of the energy transition bonds, and the credit enhancement and structure necessary to obtain triple-a credit ratings, will, to the extent consistent with the proposed Financing Order, be determined by Cleco Power with the participation of the LPSC's designated representative and Staff at the time the energy transition bonds are priced and after input from the rating agencies and underwriters. Not later than two business days after the pricing of the energy transition bonds, Cleco Power will confirm the final terms of the energy transition bonds in an issuance advice letter and accompanying workpapers submitted to the LPSC Staff. The issuance advice letter will report the final structure and terms of the energy transition bonds, identify the legal structure of the SPE established to issue the energy transition bonds, identify the total qualified costs securitized with energy transition bonds, identify the initial energy transition charge to be implemented upon issuance of the energy transition bonds, and demonstrate the savings to customers and/or rate impact. The actual terms of the energy transition bonds will be used in the calculations confirming that customers will experience significant benefits which are superior to traditional methods of

utility financing. A copy of the form issuance advice letter is attached to the proposed Financing Order, which is in turn attached to the Direct Testimony of Christina McDowell as Exhibit CCM-4.

The proposed Financing Order also sets forth a process for submission of a draft issuance advice letter to the LPSC Staff and their financial advisor(s) at least two weeks prior to the anticipated pricing of the energy transition bonds. The process described also contemplates feedback being provided from the LPSC Staff a week prior to pricing, permitting resolution of any questions and/or outstanding items related to the issuance prior to pricing.

F. Ratepayer Benefits

As described in greater detail in the Direct Testimony of Cleco Power witness Christina C. McDowell, the proposed securitization financing will provide Cleco Power's customers with the most economical means of financing the energy transition costs. The most likely alternate method of financing the energy transition would be to create a retail revenue requirement to recover the unrecovered plant costs and unrecovered lignite costs, as well as plant and mine demolition and remediation costs. Attached as Exhibit CCM-7 to the Direct Testimony of Christina C. McDowell is an alternative revenue requirement calculation. For purposes of this Exhibit, Ms. McDowell took the \$305 million securitization principal amount shown on Exhibit CCM-3, less the upfront bond issuance and ongoing securitization costs, and assumed a recovery over the life of the energy transition bonds (20 years) at Cleco Power's gross of tax weighted average cost of capital ("WACC"). This results in a levelized annual revenue requirement of approximately \$32.9 million compared to the \$26.5 million revenue requirement for the securitized energy transition charge scenario as shown on Exhibit CCM-5. The alternative revenue requirement recovery method would cost customers an additional \$6.4 million annually or approximately \$128 million over a

20-year period. The alternative revenue requirement of \$32.9 million would result in a \$4.60 charge monthly for a customer with a usage of 1,000 kWh, over a period of 20 years as shown in Exhibit CCM-7. Thus, the securitization financing transaction would save customers on average \$0.82 monthly per 1,000 kWh of usage.

V. THE RESERVE

Cleco Power is requesting authorization to establish a funded restricted energy transition reserve of approximately \$37.8 million, which will be used to cover additional costs of decommissioning the Plant and the ongoing remediation of the Mines. The restricted funded energy transition reserve will be invested by the Company, and, per the Revenue Requirement Order, any earnings on the reserve will be credited annually to customers net of the tax payable on those earnings. The Company agrees to credit the customers on an annual basis the interest earned on the restricted reserve account through its Rider IICR mechanism. Cleco Power will determine the interest earned for the twelve months ending May 31 of each year and shall include this as a credit in Cleco Power's annual Rider IICR rate, which is updated and filed in June of each year and then implemented July 1 of each year. Cleco Power will also include a report in its annual Rider IICR filing showing all activity in the restricted energy transition reserve account, including withdrawals and interest earned (and each Rider IICR filing is subsequently reviewed by the Commission).

Cleco Power proposes to establish the energy transition reserve by depositing into a restricted, interest-bearing account the amount of money derived by subtracting from the \$305 million securitization principal amount: (1) the actual amounts of the plant and mine regulatory assets as of the end of the calendar month immediately preceding the date the energy transition

bonds are issued, and (2) the final actual amount of upfront securitization costs not to exceed \$10 million.

Cleco Power would seek to ensure that the Company was neither enriched nor penalized by the existence of the energy transition reserve. Demolition and remediation related expenditures would be removed from the calculation of rates under Cleco Power's Formula Rate Plan filing, and instead will be funded by the energy transition reserve. Note, however, that interest on the reserve will be given to customers through Rider IICR, and that Cleco Power will report annually on activity in the reserve as part of its Rider IICR filings.

Cleco Power would propose, at the expiration of the Amended and Restated Lignite Mining Agreement among Cleco Power, SWEPCO, and Dolet Hills Lignite Company, LLC, dated effective December 29, 2009, which governs the parties respective obligations regarding remediation of the Mines, to issue any remaining balance in the energy transition reserve as a credit to customers using Rider IICR as the crediting mechanism.

VI. CONCLUSION AND REQUEST FOR ACTION

WHEREFORE, for the reasons specified in this application and in its supporting testimony, Cleco Power respectfully requests that the Commission make the following determinations and take the following actions:

- (i) in the Financing Order, authorize Cleco Power to securitize the \$305 million authorized for recovery in the Revenue Requirement Order, to be collected from customers over the life of the energy transition bonds;
- (ii) in the Financing Order, include the establishment of a funded restricted energy transition reserve of approximately \$37.8 million as part of the \$305 million securitization principal amount;

- (iii) authorize the structure of the proposed securitization financing, including, but not limited to, the creation of energy transition property, the creation of a wholly-owned SPE subsidiary of Cleco Power, and the sale of that energy transition property to that SPE subsidiary;
- (iv) authorize Cleco Power's implementation of the energy transition charge and the collection from ratepayers of the funds required to pay all debt service and ongoing financing costs of the energy transition bonds through the rate schedules attached as Exhibit CCM-8 to the Direct Testimony of Cleco Power witness Christina C. McDowell;
- (v) issue a Financing Order under the Act as expeditiously as possible, and in any case prior to August 30, 2024, that is substantially similar in all material respects to the draft Financing Order attached as Exhibit CCM-4 to the Direct Testimony of Cleco Power witness Christina C. McDowell, which authorizes the issuance of the energy transition bonds, and issue the Financing Order with its terms effective upon issuance;
- (vi) grant any and all additional authorizations necessary for Cleco Power to consummate the issuance of the energy transition bonds as described herein; and
- (vii) grant all other relief that the law and the nature of this proceeding may permit or require.

Respectfully submitted,

CLECO POWER LLC



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Date: 5/17/24

BEFORE THE
LOUISIANA PUBLIC SERVICE COMMISSION

CLECO POWER LLC, EX PARTE.)
IN RE: APPLICATION OF CLECO)
POWER FOR: (1) A FINANCING ORDER)
AUTHORIZING THE SECURITIZATION)
FINANCING OF CERTAIN COSTS)
RELATED TO THE DOLET HILLS)
POWER STATION AND ASSOCIATED)
MINES; (2) ESTABLISHMENT OF AN)
ENERGY TRANSITION RESERVE; AND)
(3) EXPEDITED TREATMENT.)

DOCKET NO. U-_____

AFFIDAVIT

BE IT KNOWN, that before me, the undersigned Notary Public, duly commissioned and qualified for the State of Louisiana and Parish of Rapides, personally came and appeared:

J. ROBERT CLEGHORN

who after being duly sworn by me, did depose and say:

That he is the Vice President – Regulatory Strategy of Cleco Power LLC and has the authority to verify the application and its supporting testimony and exhibits in the captioned proceeding (the “Application”), that he is familiar with contents of the Application, and that, to the best of his knowledge, information and belief, the Application is true and accurate in all material respects as of the date of this Affidavit.



J. Robert Cleghorn
Vice President – Regulatory Strategy, Cleco Power LLC
2030 Donahue Ferry Road
Pineville, LA 71360

SWORN TO AND SUBSCRIBED
BEFORE ME, NOTARY PUBLIC,
THIS 16th DAY OF MAY, 2024.



NOTARY PUBLIC
BAR ROLL/NOTARY ID NO.: 51231
MY COMMISSION EXPIRES: at death

