

**LOUISIANA PUBLIC SERVICE COMMISSION
ADMINISTRATIVE HEARINGS DIVISION**

DOCKET NUMBER U-37425

ENTERGY LOUISIANA, LLC, EX PARTE

In re: Application for approval of generation and transmission resources in connection with service to a single customer for a project in North Louisiana.

**NOTICE OF TRIBUNAL'S DECISION
TO DEFER RULING ON LEGAL ISSUES**

On February 13, 2025, the Alliance for Affordable Energy and the Union of Concerned Scientists ("Movants") filed a motion with the Louisiana Public Service Commission ("LPSC" or "Commission") entitled *Motion for Denial of Entergy Louisiana, LLC's Request for an Exemption from Market-Based Mechanism [("MBM")] Order and Request for Dismissal of the Application* ("Motion"). The Motion states: "The Commission should deny ELL's request for exemptions from the MBM Order because the Company has failed to provide the required support for such exemptions, improperly limited its procurement process to self-build resources, and failed to show that it would be in the public interest to forgo the Commission's process for identifying lowest-cost resources." Movants ultimately seek dismissal of the proceeding. The issues raised in the Motion are not ripe for judicial determination and are deferred pending the development of the record in this docket.

Reasons

Entergy Louisiana, LLC ("ELL") filed its original application on October 30, 2024, and its amended application on December 13, 2024, seeking the approval of generation and transmission resources needed to serve a substantial new load for a large and economically transformative data center to be located in Richland Parish, Louisiana ("Application"). Among other things, the

Application seeks exemptions from the MBM Order's formal request for proposals process and the prohibition against limiting alternative processes to self-build or utility-owned resources.

At the November 2024 Business and Executive Session ("B and E"), the Commission directed that the final recommendation on ELL's Application be placed on the agenda for its October 2025 B and E. At the initial status conference, the Tribunal set a procedural schedule to meet the Commission's directive. The agreed-upon deadlines for discovery, direct and cross-answering testimony by the Commission Staff and Intervenors, rebuttal testimony by ELL, a joint pre-hearing statement, and pre-hearing briefs are months away. Yet, this Motion seeks a decision on the ultimate issues to be decided in this case (i.e., whether ELL's Application is in the public interest and should be approved) before all parties have completed discovery or filed testimony.¹

The Movants have not cited any procedural rule that would require a decision at this time. Although the Movants reference Rule 15 of the Commission's Rules of Practice and Procedure as the legal basis for the Motion, Rule 15 generically addresses motion filing requirements and provides no legal basis for a recommendation on a motion to dismiss an application before a hearing on the merits. In fact, Rule 56, which does specifically address motions to dismiss, provides for dismissal prior to the "consideration of the evidence and testimony and any pertinent authority" only in the following limited circumstances: a motion to dismiss jointly filed by all parties of record; a motion to dismiss with prejudice filed by the party who instituted the proceeding; or a motion to dismiss without prejudice filed by a party who instituted the proceeding,

¹ ELL filed the direct testimony of 11 witnesses. No other party has filed testimony. In accordance with the procedural schedule adopted on December 3, 2024, Commission Staff and Intervenor testimony is due on April 11, 2025, and cross-answering testimony is due on May 9, 2025, after which, ELL will have a rebuttal opportunity on May 30, 2025.

but prior to the filing of any other party's filing of a responsive pleading.² None of these circumstances exist here. Since Rule 56(a) requires an evidentiary hearing and recommendation process to address the Motion, a resolution of the Motion at this time will not avoid the devotion of additional resources as suggested by the Movants but would likely disrupt the current procedural schedule and delay the hearing scheduled for July.

Movants cite Commission Order No. U-31125, wherein ELL was denied relief from the requirements of the Nuclear Incentive Rule as support for its Motion. However, the Commission only decided that case after a hearing on the merits.³ The arguments for denying ELL's Application, as presented by the Motion, go to the merits of this proceeding, and those arguments must be considered as part of the fair and orderly process that has already been prescribed pursuant to the existing procedural schedule set in accordance with the Commission's directive.

Baton Rouge, Louisiana, this 27th day of February, 2025.



Melanie Verzwylt
Chief Administrative Law Judge

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² See Rule 56(d).

³ See Order No. U-31125, Entergy Louisiana, LLC and Entergy Gulf States Louisiana, L.L.C., ex parte. *In re: Application for certification of nuclear power plant siting and licensing activities*, (June 28, 2012), wherein the Commission held a two-day hearing on the merits.

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