

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER U-35806

CLECO POWER LLC,
EX PARTE

Docket No. U-35806, In re: Request for Recovery of Lost Revenues Related to LPSC Special Order Nos. 22-2020, 28-2020, and 43-2020, and Request for Accounting Order.

(Decided at the February 23, 2022 Business and Executive Session.)

ORDER

I. OVERVIEW AND BACKGROUND

On December 7, 2020, Cleco Power, LLC, (“Cleco Power”) filed its letter-application with supporting exhibits (the “Application”), requesting Louisiana Public Service Commission (“Commission”) authorization to recover, in the Company’s LPSC-jurisdictional rates, certain lost revenues associated with Commission Special Order Nos. 22-2020, 28-2020, and 43-2020. In the Application, Cleco Power further requested that the Commission issue an accounting order authorizing Cleco Power to utilize the methodology established by the Federal Energy Regulatory Commission (“FERC”) that modified the FERC’s existing Allowance for Funds Used During Construction (“AFUDC”) rate calculation on a temporary basis. The FERC granted a waiver to utilities allowing a utility to compute the AFUDC rate using the utility’s simple average of short-term debt balances as of 2019, instead of current short-term debt balances, as a means to maintain liquidity during the COVID-19 pandemic.¹ Cleco Power requested Commission authorization to follow the same exclusion for the derivation of the Company’s capital structure and cost rate of debt for retail ratemaking purposes. Under the FERC Order, the waiver was originally to be in effect for a 12-month period starting with March 2020. By FERC letter order issued September 21, 2021 (the “FERC 9/21/2021 Letter Order”), the FERC extended the waiver until March 31, 2022.

Notice of this proceeding was published in Official Bulletin No. 1234 of the Commission on December 11, 2020. Timely interventions were filed by Packaging Corporation of America, Cabot Corporation, and the Alliance for Affordable Energy (collectively, the “Intervenors”). The Tribunal issued a procedural schedule order on February 5, 2021.

¹ See 171 FERC ¶ 61,285, issued June 30, 2020 (the “FERC Order”).

The parties thereafter initiated discovery in this proceeding. Further, the parties engaged in settlement discussions. The Staff filed Direct Testimony on April 26, 2021. On July 1, 2021, Cleco Power filed Rebuttal Testimony in this proceeding stating the Company's general agreement with the positions raised in Direct Testimony of the Commission Staff, subject to the clarification of certain matters identified in the Company's Rebuttal Testimony.

Pursuant to a Motion for Continuance filed by Cleco Power on August 13, 2021, the Tribunal granted the Company's motion and continued the procedural schedule without date. Since that time, the parties achieved a consensual resolution of the issues regarding Cleco Power's request for an accounting order.

II. COMMISSION AUTHORITY

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

(B.) 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.

III. SETTLEMENT

On February 15, 2022, the parties executed an Uncontested Proposed Partial Stipulated Settlement ("Partial Settlement"), pursuant to Rule 6 of the Commission's Rules of Practice and Procedure, wherein the parties negotiated and agreed upon the terms and provisions of Cleco Power's request for an accounting order. All parties executed the Partial Settlement to indicate either their agreement with, or their non-opposition to the Partial Settlement. The Settlement resolved Cleco's Powers request for an accounting order, subject to certain terms and conditions, as well as preserved reservations of rights by Staff, the Intervenors, and Cleco Power. All other issues raised by Cleco Power in its application remain open. The Commission Staff and Cleco Power agreed that the Settlement is in the public interest and should be authorized, subject to certain terms and conditions.

IV. COMMISSION CONSIDERATION

This matter was considered at the Commission's February 23, 2022 Business and Executive Session. On motion of Vice Chairman Francis, seconded by Commissioner Skrmetta, with Chairman Boissiere and Commissioner Campbell concurring, and Commissioner Greene absent, the Commission voted to assert its original and primary jurisdiction and take the matter up pursuant to Rule 57 of the Commission's Rules of Practice and Procedure.

On motion of Vice Chairman Francis, seconded by Commissioner Skrmetta, with Chairman Boissiere and Commissioner Campbell concurring, and Commissioner Greene absent, the Commission voted to accept the Partial Settlement filed into the record on February 15, 2022.

THEREFORE, IT IS ORDERED:

1. Cleco Power's request for an accounting order, as described in the Company's Application, is granted. This accounting order shall remain in effect for as long as the waiver established under the FERC Order remains in effect, as extended by the FERC 9/21/2021 Letter Order. This accounting order shall be subject to the same limitations and conditions as are specified in the FERC Order and the FERC 9/21/2021 Letter Order.
2. The Commission's authorization of this accounting order does not authorize any additional rate recovery.
3. Except solely as to Cleco Power's request for this accounting order, all other issues presented in this docket remain open for consideration. Each party in Docket No. U-35806 reserves all rights to assert any position as such party sees fit in future proceedings in this docket.
4. The Settlement filed into the record on February 15, 2022 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.

5. This order is effective immediately.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
March 29, 2022



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

BRANDON M. FREY
SECRETARY

/S/ LAMBERT C. BOISSIERE, III
DISTRICT III
CHAIRMAN LAMBERT C. BOISSIERE, III

/S/ MIKE FRANCIS
DISTRICT IV
VICE CHAIRMAN MIKE FRANCIS

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

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

ABSENT
DISTRICT II
COMMISSIONER CRAIG GREENE