

CC: JG/PR

**JOSHUA J. MENDEZ**

Please Reply To:

P.O. Box 5350  
Covington, LA 70434-5350  
985.871.0800 phone  
985.871.0899 fax  
jmendez@daiglefisse.com

September 10, 2024

**RECEIVED BY FAX**

SEP 10 2024

**VIA FACSIMILE & FEDERAL EXPRESS:**

Louisiana Public Service Commission  
Records Division  
602 North Fifth St.  
Baton Rouge, LA 70807

LOUISIANA PUBLIC SERVICE COMMISSION

Re: Dixie Electric Membership Corporation, ex parte - *Application for Rate Rider to Recover Costs Association With Move Ascension Road Projects*, Docket No. U-37343

Dear Sir or Madam:

Please accept Ascension Parish Government's attached *Notice of Intervention, Objection to Consideration of Incomplete Application, Exception of Prematurity and Inclusion on Service List* to be filed into Docket No. U-37343. The original pleading and two copies of same, along with a filing fee of \$25 is being forwarded by FedEx today.

If you have any questions or comments, please do not hesitate to contact me. Thank you for your assistance in this matter.

Sincerely, yours,

Joshua J. Mendez

JJM

Enclosures: Ascension Parish Government's Notice of Intervention,  
Objection to Consideration of Incomplete Application,  
Exception of Prematurity and Inclusion on Service List

Cc: All parties of record

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SEP 10 2024

LOUISIANA PUBLIC SERVICE COMMISSION

BEFORE THE  
LOUISIANA PUBLIC SERVICE COMMISSION

DIXIE ELECTRIC MEMBERSHIP  
CORPORATION, ex parte.

DOCKET NO. U-37343

IN RE: APPLICATION FOR RATE RIDER  
TO RECOVER COSTS ASSOCIATED WITH  
MOVE ASCENSION ROAD PROJECTS

**ASCENSION PARISH GOVERNMENT'S  
NOTICE OF INTERVENTION, OBJECTION  
TO CONSIDERATION OF INCOMPLETE APPLICATION,  
EXCEPTION OF PREMATURITY AND INCLUSION ON SERVICE LIST**

NOW COMES, through undersigned counsel, the Ascension Parish Government ("Parish") pursuant to Rules 10 and 19 of the Louisiana Public Service Commission ("LPSC" or "Commission") Rules of Practice and Procedure, which hereby intervenes in this proceeding, objects to Dixie Electric Membership Corporation's ("DEMCO") Application For Rate Rider to Recover Costs Associated with Move Ascension Road Projects ("Application"), and excepts to the prematurity of the Application as follows:

1.

This proceeding was initiated by DEMCO which filed its Application seeking a rate rider for uncertain costs that may be incurred by DEMCO for relocating certain electric utility facilities in conjunction with Parish road improvement projects. Notice of DEMCO's filing was published in the LPSC's Official Bulletin Number 1330, dated August 16, 2024.

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2.

The Parish is a political subdivision of the State of Louisiana.

3.

Rule 10 provides that “[a]ny party actually in interest may appear in any proceeding before the [LPSC].”

4.

Rule 10 further provides that “any...political subdivision [of the State of Louisiana] ... shall be permitted to appear in any proceeding whether as a formal intervenor or otherwise, and present any relevant and proper testimony and evidence bearing upon the issues involved in the particular proceeding.”

#### **OBJECTION TO CONSIDERATION OF DEMCO’S APPLICATION**

5.

Rules 13(A) – (D) discuss the general requirements for the form and content of pleadings filed before the Commission. In addition to the general requirements therein, Rule 13(E) provides as follows:

*In addition to the other requirements contained in the Rule, if the pleadings, application or petition seeks an increase in rates or tariffs, it shall not be considered effectively filed unless it shall have appended thereto all of the sworn testimony, affidavits, and exhibits upon which the company will rely in support of its request for additional revenue together with a proposed schedule of rates or tariffs designated to produce the additional revenue requested.*

Rule 13(E) (emphasis added).

6.

DEMCO’s application seeks an increase in rates via a rate rider for costs that it speculates that it may incur in the future. In support of its Application, DEMCO attaches as Exhibit A the July 31, 2024, Testimony of Randall C. Pierce. Section VI of Mr. Pierce’s testimony is titled “Rider

Amount” wherein Mr. Pierce surmises on costs that *may be* incurred by DEMCO in relocating its facilities. However, Mr. Pierce’s “testimony” is not “a proposed schedule of the rates or tariffs designated to produce the additional revenue requested” as required by Rule 13(E).

7.

A schedule of rates is a necessary component in an application for rate increase so that it can be determined whether the rate increase would be “reasonable and just.” *Gulf States Utilities Co. v. Louisiana Public Service Commission*, 62 So.2d 250, 252 (La. 1952). Because DEMCO failed to include a schedule of rates as required by Rule 13(E), it is impossible to determine whether the proposed rate of \$5.55 per member is “reasonable and just.” Additionally, any application that fails to include a proposed schedule of rates “shall not be considered effectively filed.” Rule 13(E). Accordingly, DEMCO’s application should be rejected for failure to comply with Rule 13(E).

#### **DILATORY EXCEPTION OF PREMATURITY**

8.

The dilatory exception of prematurity “questions whether the cause of action has matured to the point that it is ripe for judicial determination.” *Williamson v. Hospital Serv. Dist. No. 1 of Jefferson*, 2004-0451, p. 4 (La. 12/1/04), 888 So.2d 782, 785. A suit is premature when it is brought before the right to enforce it has accrued. *Jefferson Door Co., Inc., v. Cragmar Const., L.L.C.*, p. 3 (La. App. 4 Cir. 1/25/12), 81 So.3d 1001, 1004.

9.

On or about August 22, 2022, DEMCO filed suit against the Parish and HNTB Corporation in the 23<sup>rd</sup> Judicial District Court (“23<sup>rd</sup> JDC Suit”). DEMCO’s suit seeks, in part, a declaratory judgment that declares that the “Franchise [Agreement for Ascension Parish] does not obligate DEMCO to relocate its utility lines to accommodate road improvements to Parish roads at the

request of the Parish.”<sup>1</sup> The 23<sup>rd</sup> JDC Suit is currently pending and, as such, the financial responsibility of relocating DEMCO’s facilities has not been judicially determined. Accordingly, it is impossible in this rate case to determine whether the rate would be “reasonable and just.” *Gulf States Utilities Co. v. Louisiana Public Service Commission*, 62 So.2d 250 (La. 1952). Therefore, this Commission should respectfully grant the Parish’s exception of prematurity and dismiss DEMCO’s Application.

#### **INCLUSION ON SERVICE LIST**

10.

The Parish requests that the individuals below be placed on the Official Service List and that all communications and pleadings in this docket be directed to:

D. Stephen Brouillette (#29105)  
Joshua J. Mendez (#40246)  
DAIGLE, FISSE & KESSENICH, PLC  
Post Office Box 5350  
Covington, LA 70434-5350  
Telephone: (985) 871-0800  
Facsimile: (985) 871-0899  
Email: [sbrouillette@daiglefisse.com](mailto:sbrouillette@daiglefisse.com)  
Email: [jmendez@daiglefisse.com](mailto:jmendez@daiglefisse.com)  
Physical address:  
227 Highway 21  
Madisonville, LA 70447

Jean-Paul Robert (#27628)  
Assistant District Attorney  
23<sup>rd</sup> JUDICIAL DISTRICT ATTORNEY  
P.O. Box 1659  
Gonzales, LA 70707  
Telephone: (225) 450-1463  
Email: [Jeanpaul.robert@apgov.us](mailto:Jeanpaul.robert@apgov.us)

#### **INCLUSION ON CONTESTED DOCKET**

11.

The Parish respectfully requests that this matter be placed on the contested docket pursuant to Rule 20. Additionally, The Parish reserves the right to call witnesses and present evidence at such hearing, which witnesses and evidence will be determined at a later date.

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<sup>1</sup> Exhibit A, DEMCO Petition for Declaratory Judgment, Permanent Injunction, and Damages, p. 21.

**WHEREFORE**, the Parish hereby intervenes in this proceeding, requests that it be placed on the LPCS Official Service List of this Docket, prays that its objection be sustained and that DEMCO's Application be deemed not effectively filed, and alternatively that its dilatory exception of prematurity be sustained. In the further alternative, the Parish prays that after due proceedings are had, that DEMCO's Application be denied.

Respectfully submitted,

DAIGLE FISSE & KESSENICH, PLC

By: 

D. Stephen Brouillette, Jr. (#29105)

Joshua J. Mendez (#40246)

P.O. Box 5350

Covington, LA 70434-5350

Telephone: (985) 871-0800

Facsimile: (985) 871-0899

Email: sbrouillette@daiglefisse.com

Email: jmendez@daiglefisse.com

Physical address:

227 Highway 21

Madisonville, LA 70447

23<sup>rd</sup> JUDICIAL DISTRICT ATTORNEY

Jean-Paul Robert (#27628)

Assistant District Attorney

P.O. Box 1659

Gonzales, LA 70707

Telephone: (225) 450-1463

Email: Jeanpaul.robert@apgov.us

*Counsel for Intervenor;*

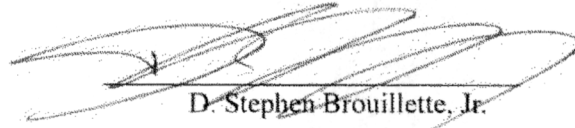
*Ascension Parish Government*

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served on counsel for all parties via electronic mail.

So certified, this 10<sup>TH</sup> day of September 2024.

  
D. Stephen Brouillette, Jr.

# Facsimile

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**Note:**

This facsimile transmission is being sent on behalf of Joshua J. Mendez

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**To:**

**From:** Debra LeBreton  
Daigle Fisse & Kessenich  
227 Highway 21  
Madisonville  
LA 70447

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**Phone:**

**Phone:** 19857928204

**Fax:** (225) 342-0877

**Fax:** 19857928204

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**Date:** 09/10/2024

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**Pages:** 8