LOUISIANA PUBLIC SERVICE COMMISSION

SPECIAL ORDER NUMBER 69-2024

FERC Docket Nos. EL18-152, EL17-41, EL18-142, EL18-204, ER18-1182, EL20-72, EL21-56, ER21-117, ER21-129, ER21-748, EL21-24, EL21-46, ER22-958, ER23-816, ER23-1164, ER23-435, EL23-11, ER23-1022, ER24-1203, and EL24-5

In re: SERI Global Settlement

(Decided at the August 14, 2024 Business and Executive Session.)

Overview

This Special Order adopts the SERI Global Settlement resolving all outstanding issues in numerous Federal Energy Regulatory Commission ("FERC") dockets, which consists of the above-referenced contested FERC proceedings involving the Louisiana Public Service Commission ("Commission" or "LPSC") and System Energy Resources, Inc. ("SERI"), except for *In re: System Energy Resources, Inc.*, FERC Docket No. ER22-24-000 *et al*, a proceeding that addresses SERI's filing to include prepaid and accrued pension cost in the Grand Gulf Unit Power Sales Agreement ("UPSA") Tariff ("pension proceeding"). This Special Order also adopts the SERI Retail Settlement Terms regarding the implementation of the SERI Global Settlement in Commission-jurisdictional rates.

Jurisdiction

The Commission exercises its jurisdiction in this proceeding pursuant to Article IV, Sec. 21 of the Louisiana Constitution, which provides in pertinent part:

> 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 perform other duties as provided by law.

Pursuant to this authority, the LPSC regulates the retail rates of Entergy Louisiana, LLC ("ELL"), a subsidiary of Entergy Corp., that purchases electricity from the Grand Gulf nuclear plant at wholesale from SERI and charges the costs of that purchased electricity to retail consumers.

ELL is required to make those purchases pursuant to FERC-mandated allocations under a FERC-jurisdictional rate, as provided for in the UPSA. The Louisiana Commission must allow the inclusion of Grand Gulf costs in retail rates, even if the Commission determines the costs to be excessive, because FERC determinations preempt state ratemaking. *Mississippi Power & Light Co. v. Mississippi*, 487 U.S. 354 (1988). The Louisiana Commission can seek relief only at FERC, or on review in a court of appeals.

The Federal Power Act ("FPA") permits state regulators to file complaints concerning wholesale rates at FERC. 16 U.S.C. § 825e. It also permits persons aggrieved by a FERC order to seek review. 16

U.S.C. § 825l(b). By virtue of these provisions, the Commission brought or participated in the above-captioned actions at the FERC to protect ELL's retail ratepayers from overcharges for Grand Gulf purchases.

Background

After years of litigation at the FERC regarding SERI's operations and management at its Grand Gulf nuclear facility, as well as SERI's accounting and ratemaking practices in its Grand Gulf sales to ELL, the Commission and SERI agreed to a black box refund from SERI to ELL in the amount of $95 million, inclusive of FERC interest. The settlement amount reflects ELL's allocated percentage of 16.13%, which includes the MSS-4 Replacement Tariff re-sales of the output of Grand Gulf. The settlement amount is reduced by refunds previously paid by SERI to ELL, including a net amount of $9.6 million related to FERC Docket No. EL18-152 and $5.2 million related to a partial settlement in FERC Docket No. EL20-72. The remaining amount, $80.2 million, will be refunded from SERI to ELL within sixty (60) days of the Settlement Effective Date.[1] The SERI Global Settlement also establishes SERI's UPSA billings to ELL, beginning September 1, 2024, based on a Return on Equity of 9.65% and SERI's actual capital structure, but with a ceiling on the equity ratio of 52.0%.

In addition to the black box settlement, the SERI Global Settlement also includes an agreement that ELL will divest all of its Grand Gulf capacity and associated energy under the UPSA (14% share) and the 2.43% Grand Gulf capacity and associated energy purchased from Entergy Arkansas, under the MSS-4 Replacement Tariff, to Entergy Mississippi, LLC ("EML"). Divestiture will be effective on January 1, 2025, or as soon thereafter as all required regulatory approvals are obtained. Divesture will first be effectuated on an interim basis with agreements between ELL and EML pursuant to the MSS-4 Replacement Tariff on file with the FERC to resell ELL's shares of Grand Gulf capacity and associated energy to EML. The resales will be priced at the delivered cost incurred by ELL, with ELL being reimbursed 100 percent of the costs charged to it.

Subsequent to these interim arrangements, the divestiture will be made permanent by amending the UPSA to: 1) remove ELL, and replace ELL with EML in the UPSA, including for responsibility of ELL's 14% share; and 2) increase EML's share by 2.43% and decrease Entergy Arkansas, LLC's ("EAL")

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[1] Of this $80.2 refund amount from SERI to ELL, $75.5 million remains to be refunded to ELL's customers and ELL will refund that amount to its customers, as provided in the Retail Settlement Terms approved in this Special Order and in the companion Global Settlement Stipulation Agreement in LPSC Docket No. U-36959 that was approved by the Commission on August 14, 2024.

The Settlement Effective Date shall be that date on which FERC approves or accepts the Settlement Agreement in its entirety, without any material condition or modification, or, in the event of a material condition or modification, the date on which Settling Parties agree to the modification or condition.

share by 2.43%. Concurrent with the effective date of these UPSA amendments, the MSS-4 Replacement Tariff Agreement will be terminated.

ELL is also a party to the Availability Agreement and Reallocation Agreement, which has certain rights and obligations of ELL. With the effective date of the divestiture, ELL's rights and obligations under the Availability Agreement, if any, shall be assumed by EML, until such time as ELL is no longer a party to any such support agreements. Subject to the requisite regulatory approvals, Entergy Services, SERI, and ELL agree to effectuate support agreements for SERI that exclude ELL.

SERI Global Settlement Terms

The Commission Staff and SERI entered into the SERI Global Settlement on August 1, 2024, subject to Commission approval. The terms of the SERI Global Settlement are as follows:

Refund Amount

1. The Settling Parties agree to a black box refund from SERI to ELL in the amount of $95 million, inclusive of FERC interest. The relationship of the foregoing $95 million and $588.25 million amounts reflects the following allocation percentages, which include the MSS-4 Replacement Tariff re-sales of the output of Grand Gulf: EAL – 24.19%; EML – 39.95%; ELL – 16.13%; and ENO – 19.74%. Thus, the black box refund reflects ELL’s MSS-4 Replacement Tariff purchases of the output of Grand Gulf.
2. SERI paid ELL a refund of $27.8 million in Docket No. EL18-152 in January 2023 and recouped $18.2 million of this amount in October 2023. The net amount ELL received in Docket No. EL18-152 was $9.6 million.
3. SERI paid ELL a $5.2 million refund received on the UPSA bill for May 2023 service relating to the partial settlement in Docket No. EL20-72.
4. The $95 million black box refund to ELL from SERI will be reduced by the $14.8M ($9.6 million + $5.2 million) already received by ELL.
5. The remaining amount to be refunded from SERI to ELL is $80.2 million ($95 million minus $14.8 million). Payment from SERI to ELL of the remaining black-box refund amount shall be made within sixty (60) days of the Settlement Effective Date.[2]
6. No damages or refunds ordered by the Commission in the settling dockets shall be paid to ELL apart from the black-box refund provided for in this settlement.
7. The ratemaking treatment of the refund to ELL shall be governed by the Retail Settlement Terms approved in this Special Order and in the companion Global Settlement Stipulation Agreement in LPSC Docket No. U-36959 that was approved by the Commission on August 14, 2024.

Return on Equity and Capital Structure

8. Commencing on September 1, 2024, SERI shall calculate its UPSA billings to ELL based on a ROE of 9.65% and SERI’s actual capital structure, but with a ceiling on the equity ratio of 52.0%.
9. Neither the LPSC nor SERI or its affiliates may propose a change in the agreed- upon ROE or equity ratio in UPSA monthly billings to Settling Operating Company Buyers that would be effective during the period from September 1, 2024, through June 30, 2026.

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[2] The Settlement Effective Date shall be that date on which FERC approves or accepts the Settlement Agreement in its entirety, without any material condition or modification, or, in the event of a material condition or modification, the date on which Settling Parties agree to the modification or condition.

Grand Gulf Divestiture

1. ELL will divest all of its Grand Gulf capacity and the associated energy under the UPSA (14% share) and its 2.43% Grand Gulf capacity and associated energy purchased from EAL under the MSS-4 Replacement Tariff to EML beginning on January 1, 2025, or as soon thereafter as all required regulatory approvals are obtained. Such approvals include, but may not be limited to, the Federal Energy Regulatory Commission ("FERC") and the Mississippi Public Service Commission. SERI shall seek the requisite regulatory approvals as soon as possible after the Louisiana Commission formally approves this Agreement.

2. For the 14% portion, the divestiture will be effectuated first by ELL selling and EML purchasing ELL's 14% share of Grand Gulf generating capacity and associated energy via an agreement pursuant to the MSS-4 Replacement Tariff on file at FERC. This resale will be priced at the delivered cost incurred by ELL under the UPSA. ELL will be reimbursed for 100 percent of the costs charged to it under the UPSA with this MSS-4 Replacement Tariff sale to EML.

3. Subsequently, the UPSA will be amended or otherwise modified to remove ELL in its entirety and EML will replace ELL in the UPSA and be responsible for ELL's 14% share. Concurrent with the effective date of these UPSA amendments, the MSS-4 Replacement Tariff Agreement will be terminated.

4. For the 2.43% portion, the divestiture will first be effectuated by ELL selling and EML purchasing the 2.43% share of Grand Gulf generating capacity and associated energy via an agreement pursuant to the MSS-4 Replacement Tariff on file at FERC. This resale will be priced at the delivered cost incurred by ELL under the MSS-4 Replacement Tariff agreements with EAL. ELL will be reimbursed for 100 percent of the costs charged to it under the MSS-4 Replacement Tariff agreement with EAL with this MSS-4 Replacement Tariff sale to EML.

5. Subsequently, the UPSA will be amended or otherwise modified to increase EML's share by 2.43% and decrease EAL's share by 2.43%. Concurrent with the effective date of these UPSA amendments, the MSS-4 Replacement Tariff Agreement will be terminated.

6. The parties intend to seek approval of the UPSA amendments described for the 14% portion and the 2.43% portion in a single filing.

7. During the time that EML purchases ELL's share of Grand Gulf through the MSS-4 Replacement Tariff, Entergy will provide LPSC representatives with copies of the monthly UPSA bill from SERI to ELL and the monthly ELL bill to EML concurrent with ELL's receipt and submission of those bills.

8. ELL is also a party to the Availability Agreement and Reallocation Agreement and has certain rights and obligations under these Agreements. With the effective date of the divestiture, ELL's rights and obligations under the Availability Agreement, if any, shall be assumed by EML, pursuant to a Reimbursement Agreement between EML and ELL until such time as ELL is no longer a party to any such support arrangements. Under that Reimbursement Agreement, EML will assume the rights and obligations of ELL under both the Availability Agreement and Reallocation Agreement, and EML shall reimburse and indemnify, defend and hold ELL harmless from and against all costs and expenses arising from ELL's obligations pursuant to the terms of the Availability Agreement and/or the Reallocation Agreement, as well as costs and expenses relating to defending against such claims. Upon divestiture, ELL's retail ratepayers will not pay any costs whatsoever associated with the Availability Agreement or the Reallocation Agreement. Subject to the requisite regulatory approvals, Entergy Services, SERI, and ELL agree to effectuate support agreements for SERI that exclude ELL.

9. Upon divestiture of ELL's share of Grand Gulf energy and capacity, ELL and the LPSC shall waive and release any action or cause of action against any other Settling Party arising from or relating to the UPSA and SERI's performance under the UPSA, except for FERC Docket No. ER22-24, the SERI pension proceeding, which case is not affected by this settlement or divestiture.

10. EML has agreed that it shall file to request approval of the divestiture by the MPSC as soon as reasonably practicable after the LPSC reviews and approves the settlement. ELL and the LPSC agree that if the MPSC rejects the divestiture arrangements proposed in this Agreement, ELL and the LPSC shall engage in reasonable best efforts to enter into alternative, mutually satisfactory

arrangements that result in the removal of SERI costs from retail rates. If after the exercise of reasonable best efforts, ELL is not able to enter into such arrangements, then ELL's entitlement to Grand Gulf energy and capacity shall continue; provided, however, that ELL commits to continue to work to identify alternative arrangements and to provide regular updates to the LPSC concerning such efforts.

Other Terms

1. This Settlement Agreement comprehensively resolves and settles all issues, claims, demands and allegations by the Settling Parties in the above-captioned dockets, including appeals, and no compensation, refunds or damages shall be due to any Party in connection with any such issues, claims, demands and allegations, except as provided under this Settlement Agreement. Subject to the foregoing, approval or acceptance of this Settlement Agreement by FERC shall constitute the release and discharge forever of each Party, its officers, directors, employees, members, successors, and assigns by each and every other Party from any and all claims, demands, damages, amounts owed, actions, causes of actions, or suits of any kind or nature whatsoever, known or unknown, foreseen or unforeseen, that arose or could have arisen in connection with the matters addressed by this Settlement Agreement for events that occurred prior to the filing date of the Settlement Agreement.
2. Within fifteen (15) days of the Settlement Effective Date, the LPSC shall withdraw all complaints, outstanding claims and/or protests, and appeals in the above-captioned proceedings. For clarity, the Termination of the Capital Funds Agreement claim that was previously withdrawn without prejudice under the Partial Settlement in EL20-72 is resolved by this settlement.
3. The Settling Parties agree to irrevocably waive and release any rights, claims, remedies, or causes of action they may have against any other Settling Party arising out of or relating to SERI's pre-Settlement implementation of the Unit Power Sales Agreement ("UPSA") that are not filed and served upon the applicable parties as of 60 days prior to the execution of the Settlement Agreement. "Pre-Settlement implementation" includes the incurrence by SERI of costs that are included in UPSA, the calculation of the UPSA rates, and the invoicing and collection of rates from UPSA customers for service under the UPSA through August 31, 2024. This provision does not limit the ability of the Settling Parties to utilize the Protocols challenge process for the calendar year 2023 UPSA bills and forward, to the extent that such challenges address issues other than those that are resolved by this Settlement.
4. The Louisiana Commission and Entergy will work together in good faith to develop the required settlement documents to present to the FERC and to obtain FERC approval of the settlement, and take such other steps as are required to effectuate this settlement.

SERI Retail Settlement Terms

In order to effectuate the provisions of the SERI Global Settlement, Commission Staff and ELL negotiated settlement terms for the retail implementation of the SERI Global Settlement, subject to Commission approval. Those terms, agreed to on August 1, 2024, provide the mechanics and retail treatment for the SERI credits to flow back to ELL customers. The SERI Retail Settlement provides an annual credit of approximately $25.3 million for three years to retail customers through the Formula Rate Plan, as further described in the Stipulated Settlement in Commission Docket No. U-36959. The terms of the SERI Retail Settlement are as follows:

ELL Customer Credits

1. As more fully discussed in the SERI Global Settlement, the total refund by SERI to ELL is $95M.

2. ELL has already credited $19.5 million in SERI refunds previously received to retail customers through the Test Year 2022 FRP rates, out of the $95 million agreed to in the SERI Global Settlement.
3. After factoring in the amounts already credited to customers ($19.5 million), the remaining amount to be refunded to ELL retail customers is $75.5 million. ($95 million minus $19.5 million= $75.5 million)
4. ELL will provide an annual credit of approximately $25.3 million per year for three years to retail customers for a total of $75.5 million through the Formula Rate Plan ("FRP") as described in the Global Settlement Stipulation Agreement in LPSC Docket No. U-36959 subject to and conditioned upon FERC approval of the SERI Global Settlement and ELL's receipt of settlement proceeds from SERI.

Retained Share of Grand Gulf

1. In a series of LPSC orders, court decisions, and agreements from late 1985 to mid-1988, in particular LPSC Order No. U-16945 dated November 19, 1985, ELL is allowed to recover 82% of its allocated capacity payments and permanently retains and does not recover from retail ratepayers 18% of its 14% share of the costs of Grand Gulf capacity, except capacity costs that are associated with the Extended Power Uprate project undertaken in 2008 (See LPSC Order No. U-32328). Entergy Louisiana instead is allowed to recover through the fuel adjustment clause at 4.6 cents per kWh the energy related to its 18% retained portion of Grand Gulf generation.
2. ELL's position is that because ELL's retail customers do not pay for capacity at the Unit Power Sales Agreement ("UPSA") rates for the retained share, it would be appropriate for ELL to retain 18% of the refund from SERI associated with ELL's 14% portion and not be obligated to provide a refund or credit to retail customers of this amount. The LPSC Staff opposes this position.
3. The specific amount of the SERI refund arguably associated with the retained share is $14.8M. However, in the interest of achieving a settlement and of obtaining a full resolution of the matters contemplated by the SERI Settlement, as a concession to Staff's position, ELL agreed to add to the customer credits that will be provided the $14.8M of the refund from SERI that is arguably attributable to the retained share.
4. The parties acknowledge that this concession regarding the Grand Gulf retained share is non-precedential and of no effect in any other proceedings and, without limiting the foregoing, will not be used by Staff as a basis to argue for the credit to customers of any other refund or similar amount that is arguably attributable to FERC-jurisdictional generation capacity that is excluded from ELL retail rates.

ELL's Divestiture of Grand Gulf

1. All parties fully reserve their rights regarding the appropriate treatment of the divestiture for retail ratemaking purposes. However, it is the parties' intent that in a future FRP proceeding, the ratemaking associated with the SERI divestiture will be effectuated in a manner that does not adversely affect ELL or ELL's retail ratepayers – that is, where: (1) ELL does not continue to collect in rates the costs of SERI that it is no longer incurring; (2) ELL does not incur a reduction in rates that is larger than its actual avoided SERI costs; (3) the timing of the rate change associated with the SERI divestiture is concurrent with the timing of the effective date of the SERI divestiture, and (4) ELL does not recover Grand Gulf capacity or energy costs from its retail ratepayers upon interim or permanent divestiture. Furthermore, ELL's retail ratepayers will not pay any costs associated with the Availability Agreement or the Reallocation Agreement upon divestiture.

Commission Consideration

This matter was considered at the Commission's August 14, 2024 Business and Executive Session. After discussion, on motion by Commissioner Skrmetta, seconded by Commissioner Greene, and unanimously adopted, the Commission accepted the SERI Global Settlement; accepted the SERI Retail Settlement Term Sheet; and instructed Staff to move forward with filing the appropriate documents seeking dismissal of the appropriate proceedings and seeking approval of the same.

IT IS THEREFORE ORDERED THAT:

The SERI Global Settlement Terms and the SERI Retail Terms negotiated by SERI and the Commission Staff and approved by the Commission at its August 14, 2024 Business and Executive Session, and as provided for in this Special Order, are hereby adopted. Highlights of those terms are as follows:

1) Subject to approval by the FERC, there shall be a black box refund from SERI to ELL in the amount of $95 million, inclusive of FERC interest. Accounting for prior refunds made from SERI to ELL in the amount of $14.8 million, the total refund from SERI to ELL shall be $80.2 million, and shall be made within sixty (60) days of the Settlement Effective Date.

2) Accounting for refunds previously made by ELL to its retail customers in the amount of $19.5 million, $75.5 million remains to be refunded to ELL's retail customers.

3) ELL will provide an annual credit of approximately $25.3 million per year for three years to retail customers for a total of $75.5 million through the Formula Rate Plan ("FRP") as described in the companion Global Settlement Stipulation Agreement in LPSC Docket No. U-36959 approved by the Commission on August 14, 2023, subject to and conditioned upon FERC approval of the SERI Global Settlement and ELL's receipt of settlement proceeds from SERI.

4) Commencing September 1, 2024, SERI shall calculate its UPSA billings to ELL based on a ROE of 9.65% and SERI's actual capital structure, but with a ceiling on equity of 52.0%, and neither LPSC or SERI, or affiliates, may propose a change in the agreed-upon ROE or equity ratio in UPSA monthly billings to Settling operating Company Buyers from September 1, 2024 through June 30, 2026.

5) ELL shall divest all of its Grand Gulf capacity and the associated energy purchased under the UPSA (14% share) and the Grand Gulf capacity and associated energy purchased from Entergy Arkansas under the MSS-4 Replacement Tariff (2.43%) to Entergy Mississippi beginning January 1, 2025, or as soon thereafter as all required regulatory approvals are obtained, with SERI seeking the requisite regulatory approvals as soon as possible.

6) ELL's divestiture shall be effectuated on an interim basis, as necessary, until a permanent divestiture can be effectuated, as described in the SERI Global Settlement Terms and SERI Retail Settlement Terms approved in this Special Order. In sum:
    a. The interim divesture of ELL's 14% of Grand Gulf purchased pursuant to the UPSA and of ELL's 2.43% of Grand Gulf purchased from Entergy Arkansas under the MSS-4 Replacement Tariff shall be accomplished by ELL selling and EML buying ELL's shares of Grand Gulf capacity and associated energy via an agreement or agreements pursuant to the MSS-4 Replacement Tariff on file at FERC. The resale will be priced at the delivered cost incurred by ELL under the UPSA and the MSS-4 Replacement Tariff Entergy Arkansas agreement respectively, and ELL will be reimbursed for 100 percent of the costs charged to it under the UPSA and MSS-4 Replacement Tariff Entergy Arkansas agreement.
    b. Subsequently, and as soon as reasonably practicable, ELL's divestiture shall be effectuated on a permanent basis. The UPSA will be amended or otherwise modified to remove ELL in its entirety and Entergy Mississippi will replace ELL in the UPSA and be responsible for ELL's 14% share of Grand Gulf and the additional 2.43% that ELL purchases from Entergy Arkansas. Concurrent with the effective date of these UPSA amendments, the

MSS-4 Replacement Tariff Agreements will be terminated.

c. The ratemaking associated with ELL's Grand Gulf divestiture shall be effectuated in a manner that does not adversely affect ELL or ELL's ratepayers – that is, where (1) ELL does not continue to collect in rates the costs of SERI that it is no longer incurring; (2) ELL does not incur a reduction in rates that is larger than its actual avoided SERI costs; (3) the timing of the rate change associated with the SERI divestiture is concurrent with the timing of the effective date of the SERI divestiture; and (4) ELL does not recover Grand Gulf capacity or energy costs from its retail ratepayers upon interim or permanent divestiture. Furthermore, upon divestiture, ELL’s retail ratepayers will not pay any costs whatsoever associated with the Availability Agreement or the Reallocation Agreement.

7) Concurrent with the effective date of the divestiture, ELL's rights and obligations under the Availability Agreement and Reallocation Agreement, if any, shall be assumed by EML, pursuant to a Reimbursement Agreement between EML and ELL until such time as ELL is no longer a party to any such support arrangements. Under that Reimbursement Agreement, EML will assume the rights and obligations of ELL under both the Availability Agreement and Reallocation Agreement and EML shall reimburse and indemnify, defend and hold ELL harmless from and against all costs and expenses arising from ELL’s obligations pursuant to the terms of the Availability Agreement and/or the Reallocation Agreement, as well as costs and expenses relating to defending against such claims. Upon divestiture, ELL's retail ratepayers will not pay any costs whatsoever associated with the Availability Agreement or the Reallocation Agreement. Subject to the requisite regulatory approvals, Entergy Services, SERI, and ELL agree to effectuate support agreements for SERI that exclude ELL.

8) Upon ELL’s divestiture of its share of Grand Gulf energy and capacity, ELL and the LPSC shall waive and release any action or cause of action against any other settling party arising from or relating to the UPSA and SERI’s performance under the UPSA, except for FERC Docket No. ER22-24, the SERI pension proceeding.

9) Should the Mississippi Public Service Commission reject the divestiture arrangements, ELL and the LPSC shall engage in reasonable best efforts to enter into alternative, mutually satisfactory arrangements that result in the removal of SERI costs from ELL retail rates.

This Order is effective immediately.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
September 13, 2024

LOUISIANA PUBLIC SERVICE COMMISSION

Brandon M. Frey

BRANDON M. FREY
SECRETARY

/S/ MIKE FRANCIS
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