

# PHELPS DUNBAR LLP

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June 3, 2019

12922-497

## VIA TELECOPIER AND OVERNIGHT DELIVERY

RECEIVED BY FAX

Terri Lemoine Bordelon  
Records Division  
Louisiana Public Service Commission  
Galvez Building, 12th Floor  
602 North Fifth Street  
Baton Rouge, LA 70802

JUN -3 2019

LOUISIANA PUBLIC SERVICE COMMISSION

Re: Cleco Power LLC, LPSC Docket U-35049, In Re: June 2018 Monitoring Report - Application of Cleco Power LLC for: (i) Authorization to Implement Rate Reductions resulting from the Tax Cuts and Jobs Act of 2017; (ii) Authorization to Modify Certain Tariffs in connection with such Rate Reductions; (iii) Authorization to Implement Residential Base Revenue Decoupling; and (iv) Expedited Treatment

Dear Ms. Bordelon,

Enclosed are one (1) original and three (3) copies of the Motion of Cleco Power LLC Proposing the Scope of the Docket, for filing in the record of the captioned docket. Further enclosed is my firm's check to cover the fax-filing fee.

Please return one (1) time-stamped copy of the filing to us.

If you have any questions, or require any additional information whatsoever, please do not hesitate to contact us.

Respectfully submitted,

By:

*Daniel T. Pancamo*

Daniel T. Pancamo  
Nathan G. Huntwork  
Collin Buisson

Counsel for Cleco Power LLC

DTP/lis  
Enclosures

cc: U-35049 Service List (via e-mail)  
J. Robert Claghorn (via e-mail)  
Christina McDowell (via e-mail)

COUNSELORS AT LAW

**BEFORE THE  
LOUISIANA PUBLIC SERVICE COMMISSION**

IN RE: FORMULA RATE PLAN – JUNE )	
2018 MONITORING REPORT AND )	
APPLICATION FOR AUTHORIZATION )	
TO IMPLEMENT RATE REDUCTIONS )	DOCKET NO. U-35049
RESULTING FROM THE TAX CUTS )	
AND JOBS ACT OF 2017 AND )	
RELATED RATE CHANGES AND )	
REFUNDS.	

**MOTION OF CLECO POWER LLC PROPOSING THE SCOPE OF THE  
DOCKET**

Cleco Power LLC ("Cleco Power"), through undersigned counsel, respectfully submits this Motion Proposing the Scope of the Docket, as ordered by this Tribunal pursuant to the Report of April 30, 2019 Status Conference, issued April 30, 2019.

**I. BACKGROUND**

The Tax Cuts and Jobs Act of 2017 (the "TCJA") was signed into law on December 22, 2017, with an effective date of January 1, 2018. Among other things, the TCJA reduces the top statutory corporate federal income tax rate from 35% to 21%, effective for tax years beginning after December 31, 2017. The reduction in the corporate federal income tax rate reduces the effective statutory rate used for determining Cleco Power's revenue requirements.

Subsequent to the enactment of the TCJA, the Louisiana Public Service Commission (the "Commission" or the "LPSC") opened Docket No. R-34754<sup>1</sup> to address issues arising out of the TCJA and its impact upon LPSC-jurisdictional utilities and their respective customers. Upon the conclusion of the rulemaking, the Commission issued General Order No. 11-30-2018 (R-34754),

<sup>1</sup> Docket No. R-34754, Louisiana Public Service Commission, *ex parte*, *In re. Consideration of appropriate manner to flow through to ratepayers the benefit of the reduction in corporate income taxes as a result of the Tax Cuts and Jobs Act, treatment of the regulatory liability ordered by the Commission to be recorded by utilities pursuant to the Commission's Special Order 13-2018, and related matters.*

issued on November 30, 2018, as amended and superseded by General Order No. 2-7-2019 (R-34754), issued on February 7, 2019 (the "TCJA General Order"), which established the Commission's final rule (the "Final Rule").

On January 31, 2019, pursuant to the Final Rule, Cleco Power submitted its Application, supported by the Direct Testimony of Cleco Power's witness J. Robert Cleghorn.

On April 30, 2019, a status conference was convened in this docket. The parties agreed to a procedural schedule, which was memorialized in the referenced Report of April 30, 2019 Status Conference. During the status conference, certain parties raised issues regarding the proper scope of this docket, and this Tribunal directed the parties to file motions by June 3, 2019, to discuss the proper scope of this docket.

## II. REQUESTED SCOPE OF THE DOCKET

### A. Cleco Power's Application and Testimony

In its Application, and as described more fully in Mr. Cleghorn's Direct Testimony (excerpts of Mr. Cleghorn's Direct Testimony are attached hereto for convenient reference), Cleco Power made the following recommendations:

1. Cleco Power would reduce its base revenue requirement by \$31.6 million annually, and recommended allocation of 100% of that reduction to residential customers (please see Item 2, p. 4, lines 12-19 of Mr. Cleghorn's Direct Testimony).
2. Cleco Power would refund to all retail customers the difference in revenue requirements related to the change in statutory tax rates, for revenues

collected since January 1, 2018 (please see Item 3, p. 4, lines 20-23 and p. 5, lines 1-5, of Mr. Cleghorn's Direct Testimony for further detail).

3. Cleco Power would continue the current customer benefit from the reduction to rate base for excess deferred federal income tax until the Commission approved the methodology for providing the benefit in Cleco Power's next rate case (please see Item 4, p. 5, lines 6-11 of Mr. Cleghorn's Direct Testimony for further detail).
4. Cleco Power proposed a restructuring of its Residential Service tariff (please see Item 5, p. 5, lines 14-18 of Mr. Cleghorn's Direct Testimony for further detail).
5. Cleco Power proposed decoupling of residential base revenue from residential energy consumption (please see Item 6, p. 5, lines 19-22 of Mr. Cleghorn's Direct Testimony for further detail).

B. Cleco Power's June 2019 Rate Case.

Pursuant to Order No. U-33434-A, issued April 7, 2016, in Docket No. U-33434,<sup>2</sup> Cleco Power is required to file a full rate case in June 2019, pursuant to Regulatory Commitment No. 4 (contained in Attachment A to that Order).

Given the proximity of Cleco Power's rate case filing, Cleco Power maintains that (with one exception, described below) it may be more appropriate and more efficient to address the recommendations described above holistically in its rate case, due to be filed in June. Further, given that the resolution of Cleco Power's Application in this docket and

<sup>2</sup> Docket No. U-33434, Cleco Power LLC, ex parte, In re: Joint Application of Cleco Power LLC and Cleco Partners L.P. for: (i) Authorization for the Change of Ownership and Control of Cleco Power LLC and (ii) Expedited Treatment.

its rate case would otherwise take place on roughly parallel tracks. Cleco Power maintains that there would be no harm to its customers in addressing its recommendations in the June 2019 rate case.

Accordingly, Cleco Power proposes that the scope of this docket should be as described in Section I(C) below.

C. Cleco Power's Proposal.

Cleco Power is proposing that the recommendations described in Sections II(A)(1), (3), (4), and (5) above be deferred for consideration in Cleco Power's June 2019 rate case.

With respect to the recommendation described in Section II(A)(2) above, regarding the refund to all retail customers of the difference in revenue requirements related to the change in statutory tax rates, Cleco Power is proposing that this recommendation, and its resolution, remain in this docket. As described in Mr. Cleghorn's Direct Testimony, Cleco Power is requesting that the refund be allocated to all of its customers, utilizing the allocation methodology used to allocate charges under the Infrastructure and Incremental Cost Recovery ("IICR") provisions of Cleco Power's Amended and Restated Formula Rate Plan, authorized by the Commission pursuant to Order No. U-32779, issued June 27, 2014, in Docket No. U-32779.<sup>3</sup> To the extent that the Commission authorizes Cleco Power's request, the refund would be implemented as soon as reasonably possible thereafter. Implementation of the refund as soon as reasonably possible following Commission authorization would be consistent with the Commission's directive in the Final Rule that

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<sup>3</sup> Docket No. U-32779, Cleco Power LLC, ex parte. In re: Application of Cleco Power LLC for: (i) Extension of its Formula Rate Plan (FRP), First Authorized by LPSC Order No. U-30689, Issued October 28, 2010; and (ii) Consolidation of Docket No. U-32153 with this Docket.

such refund amounts shall be flowed through to ratepayers as quickly as possible (see Final Rule, Section I.B, General Order No. 2-7-2019 (R-34754) at p. 15 of 26).

D. Cleco Power's Discussions with the Parties.

As described in the Unopposed Joint Motion to Amend Procedural Schedule filed in this docket on May 31, 2019, by counsel for LPSC Staff ("Staff"), Packaging Corporation of America ("PCA"), and Cleco Power, the parties are currently engaging in good-faith discussions in an effort to reach agreement on the scope of this proceeding, as well as the substantive issues, in advance of the proposed June 28, 2019 filing date for Staff and PCA responses to this filing. Cleco Power has reviewed this filing with counsel for Staff and PCA, and consents to Staff's and PCA's reservation of their respective rights to address this filing and Cleco Power's January 31, 2019 filing regarding issues of scope in their June 28, 2019 responsive filings, in the event the parties are unable to achieve a resolution of such issues prior to such date. Assuming the parties are able to achieve a resolution of such issues, Cleco Power would file an uncontested stipulated settlement package in this docket reflecting such resolution.

WHEREFORE, Cleco Power respectfully requests that this Motion Proposing the Scope of the Docket be adopted as set forth above, subject to the reservation of rights of Staff and PCA described in Paragraph 11(D) above.

**Respectfully submitted,**

**PHELPS DUNBAR, L.L.P.**



NATHAN G. HUNTWORK (Bar Roll No. 31789)

DANIEL T. PANCAMO (Bar Roll No. 19726)

COLLIN BUISSON (Bar Roll No. 38146)

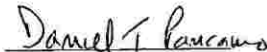
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*Attorneys for Cleco Power LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that I have on this 3rd day of June, 2019, served copies of the foregoing upon all known parties to this proceeding by electronic mail and/or by U.S. Mail, postage prepaid and properly addressed to all parties of record.



Daniel T. Pancamo  
La. Bar Roll No. 19726

**BEFORE THE  
LOUISIANA PUBLIC SERVICE  
COMMISSION**

EX PARTE: CLECO POWER LLC JUNE )  
2018 MONITORING REPORT. )  
APPLICATION OF CLECO POWER LLC )  
FOR: (I) AUTHORIZATION TO )  
IMPLEMENT RATE REDUCTIONS )  
RESULTING FROM THE TAX CUTS )  
AND JOBS ACT OF 2017; (II) )  
AUTHORIZATION TO MODIFY )  
CERTAIN TARIFFS IN CONNECTION )  
WITH SUCH RATE REDUCTIONS; (III) )  
AUTHORIZATION TO IMPLEMENT )  
RESIDENTIAL BASE REVENUE )  
DECOUPLING; AND (IV) EXPEDITED )  
TREATMENT )

DOCKET NO. U-35049

2019 JUN 12 PM 3:07  
LA PUBLIC SERVICE  
COMMISSION

2019 JUN 31 PM 4:26  
LA PUBLIC SERVICE  
COMMISSION



**BEFORE THE**  
**LOUISIANA PUBLIC SERVICE COMMISSION**

<b>EX PARTE: CLECO POWER LLC JUNE 2018</b>	)	
<b>MONITORING REPORT - APPLICATION OF</b>	)	
<b>CLECO POWER LLC FOR: (I)</b>	)	<b>DOCKET NO. U-35049</b>
<b>AUTHORIZATION TO IMPLEMENT RATE</b>	)	
<b>REDUCTIONS RESULTING FROM THE TAX</b>	)	
<b>CUTS AND JOBS ACT OF 2017; (II)</b>	)	
<b>AUTHORIZATION TO MODIFY CERTAIN</b>	)	
<b>TARIFFS IN CONNECTION WITH SUCH</b>	)	
<b>RATE REDUCTIONS; (III) AUTHORIZATION</b>	)	
<b>TO IMPLEMENT RESIDENTIAL BASE</b>	)	
<b>REVENUE DECOUPLING; AND (IV)</b>	)	
<b>EXPEDITED TREATMENT</b>	)	

**DIRECT TESTIMONY**

**OF**

**J. ROBERT CLEGHORN**

**ON BEHALF OF**

**CLECO POWER LLC**

**JANUARY 31, 2019**

Cleco Power LLC  
Direct Testimony of J. Robert Cleghorn  
LPSC Docket U-35049

appropriate for consideration as the customer benefits of TCJA are fully addressed. My testimony addresses these two other recommendations in Sections VII and VIII.

In summary, Cleco Power's recommendations are as follows:

A: Compliance with the TCJA Order

1. Cleco Power recommends that this filing be recognized as compliant with the TCJA Order. Except as expressly provided herein, this filing has no effect on the settlement in Cleco Power's FRP Extension Docket, which established rates and charges currently billed to Cleco Power's LPSC-jurisdictional customers. Please see Section III of my testimony in support of this recommendation.
2. Cleco Power will reduce its base revenue requirement by \$31.6 million annually, and recommends that 100% of that reduction be allocated to residential customers, and that the allocation of Rider FRP revenues be fixed at the allocations utilized for Rider FRP charges effective July 1, 2018. Anticipating timely approval of both the determination of the total reduction and the allocation of the savings, the reduced charges would be effective July 1, 2019. Please see Section IV of my testimony in support of this recommendation.
3. For revenues collected since January 1, 2018, Cleco Power will refund to all retail customers the difference in revenue requirements related to the change in statutory tax rates. Anticipating implementation of new rates effective July 1, 2019, the refund will be approximately \$45.0 million. Cleco Power

Cleco Power LLC  
Direct Testimony of J. Robert Claghorn  
LPSC Docket U-35049

recommends that this refund be reflected as a separate line item, with ratemaking similar to Rider HCR, and in particular, credited to customer bills over twelve months beginning July 1, 2019, and be subject to a true-up in subsequent Rider HCR charges. Please see Section V of my testimony in support of this recommendation.

4. Cleco Power recommends that the current customer benefit from the reduction to rate base corresponding to the value of excess deferred federal income tax ("EDFIT") continue until the LPSC approves any change in the method for providing the benefit upon the conclusion of the rate case the Company will file in June 2019. Please see Section VI of my testimony for support of this recommendation.

B. Amended and Restated Formula Rate Plan provisions for consideration in implementing the customer benefit of TCJA:

5. Pursuant to FRP Section 3.5 (SPECIAL RATE FILINGS), Cleco Power proposes a modest restructuring of its Residential Service tariff, which will provide the majority of its lower usage residential customers a larger economic benefit than its higher usage residential customers. Details of this proposal are described in Section VII of my testimony.
6. In recognition of the moderately increased volatility in residential revenues, Cleco Power requests decoupling residential base revenue from residential energy consumption. Please see Section VIII of my testimony in support of this recommendation.

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JUN - 3 2019

LOUISIANA PUBLIC SERVICE COMMISSION

## FACSIMILE COVER SHEET

June 3, 2019

OUR FILE: 12922-497

TO: Ms. Terri Lemoine Bordelon  
Louisiana Public Service Commission  
Records Division

FACSIMILE NO: (225) 342-0877

TELEPHONE NO.: (225) 342-3157

FROM: Daniel T. Pancarno  
(504) 584-9265 phone  
(504) 568-9130 fax

RE: Cleco Power LLC  
Docket No. U-35049

TOTAL PAGES (INCLUDING THIS PAGE):

(12)

MESSAGE: Dear Ms. Bordelon -- Please see the attached Motion of Cleco Power LLC Proposing the Scope of the Docket, for filing in Docket No. U-35049. Please do not hesitate to call if you have any questions. Thank you!

Dan Pancarno

CONFIDENTIALITY NOTICE

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