

# LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER U-36923

CLECO POWER LLC, EX PARTE.

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*Docket No. U-36923, In re: Request for: 1) implementation of change in rates with an effective date of July 1, 2024; and 2) extension of existing Formula Rate Plan.*

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(Decided at the June 19, 2024 Business and Executive Session.)

## ORDER

### I. BACKGROUND

On June 30, 2023, Cleco Power, LLC., (“Cleco” or “Company”) filed a Request for: 1) implementation of change in rates with an effective date of July 1, 2024; and 2) extension of existing Formula Rate Plan (“Request”). Notice of this Request was published in the Louisiana Public Service Commission’s (“LPSC” or “Commission”) Official Bulletin #1301 on July 7, 2023, with a 25-day intervention period. Interventions were received from Cabot Corporation (“Cabot”), International Paper Company (“IPC”), Packaging Corporation of America, Alliance for Affordable Energy (“Alliance”), and Sierra Club (collectively “Intervenors”).

Following initial discovery on Cleco’s Request, IPC filed the *Direct Testimony and Schedules of Maurice Brubaker*, the Alliance filed *Limited Testimony in Lieu of Direct Testimony*, and Sierra Club filed the *Direct Testimony and Exhibits of Devi Glick* on February 5, 2024. On February 9, 2024, LPSC Staff filed *Direct Testimony of R. Lane Sisung on Behalf of the Staff of the Louisiana Public Service Commission*. On April 3, 2024, Cleco filed the *Rebuttal Testimony of J. Robert Cleghorn, Austin Finn, and Roger A. Morin, PhD*.

After extensive negotiations, Cleco, Staff, and the Intervenors were able to enter into an Uncontested Stipulated Settlement (“Settlement”). This executed Settlement was filed into the record on May 31, 2024, as part of the *Joint Motion for Scheduling of Hearing and Uncontested Proposed Stipulated Settlement*. A hearing on the Settlement was held on June 10, 2024.

### II. COMMISSION AUTHORITY

The Commission exercises jurisdiction over public utilities in Louisiana pursuant to Article IV, Section 21(B) of the Louisiana Constitution.

#### **LA. Const. Art. IV, Sec. 21(B) 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 shall have other powers and perform other duties as provided by law.

### **III. STIPULATED SETTLEMENT**

On May 31, 2024, Cleco, the Intervenors, and Commission Staff, pursuant to Rule 6 of the Commission's Rules of Practice and Procedure, filed the *Joint Motion for the Scheduling of Hearing and Uncontested Proposed Stipulated Settlement*, including Uncontested Stipulated Settlement Term Sheet, Settlement Testimony from Jonathan R. Bourg for Staff, and Settlement Testimony from J. Robert Cleghorn on behalf of Cleco. A hearing on the Settlement was held before Administrative Law Judge ("ALJ") Guillot on June 10, 2024. At the hearing, the Parties introduced testimony and documentary evidence in support of the Settlement. ALJ Guillot issued the *Report of Proceedings and Submission of Stipulation for Consideration by Commissioners* on June 12, 2024. The Settlement resolves all issues in this proceeding. Terms of the Stipulated settlement are:

#### **A. REVENUE REQUIREMENTS – BASE REVENUES AND RIDER IICR REVENUES**

1. Base Revenues Amount.

Effective as of July 1, 2024, for the twelve-months ending ("TME") June 30, 2025, Cleco Power may collect approximately \$733.689 million of base revenues. This amount includes adjustments for known and measurable changes (referred to as "attrition adjustments") to yield the \$733.689 million of base revenues that Cleco Power will begin collecting as of July 1, 2024. These base revenues will be collected predominantly based on customer demand and energy charges.

2. Rider IICR Revenues.

Effective as of July 1, 2024, for the TME June 30, 2025, Cleco Power may collect approximately \$22.632 million of revenues that will be collected through the Infrastructure and Incremental Cost Recovery mechanism ("Rider IICR") of Cleco Power's Third Amended and Restated Formula Rate Plan, (as described more fully below), for the TME June 30, 2025. The method of allocating IICR revenues to customer classes and collecting revenues from customers within a class will remain unchanged from current practice. The items eligible for recovery under Rider IICR for the TME June 30, 2025, are further described in Section II(B)(2), below.

3. Total Retail Revenues.

The total base rate and IICR retail revenues that Cleco Power may collect for the TME June 30 2025, are described in the table immediately below:

Base Revenues (Rate Schedules/Contracts)	\$733.689 million
Rider IICR (TME 6/30/2025)	\$ 22.632 million
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Total Retail Revenues for TME 6/30/2025	\$756.321 million

4. Recognition of Rodemacher 2 Regulatory Asset. The allowed depreciation expense for Rodemacher 2 is based on the Commission’s currently-authorized depreciation rate for that unit. Nothing in this Settlement alters that previously approved rate. Upon its decision to recognize a retirement of Rodemacher 2 by 2028, Cleco Power began booking additional depreciation expense beyond that authorized by the Commission’s previous orders. Cleco Power has included this additional expense in a regulatory asset. For ratemaking purposes, this has no effect at this time, as the additional depreciation expense booked by Cleco Power is offset by a credit to depreciation expense that is then debited to the regulatory asset. The Commission hereby approves, for accounting purposes, Cleco Power’s creation and booking of the regulatory asset associated with the increased depreciation expense at Rodemacher 2. The ultimate recovery of this regulatory asset, both in terms of timing and amount, is not approved as part of this Settlement. The Commission, however, recognizes that Cleco Power has presented to the Commission in this proceeding the capital expenditures at Rodemacher 2 through June 30, 2022. The Commission has reviewed those capital expenditures and determined that they were prudently incurred. As such, the Commission finds that the amounts included in plant-in-service for Rodemacher 2 through June 30, 2022, are prudently incurred capital costs.
5. Salaries and Merits Expense. Cleco Power may make attrition adjustments for increased expenses as of June 30, 2024 (\$8.972 million). This amount is included and reflected in the agreed upon reset of base revenues to \$733.689 million.
6. Mid-Continent Independent System Operator, Inc. (“MISO”) Administrative Charges. MISO administrative charges will be reduced from \$6.5 million to \$5.8 million but shall be subject to true-up through Rider IICR. This amount is included and reflected in the agreed upon first year IICR revenues of \$22.632 million.

7. Production O&M Deferral Threshold. The production O&M Deferral Threshold shall be set at \$29.7 million (the equivalent amount of production O&M included in the calculation of base revenue requirements). This amount is included and reflected in the agreed upon reset of base revenues to \$733.689 million.
8. START Make-Whole Credit. Strategic Alignment and Real-Time Transformation (“START”) project Make-Whole Credit (the “START Make-Whole Credit”) (\$4.3 million) shall be included in the Rider IICR filing for July 1, 2024, and is reflected in the agreed upon first-year IICR revenues of \$22.632 million. The START Make-Whole Credit shall be trued-up to reflect the elimination of the credit after the Cleco Cajun LLC divestiture closes and the associated transition services agreement expires; the true-up shall be made in the July 1, 2025, Rider IICR filing.
9. Property Taxes. An increase in property taxes of \$4.1 million shall be included in base revenues. This amount is included and reflected in the agreed upon reset of base revenues to \$733.689 million. Increases in property taxes solely due to ITEP (Industrial Tax Exemption Program) roll-offs shall be recovered through Rider IICR in the July 1, 2025, and July 1, 2026, Rider IICR filings. Madison 3 property taxes shall be recovered through Rider IICR and are reflected in the agreed upon first-year IICR revenues of \$22.632 million, subject to adjustments in future year IICR filings. There shall be no recovery for increases of property taxes attributable to net utility operating income.
10. COVID-19 Lost Revenues. COVID-19 lost revenues approved for recovery pursuant to Docket No. U-35806 shall be recovered in base rates over a 3-year period (\$1.585 million per year). This amount is included and reflected in the agreed upon reset of base revenues to \$733.689 million.
11. 2019 Rate Case Expenses. 2019 Rate Case expenses incurred in connection with LPSC Docket No. U-35299 shall be recovered in base revenues over a 3-year period (\$0.337 million per year). This amount is included and reflected in the agreed upon reset of base revenues to \$733.689 million.
12. 2024 Rate Case Expenses. 2024 Rate Case expenses in this docket will be recovered through Rider IICR rates effective July 1, 2024.
13. Integrated Resource Planning (“IRP”) Costs. Cleco Power’s 3-year average IRP

costs shall be included in base revenues. This amount is included and reflected in the agreed upon reset of base revenues to \$733.689 million. The deferred IRP costs shall be amortized over 3 years.

14. Wholesale Exclusion Credit Adjustment. The wholesale exclusion credit (as described in Section II(B)(2)(a)(xi)) shall be adjusted and reflected in Rider IICR (\$3.2 million). This amount is included and reflected in the agreed upon first year IICR revenues of \$22.632 million.
15. Storm Preparation Costs. Cleco Power's 3-year average of storm preparation costs shall be included in base revenues. The deferred storm preparation costs shall be amortized over 3 years. This amount is included and reflected in the agreed upon reset of base revenues to \$733.689 million.
16. Cleco Alternative Rate for Electricity ("CARE") Rider. Cleco Power's CARE Rider will be expanded to qualified customers for all 12 billing months versus the current 3 months. Cleco Power anticipates that approximately \$2.4 million will be recovered through Cleco Power's fuel adjustment clause, although this amount is expected to fluctuate.
17. State Tax Rate Change Regulatory Asset. The regulatory asset associated with the change in state tax rate will offset the Company's Excess Accumulated Deferred Income Tax ("EDIT") liability.
18. Recovery of Costs. All references to the recovery of costs in this Settlement refer to prudently-incurred costs only.

## **B. FORMULA RATE PLAN; RIDER IICR; TCJA BILL CREDIT**

### 1. Third Amended and Restated Formula Plan.

- (a) There shall be an extension of Cleco Power's current Second Amended and Restated Formula Plan ("FRP"). Attached to the Joint Motion filed May 31, 2024, was Exhibit A, the proposed Third Amended and Restated FRP, to be effective July 1, 2024. A redlined version of the Third Amended and Restated FRP, marked to show the changes to Cleco Power's current Second Amended and Restated FRP, was attached to the Joint Motion filed on May 31, 2024 as Exhibit B.
- (b) The Third Amended and Restated FRP shall include the following provisions:

- (i) Cleco Power's current Second Amended and Restated FRP shall be extended for three years, for the rate years July 1, 2024 through June 30, 2025; July 1, 2025 through June 30, 2026; and July 1, 2026 through June 30, 2027. The Third Amended and Restated FRP amends, restates, and supersedes the Second Amended and Restated FRP.
- (ii) Rider IICR Rates may be annually adjusted pursuant to the specific provisions of Rider IICR.
- (iii) A target return on equity ("ROE") of 9.70%.
- (iv) Earnings in excess of a 9.70% ROE and less than or equal to a 10.30% ROE shall not result in refunds by Cleco Power.
- (v) 60% of earnings in excess of a 10.30% ROE and less than or equal to a 10.90% ROE shall be refunded to customers, and 40% of such earnings shall be retained by Cleco Power. Any earnings in excess of a 10.90% ROE shall be refunded 100% to customers.
- (vi) For FRP ratemaking purposes and Monitoring Report (as hereinafter defined) reviews, Cleco Power's capital structure shall be fixed at 52% equity and 48% debt.

2. Rider IICR.

- (a) The retail jurisdictional revenue requirements associated with the following items are eligible for recovery under Rider IICR, offset by the credits described in this section, and all subject to annual true-up:
  - (i) MISO Administrative costs, charges, and credits (currently estimated at \$5.8 million annually) as authorized by Order No. U-32839, issued December 13, 2013.
  - (ii) Louisiana State Corporate Franchise Tax (currently estimated at \$1.9 million annually), as described in Docket No. U-32779.
  - (iii) Production operations and maintenance deferral, as described in Paragraph a.6 of the settlement authorized by LPSC Order No. U-30689, issued October 28, 2010 (currently estimated to be \$4.8 million for the TME June 30, 2025). The new threshold for calculating the deferral shall be \$29.7 million, with a cap on the cumulative deferral balance of \$25.0

million. A carrying charge computed at the Company's weighted average cost of capital ("WACC"), grossed up for taxes on the production operations and maintenance deferral, shall be accrued.

- (iv) Property taxes for the Madison 3 generating unit (currently estimated to be \$8.6 million for the TME June 30, 2025). Due to the expiration of the property tax exemption for the Madison 3 generating unit in 2021, and the uncertainty regarding the estimate of future property taxes, Cleco Power has excluded this item from base revenues and has included it in Rider IICR, subject to an annual true-up mechanism. A carrying charge computed at the Company's WACC, grossed up for taxes, will be included on the regulatory asset balance due to the eighteen-month delay in collection.
- (v) Transmission right-of-way clearing expenses (currently estimated to be \$1.2 million for the TME June 30, 2025). These expenses are expected to fluctuate and thus will be subject to an annual true-up mechanism, and will be paid by all customers.
- (vi) Distribution right-of-way clearing expenses (currently estimated to be \$11.1 million for the TME June 30, 2025). These expenses are expected to fluctuate and thus will be subject to an annual true-up mechanism, and will be paid by all customers, except for those customers taking delivery at a transmission voltage level.
- (vii) MISO Northlake transmission expense (currently estimated to be \$12.6 million net for the TME June 30, 2025). The MISO transmission costs that are billed to Cleco Power fluctuate, and as such will be subject to an annual true-up mechanism.
- (viii) Cleco Power will exclude the full amount of the Company's EDIT liability balance from rate base, and instead provide customers with an equivalent benefit until such time as the EDIT liability reaches zero. For the period of this Rider IICR, the equivalent benefit will be provided through an EDIT make-whole credit (the "EDIT Make-Whole Credit") estimated at \$16.4 million for the TME June 30, 2025.

- (ix) The START Make-Whole Credit for the billing to Cleco Cajun LLC of its share of START Project costs (currently estimated to be \$4.3 million for the TME June 30, 2025), subject to true up to reflect the elimination of the credit after the Cleco Cajun LLC divestiture closes and the associated transition services agreement expires. The true up shall be made in the July 1, 2025 Rider IICR filing.
- (x) Beginning in July 2025, the property tax increase attributable to the property tax exemption roll-off (Industrial Tax Exemption Program) will be included in Rider IICR. The property tax increase for exemption roll-off is estimated at \$0.6 million for the TME June 30, 2026, and \$1.7 million for the TME June 30, 2027.
- (xi) Wholesale exclusion credit for the base revenues collected from wholesale customers other than the City of Alexandria and the Town of Boyce. (currently estimated at \$3.2 million for the TME June 30, 2025).
- (xii) Rate case expenses associated with this LPSC Docket No. U-36923 (the “2024 Rate Case”) (currently estimated to be \$0.7 million for the TME June 30, 2025). The 2024 Rate Case expenses will be deferred to a regulatory asset and recovered over the 3 year term of this FRP.
- (xiii) Beginning with the first IICR filing after the project to relocate certain transmission lines at the Slidell Municipal Airport, pursuant to LPSC Special Order No. 50-2019, issued July 26, 2019 is in service, Cleco Power may include the annual revenue requirement for the project, as well as a one-year amortization of the deferred revenue requirement.
- (xiv) The following future matters before the Commission including:
  - a. Incremental transmission projects approved by the LPSC for inclusion in Rider IICR.
  - b. The revenue requirement of other matters that may be subsequently approved by the Commission for recovery under the IICR component of this FRP.

(b) Monitoring Reports.

Cleco Power shall file annual earnings monitoring reports (“Monitoring



Reports”) on or before October 31, 2025, October 31, 2026, and October 31, 2027, covering TME June 30, 2025, TME June 30, 2026, and TME June 30, 2027, respectively, in accordance with the provisions of the Third Amended and Restated FRP.

(c) IICR True-Up

Unless there is a final order in the June 2026 rate proceeding extending the FRP (including provisions for a Rider IICR) or an interim Rider IICR has been approved by the Commission pursuant to Section II(E)(1) below, no IICR rate adjustments shall be implemented on July 1, 2027; however, the Company shall file with its October 31, 2027, Monitoring Report an IICR True-Up report that shall compare the amounts included in the prior filed IICR for the period July 1, 2026 through June 30, 2027 to the actual collections for that period. To the extent there is an over- or under- collection, such amount shall be refunded or collected through a rate adjustment to be made at the conclusion of the period of time allowed for review of the monitoring report.

3. TCJA Bill Credit.

(a) All retail customers shall receive bill credits resulting from the U.S. Tax Cuts and Jobs Act of 2017<sup>2</sup> (the “TCJA”), which shall be subject to the following provisions. The Protected EDIT bill credit is referred to herein as the “TCJA Bill Credit.”

(i) Amounts associated with the retail portion of Protected EDIT as a result of the TCJA will be credited to all customers as a proportion of each customer class’s base revenue and billing determinants for the period in which the amount is to be credited on the customers’ bills. The retail portion of the Protected EDIT shall be credited as calculated under the Average Rate Assumption Method (“ARAM”) and such credits shall continue until the full amount of the Protected EDIT has been returned to customers.

(ii) The portion of the bill credit allocated to Residential customers shall utilize two tiers: The first tier will be for kWh usage less than or equal to

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<sup>2</sup> Pub. L. 115, 131 Stat. 2054. The TCJA became effective January 1, 2018.

1,000 kWh on a monthly basis, with the second tier for all kWh usage above 1,000 kWh on a monthly basis. The portion of the bill credit for the first tier (approximately 63.6% of residential usage) shall be 20% higher than the portion of the bill credit for the second tier (approximately 36.4% of the total residential usage).

(b) The amounts described in subsection (i) immediately above shall be credited as a separate line on customer bills captioned as “Tax Cuts and Jobs Act Credit.” The application of the TCJA Bill Credit as provided herein shall constitute compliance with the requirements of LPSC General Order No. 2-7-2019 in Docket No. R-34754.<sup>3</sup>

**C. RETAIL JURISDICTIONAL RATE SCHEDULES AND RIDER REVENUE ALLOCATION (OTHER THAN RIDER IICR)**

Retail jurisdictional base revenues of \$733.689 million collected through standard rate schedules and/or riders and site-specific contracts (other than Rider IICR), as negotiated and agreed to by the Commission Staff and Cleco Power, and agreed to or not opposed by the Intervenor, were allocated among Cleco Power’s customer classes. The total \$733.689 million of retail jurisdictional base revenues was allocated proportionately to each rate class based on that class’ contribution to base revenues for TME June 30, 2022. The allocated base revenues established herein are described in the table immediately below.

Residential	\$357.419
General Service Non-Demand	\$41.016
General Service Secondary Demand	\$187.319
General Service Primary Demand	\$64.051
Municipal General Service	\$8.540
Lighting	\$16.179
Large Power Service	\$38.956
Miscellaneous	\$20.209
	\$733.689 million

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<sup>3</sup> Docket No. R-34754, Louisiana Public Service Commission, ex parte. *In re: Consideration of appropriate manner to flow through to ratepayers the benefits 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 No. 13-2018 and related matters.*

## **D. RATE DESIGN**

Cleco Power has designed rates and will file rate schedules to recover the base revenues identified for each customer rate class described in Section C, immediately above. A set of Cleco Power's new rate schedules was attached to the Joint Motion filed on May 31, 2024 as Exhibit C. A redlined set of Cleco Power's new rate schedules, marked to show the changes against Cleco Power's current rate schedules, was attached to the Joint Motion filed on May 31, 2024 as Exhibit D. Cleco Power's rate design include the following material changes to the following rate schedules, which have been negotiated and agreed to by the Commission Staff and Cleco Power, and agreed to or not opposed by the Intervenors:

1. General Service. Under Rate Schedule – GS, Section 2, Application, Paragraph 4 shall provide as follows:

“When a customer has exceeded 5,000 kWh per month for four consecutive months, the Customer will be billed at the demand rate. Should usage for the next twelve consecutive billing months not exceed 5,000 kWh, the Customer will be given the opportunity to return to the energy only rate.”

In addition, under Section 4, Net Monthly Rate, under the Non-Demand Rate Structure the customer charge will be \$20.00 per month. The first 5,000 kWh will be billed at a rate of \$0.09768 per kWh and all kWh above 5,000 kWh will be billed at a rate of \$0.11721 per kWh. The monthly General Service Demand Customer Charge shall be \$28.00.

2. Residential Electric Service. Under Rate Schedule-RS, Paragraph 4(a), the monthly customer charge shall be \$12.00.
3. Municipal General Service. Under Rate Schedule-MGS, Paragraph 4(a), the monthly customer charge shall be \$25.00.
4. CARE Rider. As described above, Cleco Power's CARE Rider will be expanded to qualified customers for all 12 billing months versus the current 3 months.
5. Residential Revenue Decoupling. The Company, on a pilot basis, shall utilize a decoupling mechanism for the recovery of any over- or under-collection of residential base revenue as provided in this Section II(D)(5). The decoupling mechanism will have an established target base revenue per residential customer of \$1,262.96, utilizing

approved base rates specified in Rate Schedule – RS, RESIDENTIAL ELECTRIC SERVICE, paragraph 4, NET MONTHLY RATE, item (b) Energy Charge per kWh, divided by the average customer billing determinants for the assumed number of residential customers of 253,844.

For the TME June 30, 2025, and June 30, 2026, residential base revenue collected pursuant to Rate Schedule – RS, RESIDENTIAL ELECTRIC SERVICE, paragraph (4), NET MONTHLY RATE, item (b) Energy Charge per kWh, will be divided by the average twelve months ending June number of residential customers for the respective year.

Each June, the adjusted residential base revenue per customer will be compared to the target adjusted residential base revenue per customer of \$1,262.96. The difference for the TME June 30, 2025, and June 30, 2026, shall be added or subtracted from Rider IICR to allow for any over- or under-recovery of base revenues. This difference shall be included as a charge or credit, as applicable, to the residential class portion of Rider IICR for the TME June 30, 2026, and June 30, 2027. The decoupling adjustment charge or credit shall be capped at \$3 million for each of the two twelve-month periods in which the decoupling pilot is in effect. Any over- or under-recovery from the residential class shall not have any effect on customers in other classes.

6. Connection and Reconnection Fees Reduction; Net versus Gross Bills. Cleco Power's rate schedules shall include the following:

- (i) Cleco Power's connection fee and reconnection fee (during normal business hours) shall each be \$15.00, reduced from \$25.00 and \$30.00, respectively.
- (ii) Cleco Power's reconnection fee after normal business hours shall be \$30.00, reduced from \$65.00. "Normal business hours" shall be 8:00 a.m. to 4:30 p.m. Monday to Friday, excluding legal holidays.
- (iii) Cleco Power's bills are due and payable on a net versus a gross basis; if the bill is paid within 20 days of being rendered, the net amount is due; bills paid more than 20 days after being rendered are payable at the gross amount. The gross amount percent increase shall be reduced to a flat 3.0%, versus the current 5.0% for the first \$1,000.00 and 2% for any portion over \$1,000.00.

**E. OTHER STIPULATION TERMS**

1. Next Rate Filing. Cleco Power shall submit its next rate filing (other than its annual FRP Monitoring Reports filed pursuant to Section B.2.b above) by June 30, 2026, for rates to be effective July 1, 2027. Such filing may be either a full rate case that includes a request to extend Cleco Power's Third Amended and Restated FRP (which may be subject to potential modifications, as appropriate), or may be simply a request for an extension of Cleco Power's Third Amended and Restated FRP (which may be subject to potential modifications, as appropriate). If, after June 1, 2027, the progress of the rate filing is such that it is unlikely that new rates will be in effect as of July 1, 2027, Cleco Power may file an interim Rider IICR and adjust the TCJA Bill Credit to comply with the ARAM method. That filing must be approved by the Commission to become effective. Any rates specified in the interim Rider IICR filing shall be trued-up to the new rates authorized in the rate filing described in this subsection.
2. Service Quality Plan. The Parties shall engage in a collaborative process to present and discuss proposals for an amended and extended Service Quality Plan ("SQP"), including an implementation plan and timeline. If the Parties do not reach agreement on an SQP proposal within 90 days after issuance of an LPSC order approving this Settlement, then Cleco Power shall, within 90 days after issuance of an LPSC order approving this Settlement, file an SQP proposal for consideration by the Commission.
3. Environmental and Dispatch Commitments. Cleco Power makes the following commitments:
  - (i) Cleco Power commits to contacting the co-owners of Rodemacher 2 to discuss whether it would be feasible to cease coal-burning operation of the unit prior to 2028. Cleco Power will make such contact and pursue such discussions in good faith; further, Cleco will make best efforts to include Sierra Club in at least one discussion with the co-owners and to cause that meeting to occur as soon as reasonably practicable. Sierra Club acknowledges that Cleco Power is a 30% co-owner of the unit and cannot unilaterally determine to cease coal-burning operation of the unit. Cleco Power commits to report to Sierra Club the results of the Company's discussions with the co-owners of the unit as soon as reasonably practicable but no later than December 31, 2024.
  - (ii) As a general principle, Cleco Power commits to dispatching Madison 3 and its share

of Rodemacher 2 (subject to compliance with its obligations under the Rodemacher 2 Joint Ownership Agreement) into the MISO energy market economically, subject, however, to the following exceptions for self-scheduled dispatch: (1) dispatch during any period required for emissions testing or other required testing; (2) dispatch for reliability purposes, as determined by Cleco Power or MISO; (3) dispatch for maintenance or safety purposes; (4) if, based on Cleco Power's production costs and energy market forecasts, Cleco Power anticipates positive energy market revenues over the pertinent period during which the unit would be dispatched; or (5) if, in Cleco Power's reasonable discretion, prudent utility operating practice supports dispatch. Cleco Power agrees to document any self-scheduled dispatch decisions at the time of such decision. The foregoing commitment expires if modifications are made to materially reduce solid fuel usage to allow operation in compliance with more stringent future environmental laws and/or regulations, if carbon capture and sequestration equipment is installed at Madison 3, or if directed otherwise by the LPSC. Cleco Power agrees to notify the signatories in writing of any circumstances it believes trigger the expiration of this obligation. The signatories agree that nothing in this Settlement precludes any party from challenging the prudence of costs or Cleco Power's commitment decisions in any future proceeding, or challenging the existence of conditions triggering the expiration of this term.

- (iii) Cleco Power commits to initiating an updated integrated resource planning ("IRP") process in accordance with the rules specified in the LPSC's Corrected General Order in Docket No. R-30021, issued April 18, 2012 (the "IRP General Order"), for the purpose of performing a comprehensive evaluation of potential planning options for Cleco Power's Madison 3 generating unit. Reference is made to Rule 11 (Integrated Resource Plan Update) of the IRP General Order as the source of authority upon which Cleco Power may initiate the IRP update process for Madison 3. Cleco Power will initiate such process as soon as reasonably practicable upon the completion of the Front-End Engineering Design ("FEED") study currently in progress for Madison 3, the purpose of which is to evaluate the feasibility of utilizing carbon capture and sequestration technology at Madison 3. Cleco Power

anticipates that the FEED study will be completed in the first quarter of 2025.

- (iv) Cleco Power commits to consider all reasonable and practical opportunities when evaluating the future of Madison 3, including meeting with the US DOE loan program office to discuss the EIR loan program as a mechanism for refinancing or securitizing the remaining plant balance at Madison 3. Cleco Power commits to including that evaluation as part of the interim IRP process described in subsection iii, above.

### **I. GENERAL PROVISIONS**

- A. The Commission order issued in this proceeding shall be effective immediately upon its date of issuance.
- B. Except as specifically stated herein, this Settlement shall have no precedential effect in any other proceeding, and shall be without prejudice to the right of any party to take any position in future proceedings, or appeals therefrom. The terms of this Settlement may not be used either as an admission of any sort or as evidence in any proceeding whatsoever, except to approve or enforce the terms of this Settlement.
- C. The parties believe that the Settlement as a whole should be approved by the Commission and that it is in the public interest.
- D. This Stipulated Settlement will be effective upon approval by the Louisiana Public Service Commission. The parties agree to request the approval of this Uncontested Proposed Stipulated Settlement Agreement by the Commission at the June 19, 2024, Business & Executive Meeting.

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**IV. COMMISSION CONSIDERATION**

After discussion, on motion of Commissioner Skrmetta, seconded by Chairman Francis, with Commissioner Campbell and Commissioner Greene concurring, and Vice Chairman Lewis opposing, the Commission voted to approve the Uncontested Stipulated Settlement filed into the record on May 31, 2024. The motion passed 4:1.

**IT IS THEREFORE ORDERED THAT:**

- 1) The Uncontested Stipulated Settlement filed into the record on May 31, 2024, is accepted; and
- 2) This order is effective immediately.

**BY ORDER OF THE COMMISSION  
BATON ROUGE, LOUISIANA  
July 17, 2024**



*/S/ MIKE FRANCIS*  
\_\_\_\_\_  
**DISTRICT IV  
CHAIRMAN MIKE FRANCIS**

*OPPOSED*  
\_\_\_\_\_  
**DISTRICT III  
VICE CHAIRMAN DAVANTE LEWIS**

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

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

*/S/ CRAIG GREENE*  
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**DISTRICT II  
COMMISSIONER CRAIG GREENE**

*Brandon M. Frey*

**BRANDON M. FREY  
SECRETARY**