TRANSCRIPT OF THE LOUISIANA PUBLIC SERVICE COMMISSION BUSINESS AND EXECUTIVE OPEN SESSION HELD ON JANUARY 25, 2022 IN BATON ROUGE, LOUISIANA. PRESENT WERE: CHAIRMAN CRAIG CREENE, COMMISSIONER LAMBERT BOISSIERE, III, COMMISSIONER FOSTER CAMPBELL, COMMISSIONER ERIC SKRMETTA, AND COMMISSIONER MIKE FRANCIS.

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CHAIRMAN CRAIG GREENE: All right. Pastor Olivier.

PASTOR TERRY OLIVIER: The little green light helps, right. Hey, thank you all for letting me be a part of this moment on behalf of Healing Place Church in Baton Rouge and Pastor Mike Haman, and I just want to say thank you for letting me pray for you and with you all this morning. And I just want to say thank you for all of the hard work every person in here does to serve and bless our community.

So if you would bow your heads, we’re going to pray together.

[PASTOR OLIVIER LEADS IN PRAYER]

CHAIRMAN GREENE: Thank you. We have Trooper Scrantz. Thanks again for joining us.

TROOPER TAYLOR SCRANTZ: Yes, sir.

[TROOPER SCRANTZ LEADS IN THE PLEDGE]

CHAIRMAN GREENE: Thank you very much. All right, everybody. Announcements. We’ve got -- my only announcement is we have a big meeting today. Any other Commissioners have any announcements?

COMMISSIONER ERIC SKRMETTA: Yeah, just one.

CHAIRMAN GREENE: Go ahead.
COMMISSIONER SKRMETTA: Brandon, the February B&E is going to be held in Metairie.

EXECUTIVE SECRETARY BRANDON FREY: Correct.

COMMISSIONER SKRMETTA: I believe we’re going to be holding it at the Copeland Towers Ballroom, and I think the Staff has made arrangements for hotel rooms at the Lakeway Marriott on Causeway.

SECRETARY FREY: That is correct.

COMMISSIONER SKRMETTA: So it’s going to be a block, but you can explain that.

SECRETARY FREY: Yeah, so -- and the B&E will be located the same place we had the B&E back in December of ’19, I believe it was, in that same ballroom, so those of y’all are familiar with that. And it’s on the 23rd of February.

COMMISSIONER SKRMETTA: Right.

CHAIRMAN GREENE: Be in the Mardi Gras spirit.

COMMISSIONER SKRMETTA: Well, they’re giving it to us for free, so that helps.

CHAIRMAN GREENE: Nice. Any other announcements from Commissioners or Staff? Go ahead.

COMMISSIONER FOSTER CAMPBELL: I brought this up before. I don't know how --

MS. KATHRYN BOWMAN: Your mic.

COMMISSIONER CAMPBELL: I don't know how we can accomplish this. It might not be something that everybody likes at this table, but something’s got to
happen. I saw where Entergy -- and I know they’ve had a lot of damage, a lot of
damage with all the storms and they’re talking about putting a $10 fee on
everybody’s bill. That’s just what they started out off at first blush. I don’t know
what it’s going to be. But I want you to think about this a little bit. I represent
everybody pretty much north of Alexandria with exception of two parishes, and
we’ve been blessed. We haven’t had all the storms, but we’re going to be charged
with $10 extra a month up there because we’re all one family. I don’t know what
you could look at, what can happen but if it’s for 20 years or 10 years, I mean, that’s
a lot of money every month for everybody north of Alexandria and I know a lot of
-- most folks down here live below Alexandria so I’m outnumbered, but
something’s got to happen. We can’t have to -- we can’t have to -- I don’t think we
can stand $10 a month for 20 years when nothing happened up there. Now, we
have ice storms from time to time and y’all help us pay for it, I appreciate it. We
actually had a hurricane last year came all the way up into the Caddo Parish, and I
know that the people in south Louisiana suffer. I know, I’ve seen that, I’ve been
down there. But also, I don’t know how we do this, but I’m going to talk to our
Staff and all, let’s look at it but the people up that way going to be saddled with
maybe as much as $15 a month for 20 years and they hadn’t had the damage, so it’s
hard to go someplace and explain when a guy gets up and says, Mr. Campbell, what
you doing, I see where Entergy’s going to charge us $15 a month for 20 years or
whatever and we hadn’t had any damage up there. So I want us to be aware that
somebody’s looking at that, and I don’t know who’s got the good ideas but I’m
going to be looking for some because that’s a lot of money to put on people north
of Alexandria when they haven’t had all the storms. I know we -- we work together
and Entergy helps us when we have storms. I mean, I understand that. Y’all do.
But there’s got to be a little wiggle room some way. This is a problem for us in
north Louisiana. That’s all. I know it’s not going to -- everybody’s not going to be
happy with that, but maybe we can work out something. We got to think about it
anyway. That’s all I had to say.

CHAIRMAN GREENE: Thank you. The only other thing is 15 is deferred and
Kathryn, you have something?

MS. BOWMAN: Yeah, just a slight announcement. There’s going to be a
formatting change to the B&E documents starting next month. We’re going to --
instead of doing legal size, we’re going to do letter. Just wanted to let you guys
know, I know, before we started doing it so you guys didn’t question what was
going on. Just trying to keep it a little more smaller and condensed.

SECRETARY FREY: Yeah, you won’t have to carry these giant binders around
anymore. They’ll be smaller binders.

COMMISSIONER SKRMETTA: Smaller but thicker.

MS. BOWMAN: Smaller but thicker.

COMMISSIONER SKRMETTA: There you go.

SECRETARY FREY: We’ll downsize the print size, too.

COMMISSIONER SKRMETTA: Oh, that’ll be great.

CHAIRMAN GREENE: All right. We’re moving on. Our first order of business
is election of Chairman and Vice Chairman.

COMMISSIONER MIKE FRANCIS: Mr. Chair?
CHAIRMAN GREENE: Yes.

COMMISSIONER FRANCIS: I’d like to make a motion for chairman, Commissioner Greene.

UNKNOWN SPEAKER: Turn the mic on, please.

CHAIRMAN GREENE: Microphone’s on. There you go. Say again.

COMMISSIONER FRANCIS: I’d like to make a motion that we elect Commissioner Greene for a second term as chairman.

CHAIRMAN GREENE: A motion for Commissioner Greene to be chairman. I’ll second that.

COMMISSIONER CAMPBELL: I have a substitute motion.

CHAIRMAN GREENE: A substitute motion by Commissioner Campbell.

COMMISSIONER CAMPBELL: I make a substitute motion to --

MS. BOWMAN: Mic.

COMMISSIONER CAMPBELL: I’m sorry. I make a substitute motion to nominate Mr. Boissiere.

COMMISSIONER SKRMETTA: I’ll second the motion of Commissioner Boissiere.

CHAIRMAN GREENE: Seconded by Commissioner Skrmetta. I’ll object, so roll call vote. Commissioner Campbell, how do you vote?

COMMISSIONER CAMPBELL: For Mr. Boissiere?

CHAIRMAN GREENE: Yes.

COMMISSIONER CAMPBELL: Yes.

CHAIRMAN GREENE: Commissioner Boissiere.
COMMISSIONER LAMBERT BOISSIERE: Yes.

CHAIRMAN GREENE: Commissioner Skrmetta.

COMMISSIONER SKRMETTA: Yes.

CHAIRMAN GREENE: Commissioner Francis.

COMMISSIONER FRANCIS: Yes.

CHAIRMAN GREENE: And I’ll vote yes as well. Mr. Chairman.

COMMISSIONER SKRMETTA: You’ll continue through the meeting.

CHAIRMAN GREENE: Yeah, I’ll -- so I think I can complete this meeting and then you take over, so.

COMMISSIONER BOISSIERE: Absolutely.

COMMISSIONER SKRMETTA: Mr. Chairman.

CHAIRMAN GREENE: Yes.

COMMISSIONER BOISSIERE: I wouldn’t have it any other way.

COMMISSIONER SKRMETTA: Mr. Chairman, I’d like to nominate for Vice Chair, Commissioner Francis.

CHAIRMAN GREENE: I’ll second that.

COMMISSIONER BOISSIERE: Commissioner Francis.

CHAIRMAN GREENE: Is there any objection? [NONE HEARD] Hearing none, we have our Chairman and Vice Chairman set for next, so very good.

COMMISSIONER SKRMETTA: Mr. Chairman.

CHAIRMAN GREENE: Yes. Commissioner Skrmetta.

COMMISSIONER SKRMETTA: I’d like to nominate for ERSC representative in Exhibit 3, Commissioner Boissiere.
CHAIRMAN GREENE: Motion to nominate Commissioner Boissiere for ERSC representative, I’ll second that. Any objection? [NONE HEARD] Hearing none, Commissioner Boissiere, ERSC.

COMMISSIONER BOISSIERE: Thank you.

COMMISSIONER FRANCIS: Commissioner -- Commissioner Greene.

CHAIRMAN GREENE: Yes.

COMMISSIONER FRANCIS: I’d like to make a motion to nominate for OMS, Commissioner Craig Greene.

CHAIRMAN GREENE: Motion to nominate Greene for OMS. I will second that. Any objection?

COMMISSIONER BOISSIERE: No, but I’d like to offer a substitute motion for Mr. Skrmetta, if -- so I move for Commissioner Skrmetta to stay in the position.

CHAIRMAN GREENE: Okay. Motion for Mr. Skrmetta to be OMS representative.

COMMISSIONER CAMPBELL: I got a question, too. How long -- how long has Mr. Skrmetta been on this thing?

CHAIRMAN GREENE: How long have you been on it?

COMMISSIONER SKRMETTA: As long as Commissioner Boissiere’s been ERSC, I’ve been OMS.

COMMISSIONER CAMPBELL: How many years is that though? I don't know how many --

COMMISSIONER SKRMETTA: I think it’s been about three years, maybe.

COMMISSIONER CAMPBELL: Three years
COMMISSIONER SKRMETTA: Maybe two, two or three. Could be, is it two or three?

COMMISSIONER BOISSIERE: I don’t remember. We had a pandemic in the middle.

MS. BOWMAN: Been three.

COMMISSIONER CAMPBELL: You want me to vote --

CHAIRMAN GREENE: So there’s a motion --

COMMISSIONER BOISSIERE: Let the chairman --

CHAIRMAN GREENE: So we have a motion to nominate Commissioner Skrmetta. Is there a second? [NONE HEARD] So that motion dies without a second, we go back to the original motion to nominate me for OMS and there’s a second. Is there objection? [NONE HEARD] Hearing none, I will be -- Greene will be OMS representative. Next.

COMMISSIONER SKRMETTA: Motion for --

CHAIRMAN GREENE: Sure.

COMMISSIONER SKRMETTA: -- Exhibit 5, SPP representative, Commissioner Francis.

CHAIRMAN GREENE: Motion for -- by Commissioner Skrmetta for Commissioner Francis to be SPP representative. Second by the Chair. Any objection? [NONE HEARD] Hearing none, Commissioner Francis will be the SPP representative.

COMMISSIONER FRANCIS: Thank you.

CHAIRMAN GREENE: Exhibit 6.
COMMISSIONER CAMPBELL: I want to say something.

CHAIRMAN GREENE: Yes.

COMMISSIONER CAMPBELL: I apologize for not saying it earlier. I have --

MS. BOWMAN: Commissioner, can you speak into your mic just a little bit more?

COMMISSIONER CAMPBELL: Okay. I have with me today, a guy that’s not new to this crowd, Bill Robertson drove me down here today. I really drove him down here. But anyway, I’m begging Bill to come back, but he won’t come back.

And I don’t blame him because I might not be the easiest guy in the world to get along with. But Bill’s our friend, and I appreciate him being here. Bill, where are you? Thank you for coming and thanks for all the work you’ve done down here.

CHAIRMAN GREENE: All right. Kathryn.

MS. BOWMAN: So we’re moving on to Exhibit Number 6, which is Docket Number T-35589. It’s Louisiana Public Service Commission versus Fast Affordable College Student Movers regarding alleged violations for failure to display the name, address, and/or certificate number of the operator on the vehicle pursuant to of Louisiana Revised Statute 45:167 while operating under Common Carrier Certificate Number 7823 by not providing an estimate prior to conducting moving services pursuant to General Order dated July 12, 2013, while operating under Common Carrier Certificate Number 7823 while damaging cargo pursuant to General Order dated May 04, 2017 and Revised Statute 45:163 while operating under Common Carrier Certificate Number 7823, all occurring on or about May 15, 2020 through May 19, 2020; and advertising under a name other than the carrier’s legal and/or registered name pursuant to General Order dated April 3, 2008.
as amended. This is a discussion and possible vote pursuant to Rule 57 on an affidavit and stipulation executed by the carrier, so this will need two votes. This is a proposed settlement between Fast Affordable College Student Movers and the Commission Staff for the mover’s violation of the Commission’s rules and regulations relative to household goods movers occurring on or about May 15, 2020 through May 19, 2020. As a result of a complaint, Staff issued a citation to Fast Affordable Movers alleging that the carrier had violated the Commission rules by failure to display the name, address, and/or certificate number of the operator on the vehicle; by not providing an estimate prior to conducting moving services pursuant to General Order dated July 12, 2013; by damaging cargo pursuant to General Order dated May 04, 2017 all occurring on or about May 15, 2020 through May 19, 2020; and advertising under a name other than the carrier’s legal and/or registered name pursuant to General Order dated April 3, 2008 as amended. In response to the citation, the owner of Fast and Affordable signed an affidavit and stipulation admitting to all violations except Count 3. In the affidavit and stipulation, Mr. McDuffie agreed to the following: A 2,000 fine, with 1,000 of the fine being suspended conditioned on Fast and Affordable Movers not being found guilty, entering a plea of guilty, or entering a plea of no contest to any of the rules and regulations of the Commission relative to household good movers for a period of one year from the date of executed affidavit and stipulation, for a total fine of $1,000 to be paid in one payment together with a $25 citation fee; to refund charges in the amount of $175.76 for the towing and recovery services paid by the customer on May 16, 2020, and to provide the LPSC proof of the
aforementioned refund on or before January 3, 2022; that the carrier shall only advertise under the name Fast Affordable College Student Movers and that the company shall display the name, address and the LPSC certificate number on its vehicles, advertisements, invoices, and any estimated documents that it issues; is to follow -- also to follow the Commission’s rules and regulations regarding providing estimates for regulated household goods moving services pursuant to the Commission’s General Order dated July 12, 2013; and that the failure to comply with any of these requirements would result in the $1,000 suspended portion of the fine becoming due immediately. Therefore, Staff recommends that 1) The Commission exercise its original and primary jurisdiction under Rule 57 to consider the affidavit and stipulation; and 2) Accept the affidavit and stipulation executed on December 31, 2021 for fines and fees totaling $1,025; and 3) Dismiss Count 3 with prejudice.

CHAIRMAN GREENE: So is -- Chair motion to bring the matter up under Rule 57.

COMMISSIONER FRANCIS: Second.

CHAIRMAN GREENE: Second by Commissioner Francis. Any objection?

[NONE HEARD] The matter’s brought up under Rule 57.

COMMISSIONER SKRMETTA: I have a question for Staff on it, just a quick question. Justin.

MR. JUSTIN BELLO: Yes, sir.

COMMISSIONER SKRMETTA: Again, the name McDuffie appears in the journey of moving companies.
MR. BELLO: Yes, sir.

COMMISSIONER SKRMETTA: How many times does the Commission look at violations of the moving companies before we just revoke their permit or license?

MR. BELLO: Commissioner, as long as I’ve been here, I haven’t had a specific time where we’ve revoked anybody for a number of violations. I know that this particular carrier’s had issues in the past, but it hasn’t been since I’ve been here and again, I don’t have a specific timeline for that.

COMMISSIONER SKRMETTA: Would you do me a favor? For the next meeting, would you quantify, like, on a quick, like, name of the companies, the number of violations and bring that to the Commission’s attention and also, provide that to the executive secretary and Staff counsel because we might have to start looking at that because it does get to be a point at which, you know, we might have to go on a point system or something to where if you reach a number of violations, we might have to revoke because otherwise, it’s just a hunting license.

MR. BELLO: Yes, sir.

COMMISSIONER SKRMETTA: All right. Thank you.

MR. BELLO: Thank you.

CHAIRMAN GREENE: So Chair motions to accept Staff recommendation.

COMMISSIONER FRANCIS: Second.

CHAIRMAN GREENE: Second by Commissioner Francis, any discussion or objection? [NONE HEARD] Hearing none, it’s accepted. Next.

MS. BOWMAN: Exhibit Number 7 is Docket Number R-35394. It’s the Commission’s proceeding to examine options pertaining to pole viability, pole
attachments, and all areas that may affect the reliability and sustainability of
Louisiana’s Electric Utility Distribution Grid. This is a discussion and possible vote to hire an engineering consultant. This docket was initiated by Commission directive and published in the Commission’s Bulletin as an X docket. After Staff concluded its initial investigation, it was recommended that the docket be converted to a rulemaking docket. Pursuant to a Commission directive, Docket Number X-35394 was converted to R-35394, and published in the Commission’s Official Bulletin. As Staff has continued its review in this docket, the determination has been made that an engineering consultant is necessary to complete the review and the drafting of potential rules to ensure the stated goals of the Commission are achieved. We received two qualifying bids. The first is from TRC Engineers for $189,370 in fees and $6,980 in expenses for a total budget not to exceed of $196,350, and the second is from Critical Technologies Consulting of $286,900 in fees and 12,000 in expenses for a total budget not to exceed of $298,910. And while Staff makes no recommendation, please note that Staff did send correspondence to the Commissioners regarding concerns with one of the bidders.

CHAIRMAN GREENE: So can we speak to that, the conflict?

MS. BOWMAN: Sure. So TRC is a qualified bidder under the Commission’s rules. They submitted a bid to this RFP. Looking at their bid and looking at their background, they actually are currently also working for and under contracts with several of our utilities -- our electric utilities, which would also -- this rulemaking would directly affect, so in my opinion, that’s a direct conflict of interest. So while TRC is a qualified bidder and could work for the Commission on other avenues,
this one particular docket, in my opinion, is a direct conflict and we should not hire
them.

CHAIRMAN GREENE: Thank you. And so on that note, Chair makes a motion
to accept the bid of Critical Technologies Consulting.

COMMISSIONER SKRMETTA: Second.

COMMISSIONER FRANCIS: Commissioner --

CHAIRMAN GREENE: We have a second by Commissioner Skrmetta and a
comment by Commissioner Francis.

COMMISSIONER FRANCIS: Kathryn, on the bid sheet I have, it says
recommendation -- Staff makes no recommendations as both bidders are qualified.

That’s in my -- so both bidders are not qualified because of conflict?

MS. BOWMAN: No, sir. So both bidders are qualified under our Commission
rules.

COMMISSIONER FRANCIS: Oh, okay. I’m sorry.

MS. BOWMAN: SO TRC could work for the Commission on other matters, it’s
just this particular matter, in my opinion, they have a direct conflict of interest, but

TRC is a qualified consultant for the Commission.

COMMISSIONER FRANCIS: Oh, okay

COMMISSIONER SKRMETTA: They are technically qualified, but --

COMMISSIONER FRANCIS: I mean, it sounds to me like it’s not qualified

because a conflict of interest, so wouldn’t we say that up there -- the people I

represent, that’s the way they talk. They’re not lawyers, you know, okay. So there

is a conflict of interest for this bidder; is that true?
MS. BOWMAN: In my opinion, yes, sir, but it’s the Commission’s ultimate
decision of whether a conflict of interest exists and that’s why --

COMMISSIONER FRANCIS: Oh, okay.

MS. BOWMAN: So that’s why they’re still eligible until the Commission makes
that determination that there’s a conflict.

COMMISSIONER FRANCIS: So you’re saying we can select unqualified
bidders if we want to? Okay. All right. Thank you.

CHAIRMAN GREENE: So we have a motion and a second to accept the second
bid, CRC. Is there any discussion or objection?

COMMISSIONER BOISSIERE: No objection, but I do want to make a
comment.

CHAIRMAN GREENE: Commissioner Boissiere has a comment.

COMMISSIONER BOISSIERE: Okay. You can complete the vote.

CHAIRMAN GREENE: Okay. So hearing none, the motion is passed.

COMMISSIONER BOISSIERE: Okay. Yeah, I just had a question. Was TRC
notified of this --

MS. BOWMAN: Yes, sir.

COMMISSIONER BOISSIERE: Okay. And so they understand where the
conflict lies?

MS. BOWMAN: Yes, sir.

COMMISSIONER BOISSIERE: Okay. Well, I think going forward, first I want
to thank you for -- I’m glad the issue came up. I’m sorry that TRC was the first
victim of us doing a more thorough examination on bidders. But I think, for sure, that we may want to get the process to be clearer as I hear Commissioner Francis raises a very legitimate point. If they have a conflict of interest, does that also make them qualified or disqualify them from work and so we may have to discuss some of the rulemakings and things like that. But I really appreciate Staff doing the hard work of notifying us and notifying them. Thank you.

**MS. BOWMAN:** And we actually did just open a rulemaking docket, based upon Commissioner Campbell last month, of looking at the Commission’s rules and general order related to hiring the consultants and how they would be a qualified consultant, so we can certainly look at that in that rulemaking about that.

**SECRETARY FREY:** And to follow up on what Kathryn said back when I used to send these out. We had these issues appear in the past and when we notified, they usually either withdrew their bid or didn’t bid. I think the difference here is TRC decided to go ahead even though we notified them we had a concern, they still submitted the bid, so. This happens behind the scenes more often. This is the first time it’s actually come up directly like this.

**COMMISSIONER FRANCIS:** Mr. Chairman.

**CHAIRMAN GREENE:** Commissioner Francis.

**COMMISSIONER FRANCIS:** I’ll just be on the record as not supporting this because of the question of the qualifications and I know it’s still going to pass but just ask the corporation to give me a call and explain -- give a chance to clear their name here and I’m sure they will. Thank you.

**CHAIRMAN GREENE:** All right. Very good. Item 8.
MS. BOWMAN: Exhibit Number 8 is Docket Number R-35595. It’s the Commission’s review of the schedule of prescribed rates and requirements for towing and recovering services in General Order dated August 05, 2016. It’s a discussion and possible vote on Staff’s proposed recommendation for Interim CPI rate increase and this was Exhibit 8 on December’s B&E. The Commission Staff opened this rulemaking pursuant to an unopposed directive at the Commission’s June 24, 2020 Business and Executive Session to review and consider recommendations to the Commission regarding potential modifications and possible tariff increases regarding non-consensual towing and recovery services as set forth in the Commission’s General Order dated August 05, 2016. At the September 22, 2021 B&E, the Commission voted to amend the August 5, ’16 General Order by including rates for gate fees and administrative fees. General Order, October 18, 2021 memorializes this amendment. Staff’s full review of potential changes to the rates and regulations for towing and recovering services is still ongoing. However, Staff notes that under prior non-consensual towing and recovery orders, the Commission would biennially adjust rates by an amount equal to the annual percentage rate as determined by the U.S. Department of Labor, Consumer Price Index for the South Region, Urban Population Parameter, Transportation Commodities Less Motor Fuel Parameter. Commission Staff has conducted a CPI review of the rates as currently set and has determined that a CPI rate increase is justified in this instance. The Commission’s Audit Staff conducted a CPI review of the current non-consensual towing and recovery rates and utilizing the Commission’s previous methodology of calculating Transportation CPI.
increases for the towing industry, Staff determined that a 3.19 percent increase is necessary. Further, Staff used the Motor Vehicle Insurance CPI data for the first six months of 2021 to determine if insurance was increasing. Staff determined that the insurance CPI increased by 3.72 percent. Staff notes that with the exception of an increase in storage rates in 2016, the towing industry has not had an increase in rates related to CPI since 2014. Therefore, Staff recommends adding the transportation CPI increase of 3.19 percent with the insurance CPI increase of 3.72 percent to provide an overall interim increase of 6.91 percent. This increase is interim until the LPSC is able to conduct a full analysis and issue a final recommendation in this matter. On November 15, 2021, Staff filed its Proposed Recommendation for Interim CPI Rate Increase and Request for Comments in this matter, wherein Staff requested all comments be submitted on or before November 29, 2021. On November 24, 2021, Staff received comments from TRPL, which indicated that it agreed with the Proposed Interim Recommendation. On November 30, 2021, Staff received a Motion to Intervene Out of Time and Submit Comments from Rudy Smith Services. The Motion to Intervene was granted and the comments by Rudy Smith were considered by Staff. Generally, these comments disagreed with Staff’s application of the CPI rate review methodology, and asked in the alternative that Staff conduct a survey of four to five towing companies, reviewing their receipts relative to insurance, equipment, and labor, and adjusting rates on a temporary basis pursuant to Staff’s finding from this survey. On December 10, 2021, Staff filed its Final Interim Recommendation, wherein Staff responded to the comments of Rudy Smith. Specifically, Staff agreed that a review of insurance,
equipment, and labor costs in the non-consensual towing and recovery industry would be beneficial in its ultimate review of any potential rate increases. Staff noted that this type of more thorough review is ongoing, and will be addressed in a future recommendation. Staff further noted that while the Transportation CPI and the Motor Vehicle Insurance CPI do not solely reflect economic data from the towing and recovery industry, the use of a CPI adjustment has been previously applied by the Commission in adjusting non-consensual towing and recovery rates. As such, Staff believes that the rate adjustment of 6.91 percent and the methodologies used are reasonable. Therefore, Staff recommends that the Commission issue an interim order amendingAttachment A to the Commission’s October 18, 2021 General Order implementing a 6.91 percent interim rate increase.

And I have --

COMMISSIONER SKRMETTA: I have a motion that I’ve asked the Staff to prepare for me to look at this in a different light, looking at the producer’s price index versus the consumer price index, simply the difference being consumer price index is more of milk, bread and eggs type thing where the producers price index is more based on companies working and the Staff has prepared a --

MS. BOWMAN: We do have a motion, but before we hear that motion, Commissioner Skrmetta, Mr. Ruby Smith did put in a yellow card to speak.

COMMISSIONER SKRMETTA: Do you want to speak, first Rudy or you want to let us read the motion or?

MR. RUDY SMITH: You can go through the motion and then --
COMMISSIONER SKRMETTA: Sure. That’d be great. You mind reading the motion first and then we’ll see if we get any seconds --

MS. BOWMAN: Sure.

COMMISSIONER SKRMETTA: -- and then we’ll have Rudy speak.

MS. BOWMAN: For a motion of Commissioner Skrmetta: While recognizing that the consumer price index has been used in the past by this Commission to adjust towing rates, I believe that the CPI is less accurate at tracking the effects of inflation on the towing industry and at the producer price index would be a more reasonable measure. Therefore, I move that we reject Staff’s final interim recommendation and instead, implement a 15 percent increase on non-consensual towing and recovering rates, which is more in line with recent price increases as indicated by the PPI.

COMMISSIONER FRANCIS: Second that for Commissioner Skrmetta.

COMMISSIONER SKRMETTA: Go ahead, Rudy.

CHAIRMAN GREENE: Rudy, you want to come on up. We have a motion and a second, motion by Commissioner Skrmetta, second by Commissioner Francis.

MS. BOWMAN: Mr. Smith, just please state your name for the record.

COMMISSIONER SKRMETTA: You have to push the button on the microphone.

MR. SMITH: My name is Rudy Smith. I’m in New Orleans, Louisiana. I represent a company that’s 102 years old. So currently, just for information, we have served the city of New Orleans for almost 50 years in the non-consensual towing space. We suspended operations for their heavy duty list in early 2021
because we were unable to sustain services at the cost provided. So now, we are this point. I am -- we need the 15 percent, but in addition, the Commission -- we would appreciate if the Commission spurs a fast pace on the next review because the 15 percent is not going to encourage me to get back on that list. The numbers don’t work. Realizing that we sustained this -- in 2016, it was supposed to be a temporary order subject to research. That never happened. So now we’re in temporary order, two plus one, and questions?

COMMISSIONER CAMPBELL: What’s the difference in what they recommended and what you’re recommending?

MS. BOWMAN: Commissioner, your mic, please.

COMMISSIONER CAMPBELL: What’s the difference in what you recommended and what they want now?

MR. SMITH: They’re recommending --

COMMISSIONER CAMPBELL: Tell me, somebody, the numbers.

SECRETARY FREY: Justin, you want to hit it or -- you’ve got those exact numbers.

MR. BELLO: Commissioners, Justin Bello on behalf of Commission Staff. I have the numbers broken down. The 6.91 percent increase, which is in Staff’s final recommendation as well as 15 percent increase, kind of one of the easiest ones to look at would be a light duty tow per hour rate for a light duty tow. If you were to do a 6.91 percent increase in dollars, that would actually be $7 -- $7.50 increase. At the 15 percent rate, that would be a $16 increase and obviously, there are other rates in our rate schedule but that’s the main one that you see.
COMMISSIONER CAMPBELL: From $7 to $16?

MR. BELLO: $7.50 increase from 6.91 to 16 percent or $16, excuse me, for the 15 percent.

COMMISSIONER CAMPBELL: I’m not for that. I object.

CHAIRMAN GREENE: You do object?

COMMISSIONER CAMPBELL: Yeah.

CHAIRMAN GREENE: Okay.

COMMISSIONER CAMPBELL: I was --

CHAIRMAN GREENE: Roll call vote --

COMMISSIONER BOISSIERE: Wait, before we do that, I think there’s more discussion that needs to be had.

COMMISSIONER CAMPBELL: Yeah, I got some discussion.

CHAIRMAN GREENE: Okay. Commissioner Campbell.

COMMISSIONER CAMPBELL: Yeah, I was all ready to help them some, you know, $7, folks that called me were okay with that and now we’re going from $7 to $15; is that right? That’s too much for me, I can’t vote for this. I might could help a little bit, but I’m not going to double it because y’all say you need it and I respect you, but I can’t do that.

COMMISSIONER FRANCIS: Chairman.

CHAIRMAN GREENE: Yes, Commissioner Francis.

COMMISSIONER FRANCIS: You said you’re not serving New Orleans at this time?
MR. SMITH: We’re not serving them on heavy duty lists and we help them out on light duty as we can, but the costs have accelerated so very much. My insurance since the last interim increase is three times what it was, so we just cannot afford to do it.

COMMISSIONER FRANCIS: What vendor is supporting the heavy lift now in New Orleans?

MR. SMITH: I’m sorry?

COMMISSIONER FRANCIS: What vendor is helping doing the heavy lift now in New Orleans since you’re not doing it?

MR. SMITH: There’s only one, and they are sporadic. We -- even though we’re not on the list, get called by police not infrequently, you know, please come help.

COMMISSIONER FRANCIS: You have any recommendation from the police department to help you get your increase and get the service back? It sounds like we got a reliability problem here.

MR. SMITH: If I could get a spare police officer here, I’m sure they would mimic what I’m telling you.

COMMISSIONER FRANCIS: Thank you.

CHAIRMAN GREENE: So we have a -- ready for a roll call vote on the substitute motion that Commissioner Skrmetta -- is that a substitute?

COMMISSIONER SKRMETTA: It’s a primary.

SECRETARY FREY: It was a primary motion.

MS. BOWMAN: It was a primary.

CHAIRMAN GREENE: Fifteen percent?
SECRETARY FREY: Yes.

CHAIRMAN GREENE: Okay. So we have an objection, so roll call vote on the 15 percent, Commissioner Campbell.

COMMISSIONER BOISSIERE: I hate to do it. Let me -- Justin, I was trying to get something clear. I think you were going to give me a document this morning on the issue so I can look at a printout.

MR. BELLO: I can bring that up.

COMMISSIONER BOISSIERE: Please do.

COMMISSIONER CAMPBELL: Could I make a substitute motion?

CHAIRMAN GREENE: Yes.

COMMISSIONER CAMPBELL: Mr. Brandon, Mr. Frey.

SECRETARY FREY: Yes.

COMMISSIONER CAMPBELL: Your -- the Staff recommended $7, correct?

SECRETARY FREY: Based on the 6.9 percent on that first rate.

COMMISSIONER CAMPBELL: And they want, how much, $15?

SECRETARY FREY: Well, that with the 15 percent, that’s what it would go to. That’s my understanding.

COMMISSIONER CAMPBELL: They would be $15; is that correct? That’s what he told us. Is that right?

SECRETARY FREY: Correct.

COMMISSIONER CAMPBELL: Sir? Fifteen dollars?

MR. BELLO: Let me get a mic.

COMMISSIONER CAMPBELL: Okay. Okay.
CHAIRMAN GREENE: Do you have a substitute motion?

MR. BELLO: My apologies, Commissioner, what was that question again?

COMMISSIONER CAMPBELL: Yeah, I’ve got a -- yeah, it’s $8 difference.

They want $8 more than the Staff recommended, right?

MR. BELLO: Yeah, the 15 percent would be a $16 increase. Again, this is for a light duty tow per hour. The Staff recommendation is $7.50 in the increase.

COMMISSIONER CAMPBELL: It’s more than that then. It’s -- yeah, okay.

Well, the difference between 7 and 15 or 7 and 16 is 9. I’ll make a motion that we split it with them, $4.50 added to their $7, it’d be 11.50.

CHAIRMAN GREENE: And is this just an interim rate?

MS. BOWMAN: Yes. Yes, it’s just the interim rate until Staff does the full analysis and does a permanent rate increase.

COMMISSIONER CAMPBELL: Yeah, I’ll vote to help them. We already -- make this real clear. We already helping them at $7. What?

MS. BOWMAN: Yes.

COMMISSIONER CAMPBELL: That’s right.

SECRETARY FREY: And to clarify, Commissioner Campbell, that would mean -- so that’s just one of the rates.

COMMISSIONER CAMPBELL: I know.

SECRETARY FREY: We’d have to -- is your motion just for that one rate?

COMMISSIONER CAMPBELL: Yeah.

SECRETARY FREY: And so the other ones would stay at the other percent?

COMMISSIONER CAMPBELL: Seven percent.
SECRETARY FREY: The other ones would stay at the seven percent, the light duty --

COMMISSIONER CAMPBELL: Is your -- wait. Is his motion for 15 percent across the board for all them?

MS. BOWMAN: Yes.

SECRETARY FREY: Correct.

COMMISSIONER CAMPBELL: No.

SECRETARY FREY: Okay.

COMMISSIONER CAMPBELL: I appreciate --

SECRETARY FREY: Yeah, and that’s what we just used -- Justin just used that one as an example because it was the easiest one to show. The Staff was for seven percent across the board.

COMMISSIONER CAMPBELL: I got you. So it’s the seven -- your recommended or our people recommended $7, they want $16, right?

MS. BOWMAN: For light duty towing, yes.

SECRETARY FREY: Well, for that light duty, that’s what it comes out to. We -- I guess the better way to say it is we recommended 6.9 percent. The motion is 15 percent. So it’d be 6.9 percent across all under the Staff recommendation, it would be 15 percent across all under the motion.

COMMISSIONER CAMPBELL: Well --

SECRETARY FREY: And we just used that one rate to show that 7 to whatever $15 difference.

COMMISSIONER CAMPBELL: I got you. You did that just to clarify.
SECRETARY FREY: Yes. Yes.

COMMISSIONER CAMPBELL: Okay. I’m --

CHAIRMAN GREENE: Do you have something to say? Commissioner Francis.

COMMISSIONER FRANCIS: I have a question for Commissioner Boissiere. A lot of this, well, wait till they get through with their discussion over there, solving all the world’s problems. We’ll wait till they get through.

CHAIRMAN GREENE: I think he wants y’all to hear what he’s saying.

COMMISSIONER BOISSIERE: Okay, Commissioner.

COMMISSIONER FRANCIS: I’ve got a question for Commissioner Boissiere.

COMMISSIONER BOISSIERE: Yes.

COMMISSIONER FRANCIS: This 15 percent increase was offered by Commissioner Skrmetta who’s in the Greater New Orleans area with a lot of his customers. Mr. Boissiere, this affects your area quite a bit. What are you -- what is your opinion of the 15 percent increase?

COMMISSIONER BOISSIERE: I’ll be perfectly honest with you, I’m not completely opposed to it, but I think I have a line of questions that would support that. But I had a motion myself that was slightly different, maybe a little less but better than what Staff offered. So in many ways, I’m supportive of a bigger increase than what Staff wanted. To clarify my position, I’d like to talk about the fact that I’ve met with the tow group, I’ve met with Mr. Rudy Smith, and we’ve talked on several occasions, and I’ve spoken to Staff about this. There’s a problem with the non-consensual tows, the expenses -- and I’m going to let Rudy speak more about it than myself, I’m just going to relay the message the best way I can in effort of
time -- is that the insurance has gone up. The cost of trucks and trucking and storage
and all the other fees associated with non-consensual tows has gone up
tremendously over the years. They would do a rate case or a tariff change several
years ago and the Commission has never completed their tariff change. What we’re
discussing today is not a true rate change, but an interim rate change. And even
though it seems like it’s a big increase is because we haven’t given them their rate
change in the years that we promised them a rate change. This is a two part ask.
One, for an interim rate change and two, give them their permanent rate change, do
the work. So I’m talking to Staff right now. Get the work done and that’s part of
what myself and Mr. Justin was talking about. The reason they need to do this is
because of all the expenses and I’ll let Rudy describe it. But when we give them
the final rate increase, it’s going to be higher than $15 anyway and that’s just going
to happen in the next short period of months, maybe a month, 60, 90 days. I think
we can get this thing done. Hopefully, I’m looking at Staff when I say that, get on
this thing and get it done for them because we got truckers out there that are giving
up the business. It’s harder and harder for the NOPD, State Police, it’s not just New
Orleans, let me be clear. I appreciate Commissioner Francis’ question. Sure, it’s a
problem in New Orleans, but it’s a problem all over the state. We regulate this
statewide and when state police can’t get a truck to show up to clear the highway,
we get traffic jams. When we can’t clear the highways in New Orleans, it’s a
problem with traffic jams and rush hour. In Baton Rouge, it’s a problem. At every
corner of the state, it’s all -- these are state non-consensual tows, and so if we don’t
have enough truckers that are participating because it’s a drain on their business as
opposed to -- many truckers are going to -- are dropping this line of work and just
going to straight consensual tows as I understand it. But I’ll let Rudy explain it
better. But I’m supportive of an increase, and I was supportive of an increase that
is greater than what Staff first proposed because I think Staff has -- if you don’t
mind, I’m going to have to say it, I think y’all dropped the ball on this one. We
could -- this should have been done before, and I hope that working with Staff, we
can -- we can fix this and solve some of these issues that we’ve probably been a
little delayed on. And if we need to get the tow guys in here and we need to work
with them, they’re ready to work but we need to do our jobs, too. So I’m supportive
of an increase, whether it -- whether it’s the motion on the table or something, but
I think they need at least more than what Staff originally offered.

COMMISSIONER CAMPBELL: Let me ask a question.

CHAIRMAN GREENE: Commissioner Campbell.

COMMISSIONER CAMPBELL: You’ve done your homework. I’m going to
ask y’all this. When all this came up and you made the recommendation for seven
percent, were any of these people -- trucking people, were they there, the tow
people? Were they there?

SECRETARY FREY: This -- and I’ll let Justin speak to it. My appreciation --
there was a docket, it was open at one point in time that was stagnant for a while
and there’s a lot of issues that caused that. Then we had the second request in 2020.

COMMISSIONER CAMPBELL: How did we come up with seven percent?

SECRETARY FREY: It’s based on a CPI index for -- Justin can speak to the
years. I know it goes through 2020. It did not include 2021 and there’s some issues
that that would cause, but we just didn’t have 2021 data when we did it, but Justin can speak to that.

MR. BELLO: Commissioner, that’s -- or excuse me, Brandon, that’s correct. Commissioner, this was a combination of two CPI numbers. One was transportation specific number, the other one was an insurance number that when combined, came out to 6.91 percent and those looked at the years of 2019 to 2020 using the model for that CPI increase that was established back in 2010 by a general order of the Commission.

COMMISSIONER CAMPBELL: So you’re doing work in 2021 and we’ve gone from 7 to 15, ’22.

MR. SMITH: So let me make a point that the last time this was addressed was 2014 and that was an interim which was addressed in 2016 which was an interim and now we’re 2021.

COMMISSIONER CAMPBELL: What would it take to satisfy you? See, what I’m hearing --

MR. SMITH: Like we said, I’m --

COMMISSIONER CAMPBELL: I want to know what’s it going to take to fill y’all up.

MR. SMITH: Like we said, we believe when this thing’s done --

COMMISSIONER CAMPBELL: This is an interim -- this is an interim deal, and I hear that they’re going to want -- it’s going to be more, right?

SECRETARY FREY: That’s -- well -- the way that Staff is going to do this --
COMMISSIONER CAMPBELL: And I want to know -- I want to just -- okay.
Let me just ask one. Consensual tow, okay. Explain exactly what that is. Say
you’ve got somebody parking in a parking lot and they don’t need to be parking
there, he’s committed a mortal sin. He parks in a parking lot that he shouldn’t be
there in New Orleans because you can’t find any else -- place to else to park and he
needs to park somewhere and he has a mortal sin against him. He parks in a no
parking place; is that right?
MR. SMITH: Yes. That happens.
COMMISSIONER CAMPBELL: All right. Is that a consensual?
MR. SMITH: No, that’s non-consensual.
SECRETARY FREY: Non-consensual.
MR. SMITH: The easy way to understand the definition is a consensual tow is
when you, the owner, call a towing company and say I need a tow, and you’re able
to negotiate price at that time and you’re going to pay the gentleman whatever you
decide is correct.
COMMISSIONER CAMPBELL: You just -- how much is it going to cost me to
get this man -- this man did like a terrible thing, he parked in a no parking zone.
And you need to get him out of there, I understand that because the business needs
the parking and so anyway, he needs to get out of there. How much does it cost to
get this out of there?
MR. SMITH: So the current rate is --
SECRETARY FREY: 107.50.
MR. BELLO: 107.50, that’s correct.
SECRETARY FREY: I remembered that one. And that’s a flat rate.

MR. SMITH: Just over a hundred dollars. Now, realize that that is a $125,000 piece of equipment.

COMMISSIONER CAMPBELL: I got it. I’m a farmer.

MR. SMITH: But the bigger problem --

COMMISSIONER CAMPBELL: I got the equipment, I got that down.

MR. SMITH: But the bigger problem is it changes throughout the state, but in New Orleans, only half the vehicles are picked up so now --

COMMISSIONER CAMPBELL: Why is that?

MR. SMITH: They’re junk, somebody abandoned them because it wasn’t worth towing or repairing. We work for the airport. You would not believe the amount of vehicles that are just abandoned. Well, they’re not abandoning them if they’re worth something. So now that 107.50, 50 percent of the vehicles aren’t picked up, cut in half. Also --

COMMISSIONER CAMPBELL: What would it go to -- it’s 107.50 now. With this increase, how much is it going to go to?

SECRETARY FREY: It would be that number Justin read.

MR. BELLO: Yeah, depending on if you’re look at the 6.91 percent increase or the 15 percent increase, which one were you asking about, Commissioner? Either one?

SECRETARY FREY: I say just give him both.

COMMISSIONER CAMPBELL: Fifteen percent above the 107.

MR. BELLO: Yeah. And 15 percent above --
COMMISSIONER CAMPBELL: Ten, 15 dollars over the 107.

MR. BELLO: It’d be a $16 increase.

COMMISSIONER CAMPBELL: Huh?

MR. BELLO: A $16 increase if you were at the 15 percent.

COMMISSIONER CAMPBELL: So for you to go get it, it’s --

SECRETARY FREY: 123.50.

COMMISSIONER CAMPBELL: $123 or something; is that right?

MR. SMITH: Yeah. And that’s over seven years that it’s been adjusted.

COMMISSIONER CAMPBELL: You know, I -- but y’all did have a increase when they store your cars, you know, they put it behind the fence or whatever.

MR. SMITH: 2016.

COMMISSIONER CAMPBELL: Yeah. How much is that?

MR. SMITH: Twenty-four dollars.

COMMISSIONER CAMPBELL: A day? So if you pick my car up, you get $127. Say, I got a good car though, it runs, okay. And you pick my car up, we not through dancing yet. We just started the dance, right. You take my car for $127 then you put it behind the fence and you charge $24 more dollars.

MR. SMITH: Correct.

COMMISSIONER CAMPBELL: So that’s $150, right, thereabouts. How long can you do that? I mean, if --

MR. SMITH: Well, understand, Commissioner, that most of those vehicles are picked up in 24 hours. The problem is as of last week, I have over 90 vehicles that
have been in storage for more than 90 days because we have to go through a legal
process before we can crush the junk.

**COMMISSIONER CAMPBELL:** Well, what if it’s not junk, something happen?

**MR. SMITH:** Some of it’s sellable but if it’s not junk, they’re coming to get it and
they come and get it within days.

**COMMISSIONER CAMPBELL:** Yeah, and they come and get it within 10 days,
it’s $150 a day then they owe you $1,500 to get his car, right?

**SECRETARY FREY:** No, it’s -- the towing, it’s just the storage, the towing is
only for that initial pick up so that $107.50 currently would just be one time charge
--

**COMMISSIONER CAMPBELL:** And then storage.

**SECRETARY FREY:** The storage would be a daily fee.

**COMMISSIONER CAMPBELL:** Two hundred forty dollars.

**MR. SMITH:** And most people are not going to let their car sit 10 days. I mean,
it’s hours, not days.

**COMMISSIONER CAMPBELL:** I understand. And y’all have insurance on all
these places so I’m asking a question now.

**MR. SMITH:** Correct. And we require --

**COMMISSIONER CAMPBELL:** I have a nice truck.

**COMMISSIONER SKRMETTA:** Does insurance cost money?

**COMMISSIONER CAMPBELL:** I have a nice truck and I have a --

**MR. SMITH:** Insurance cost a lot of money.

**COMMISSIONER SKRMETTA:** I was just curious.
COMMISSIONER CAMPBELL: I know about it.

CHAIRMAN GREENE: That’s why he has a nice car.

COMMISSIONER CAMPBELL: If you have a nice truck and you got a toolbox on the back like Brandon, you got one, everybody’s got a toolbox and somebody comes in and they steal all the tools, you got insurance to cover that?

MR. SMITH: We do.

COMMISSIONER CAMPBELL: Is that a -- do we make you do that or you supposed to have it?

MR. SMITH: That is state law.

SECRETARY FREY: Yes.

MR. SMITH: To have the license, you’re required to have --

COMMISSIONER CAMPBELL: Insurance.

MR. SMITH: -- insurance.

COMMISSIONER CAMPBELL: For somebody steals something off your car -

MR. SMITH: Or steals the car, wrecks the car, does something else to it.

COMMISSIONER CAMPBELL: Okay. Well, that’s good. You should -- you should have that because you got care, custody, and control of the car, you ought to have insurance. They got insurance for that.

COMMISSIONER SKRMETTA: Is this a commercial?

COMMISSIONER CAMPBELL: Okay. Well, it’s not as bad as I thought, but -

COMMISSIONER FRANCIS: Mr. Smith, Mr. Smith.
MR. SMITH: Yes, sir.

COMMISSIONER FRANCIS: Now that we’re all experts in the towing business, I spent my life in oil and gas service business. I can tell you in the oil field rates, they’re much higher than your rates and so I appreciate your position. I think Mr. Skrmetta’s done his homework on this and offered the 15 percent and I definitely support that.

CHAIRMAN GREENE: All right. So where we are, we have a substitute motion, Commissioner Campbell.

COMMISSIONER CAMPBELL: You have a motion?

COMMISSIONER BOISSIERE: If your motion is 11 or 11.5 or 12 percent, then I can agree with you, you already did the motion.

COMMISSIONER CAMPBELL: What was the motion I made?

SECRETARY FREY: The motion you made was to cut in half or split the difference between the Staff recommendation and the motion on the floor, but only for the light duty tows is the way I appreciate it.

MR. SMITH: Yes.

CHAIRMAN GREENE: So are you seconding, Commissioner Boissiere?

COMMISSIONER BOISSIERE: I mean --

SECRETARY FREY: And then as I understand it, too, for the further discussion, for the other tows, medium duty, heavy duty, recovery --

COMMISSIONER CAMPBELL: This 15 percent, is it across the board for everything?
SECRETARY FREY: That’s correct. And just like the seven percent would have been across the board for all the rates.

COMMISSIONER BOISSIERE: But all non-consensual.

SECRETARY FREY: All non-consensual.

COMMISSIONER BOISSIERE: Non-consensual. So --

SECRETARY FREY: Non-consensual tows and recoveries. Not storage, I don’t believe and --

COMMISSIONER BOISSIERE: Right. We don’t regulate those other ones anyway.

SECRETARY FREY: Okay.

COMMISSIONER BOISSIERE: And I want to be clear, a better -- a really good example is partially an illegal part, but a really good example is a wreck on the side of the road. That’s what you use this for.

MR. SMITH: Yes.

COMMISSIONER BOISSIERE: When there’s an accident and there’s no one and the state police tells you to clear the road.

MR. SMITH: Correct. Correct.

COMMISSIONER BOISSIERE: That’s what happens most of the time in these cases. It’s rarely the other example which is a legitimate example, but it’s when there’s cars all over the road, when there’s been a pile up and we got to fill the road and get people home and get people to work and get people to school, who’s going to move those cars and -- it’s these guys.

SECRETARY FREY: That’s correct.
COMMISSIONER BOISSIERE: And let --

SECRETARY FREY: I’ve experienced it firsthand myself.

COMMISSIONER BOISSIERE: And let me ask Rudy a question and this is by no means going to start another whole discussion, but when there is an accident, does insurance generally kick in to cover some of these costs?

MR. SMITH: If they have comprehensive insurance, yes. If it’s liability, no. And so if they have liability only and they total a car, it ends up in the junk pile.

COMMISSIONER BOISSIERE: Right. But if it’s a legitimate vehicle --

MR. SMITH: And understand, you know, even 15 is not going to induce my company to get back into that.

COMMISSIONER BOISSIERE: Right.

MR. SMITH: To help out, we have actually come to the scene of accidents through the interstate, we put them in the grass, leave them because it costs me too much to put them in pound.

COMMISSIONER BOISSIERE: Uh-huh.

MR. SMITH: So we’re at -- we’re at a wall here and I know when an in depth study is done, this 15 percent is not going to cover it.

COMMISSIONER BOISSIERE: I understand.

MR. SMITH: I also know we’re not going to get this study done in 90 days, that’s not possible.

COMMISSIONER BOISSIERE: All right, Rudy.

CHAIRMAN GREENE: So there’s a substitute motion and a second; is that correct?
COMMISSIONER BOISSIERE: Yes. So there’s objection, so we’ll do roll call vote on
the 15 percent. Commissioner Campbell.

COMMISSIONER CAMPBELL: Let me explain myself. I don’t need to explain
my no vote, it’s just no. I talked to some people up in my area, they were satisfied
with the compromise and that’s what I agreed to and this is double the compromise,
but I understand. I don’t think you’re doing anything wrong, so I know what I
obligated myself to. I’m going to stay with that.

CHAIRMAN GREENE: Okay. So that’s a no vote?

COMMISSIONER CAMPBELL: No.

CHAIRMAN GREENE: Commissioner Boissiere.

COMMISSIONER BOISSIERE: I’m going to vote yes.

CHAIRMAN GREENE: Commissioner Skrmetta.

COMMISSIONER SKRMETTA: Yes.
CHAIRMAN GREENE: Commissioner Francis.

COMMISSIONER FRANCIS: Yes.

CHAIRMAN GREENE: Chair votes yes. And it’s passed, 15 percent. Next.

MR. SMITH: Thank you.

MS. BOWMAN: Exhibit Number 9 is Docket Number R-36131. It’s the Commission’s determination of Commission jurisdiction over the various methods of providing electricity to electric vehicles and the infrastructure associated therewith. This is -- has two components to it. There is an update from Staff at request of Commissioner Skrmetta and there is also a discussion and possible motion to rehear the hiring of the McQ Group pursuant to Rule 43 at the request of Commissioner Campbell.

CHAIRMAN GREENE: Do you have something to read or no?

MS. BOWMAN: No.

CHAIRMAN GREENE: So on this, I would like for the fellow Commissioners, we’re going to -- we’re going to by the parliamentary and whoever’s turn it is to speak, we’re going to let speak and then when that -- let’s just not interrupt each other on this, so. Mr. McQuaig, Mr. Demint, please --

MR. RICK DEMINT: Rick Demint.

SECRETARY FREY: Make sure you get the green light on and then you know you’re good.

MS. BOWMAN: And can you both fill out yellow cards. You can do it after, just please both fill out yellow cards.

MR. SCOTT MCQUAIG: Sure. Good morning, Mr. Chairman, Commissioners.
COMMISSIONER CAMPBELL: Hey, wait a minute, wait a minute. Am I going to get to present my case first?

CHAIRMAN GREENE: Yes. We’re going to let them speak and then we’re going to each take turns.

COMMISSIONER CAMPBELL: Right.

CHAIRMAN GREENE: Without interrupting each other.

COMMISSIONER CAMPBELL: Right.

CHAIRMAN GREENE: Yeah, after they speak, you’re going to go next.

MR. MCQUAIG: Mr. Chairman, Commissioners, we were directed this morning to provide a brief report and update.

COMMISSIONER CAMPBELL: Wait a minute, Craig.

CHAIRMAN GREENE: Hold on one second.

COMMISSIONER CAMPBELL: How does that work?

CHAIRMAN GREENE: Would you like to go first?

COMMISSIONER CAMPBELL: Yeah.

CHAIRMAN GREENE: Okay. We’re going -- Commissioner Campbell is going to speak first. Commissioner Campbell.

COMMISSIONER CAMPBELL: Put these people under oath, would you?

SECRETARY FREY: The card is the -- is the oath. The cards that they fill out there.

COMMISSIONER CAMPBELL: Yeah. First of all, I got a few questions I want to ask. I wanted to ask them last time, Mr. McQuaig but you left for whatever reason. Why did you leave, Mr. McQuaig?
MR. MCQUAIG: Commissioner Campbell, I’ll be happy to discuss that and correct the record. I’ve been able to communicate the reasons for my leaving the last meeting with most of you individually.

COMMISSIONER CAMPBELL: You didn’t communicate that with me.

MR. MCQUAIG: No, sir, I didn’t.

COMMISSIONER CAMPBELL: Okay.

MR. MCQUAIG: I’m happy to do so now on record.

COMMISSIONER CAMPBELL: So why did you leave?

MR. MCQUAIG: I got up at 4:00 in the morning on the morning of the last B&E and drove to Natchitoches to appear at the B&E and to participate in the B&E and I did so. I saw each of you Commissioners before the meeting, I visited, I said hello, and I stayed at the meeting for a reasonable period of time. I got a call from the mechanic who had repaired my car that broke down the week before when I drove to Bossier to meet with you in your office, Commissioner Campbell, and I had been driving a loaner car back to New Orleans and around the New Orleans area ever since. The plan was for me to drive to Natchitoches, appear at the meeting, which I did, and then when the meeting adjourned, drive on to Bossier, pick up my truck and drive home because I had business the next day. I had not been asked by anyone on the Commission to speak at the last B&E. I hadn’t been told that me appearing before the Commission would be necessary, so I received a text from the mechanic that he had --

COMMISSIONER CAMPBELL: Wait, wait. Can I ask a question there? You never were told that you were supposed to speak at the next B&E?
MR. MCQUAIG: No, sir.

COMMISSIONER CAMPBELL: That’s not true.

MR. MCQUAIG: Well, it is true. I was never told that I would need to speak at the last meeting, but if I may, Commissioner --

COMMISSIONER CAMPBELL: But everybody -- let me set the record straight, Mr. McQuaig. You have a lapse of memory here. Everybody up here with exception of Mr. Skrmetta was understanding the last time when we were here in November, we said you need to come back and answer some questions and we all agreed to that. You knew that, Mr. McQuaig. Now, don’t tell me that you didn’t know that you were supposed to answer questions.

MR. MCQUAIG: Commissioner --

COMMISSIONER CAMPBELL: That’s not the case. Everybody knew that I had questions and I said that, and I think Mr. Greene agreed, we all said come on back and we’ll do it in December.

CHAIRMAN GREENE: And Brandon, was he on the agenda for December?

MR. MCQUAIG: The vote was on the agenda.

SECRETARY FREY: If I remember, I think it was on the November meeting initially and it was deferred a month to December, then it was on the December meeting as well.

COMMISSIONER CAMPBELL: And with the understanding there was some questions that I wanted to ask and I didn’t get a chance to ask them. So anyway, to say that you didn’t know you were supposed to answer questions, that ain’t exactly
right. But anyway, I’m going to let you go with that one. I got some more questions I want to ask you.

**MR. MCQUAIG:** Can I continue with the reason I was absent, Mr. Chairman?

**COMMISSIONER CAMPBELL:** Yeah.

**CHAIRMAN GREENE:** Yes.

**MR. MCQUAIG:** All right. Those last discussions notwithstanding, my intent was to be there for the meeting and for the entire meeting, and I received word from the mechanic who had my car, that it was ready but he had personal matters, had to leave for the day and my truck would be locked up and I could get it tomorrow morning unless I could come get it in the next hour and half to two hours. So I went and got in my loaner car and I drove on to Bossier and I picked up my truck. And unfortunately, I wasn’t available at the meeting to answer questions. Words like disrespectful and mysterious were used in connection with those circumstances. I assure the Commission that I was neither intentionally disrespectful nor was there a mysterious reason why I had to leave. I simply had to leave because I needed to pick up my vehicle and return home to Metairie that night because I had business to attend to the next day. I didn’t --

**COMMISSIONER CAMPBELL:** Did you --

**MR. MCQUAIG:** I didn’t shy away from answering questions when I met with you the week before, Commissioner Campbell. I’ve never shied away from answering anyone’s questions at this Commission. I didn’t do it on that day. I got up that morning to drive to Natchitoches and was there to do so and unfortunately, had to leave.
COMMISSIONER CAMPBELL: Well, now you’re saying you were there to do what? To answer questions. Now, you said you didn’t know you were going to have to testify.

MR. MCQUAIG: I was there to participate in the meeting.

COMMISSIONER CAMPBELL: That’s confusing. You’re saying that you got up at 4:00 in the morning, you drove to Natchitoches to do what you had to do. I was going to ask you, matter of fact, I asked -- where is Mr. McQuaig. He wasn’t there. I was going to ask you some questions because you left. Now, you said -- did you tell Brandon -- did he come over and tell you, Brandon, I got to go to Shreveport, it’s an emergency. I won’t be able to answer any questions.

SECRETARY FREY: I don’t remember one way or the other. I think Mr. Demint and I talked.

COMMISSIONER CAMPBELL: Well, you would remember if he told you that or not. Come on, man.

SECRETARY FREY: No, I mean, I know Rick and I had talked --

COMMISSIONER CAMPBELL: I don’t remember.

SECRETARY FREY: -- and I asked, so.

COMMISSIONER CAMPBELL: Well, of course he didn’t tell you that. He left. But did you leave to get a pickup truck fixed up because you had a rental car, but you had a $45,000 contract laying on here -- on this table.

MR. MCQUAIG: Commissioner Campbell --

COMMISSIONER CAMPBELL: You thought more of a pickup than you did a $45,000 contract?
MR. MCQUAIG: No, sir. I thought more of the medical test that I had scheduled the next morning and I knew I had to be back home in Metairie.

COMMISSIONER CAMPBELL: I got you. I got a few more questions, good many, so just hold on, okay. All right. The last meeting, and we’ve talked about it today and Mr. Boissiere’s mentioned it already. In reviewing this matter, I realize how the process hiring outside Staff is flawed. Two issues stand out from our December meeting. We reviewed 11hirings and eight of those drew only one bidder. That’s a problem. Second, our rule governing hire needs improvement to ensure that we draw bids from people with expertise and qualifications to match the job. That’s what Brandon’s talking about right now, making sure we got a rulemaking open, there’s no conflict, nobody’s kin to anybody, nobody’s good friends and getting jobs here. We brought that out. In the matter of electric vehicle charging stations, I have concern that the sole bidder for the work, McQuaig group does not have the necessary background and qualifications. I have questions in that regard, which I was not able to ask in December because Mr. McQuaig or the contractor left the meeting and I want to ask those questions today. Therefore, pursuant to Rule 43, I move that we rehear the decision we made in December to hire McQuaig group in a Docket R-36131. I made that motion. I want to rehear this.

CHAIRMAN GREENE: Motion to rehear it under Rule 43. Is there a second?

COMMISSIONER BOISSIERE: Second.

CHAIRMAN GREENE: Second by Commissioner Boissiere. Any objection?

COMMISSIONER SKRMETTA: Opposition. Roll call vote.
CHAIRMAN GREENE: Objection, so roll call vote to bring the matter up under Rule 43. Commissioner Campbell.

COMMISSIONER CAMPBELL: Yes.

CHAIRMAN GREENE: Commission Boissiere.

COMMISSIONER BOISSIERE: Yes.

CHAIRMAN GREENE: Commissioner Skrmetta.

COMMISSIONER SKRMETTA: No.

CHAIRMAN GREENE: Commissioner Francis.

COMMISSIONER FRANCIS: Yes.

CHAIRMAN GREENE: Chair votes yes as well. Matter’s brought back up under 43.

COMMISSIONER CAMPBELL: The Commission General Order of contracting hiring Docket 33197 says about the consultants. This doesn’t say may now, it says shall. They shall, at a minimum, be experienced in analyzing in depth the operation books and records of utility companies and qualified render expert testimony which respect thereto including, but not limited to, such matters as return on equity, capital structure inter and intrastate allocation, expenses recognized by ratemaking purposes, development of a rate base depreciation of a taxation. Let me ask you something. Have you ever been qualified as a expert?

MR. MCQUAIG: I have.

COMMISSIONER CAMPBELL: Whereabouts that be?

MR. MCQUAIG: I have been qualified in various courts of law over the last 35 years as an expert.
COMMISSIONER CAMPBELL: Okay. What is it in, what subject matter? Is any of it --

MR. MCQUAIG: I have testified with regard to jurisdictional issues. I have testified with regard to insurance coverage. I have testified with regard to litigation practice.

COMMISSIONER CAMPBELL: What about -- have any expertise in putting electricity to cars or anything like that or anything with electric situations that you’re using electricity, you’ve been an expert in that?

MR. MCQUAIG: No, not particularly. I would suggest that would require engineering expertise, and that’s not the subject matter of this docket.

COMMISSIONER CAMPBELL: Okay. Let me ask you something, Mr. McQuaig. The Commission requests proposals in this docket on electric vehicle charging was issued in October. It quotes Mr. Skrmetta’s directive in July that generated this docket. He called for a rulemaking to determine the Commission’s jurisdiction over electric vehicle charging stations. Determining of jurisdiction is a legal matter. Mr. McQuaig, can you practice law in Louisiana?

MR. MCQUAIG: I’m not currently practicing law in Louisiana, no, sir. We discussed that when --

COMMISSIONER CAMPBELL: I know. We got some more discussing about it. Can you practice law in Louisiana?

MR. MCQUAIG: I am not currently practicing law in Louisiana.
COMMISSIONER CAMPBELL: Okay. Well, the determination in this says
determine Commission jurisdiction over electric vehicles charging station. That’s
a legal matter.

MR. MCQUAIG: No, sir, it’s not. In fact, what was anticipated by the RFP that
was issued for a consultant was to assist Staff in investigating and Staff making and
this -- assisting the Commission in making jurisdictional issues. The determination
of jurisdiction is not just a purely legal issue. It’s based on a set of operative facts
and over 35 years, certainly, I’ve investigated and dealt with jurisdictional issues.
I would suggest to such an extent that that expertise is unquestioned. I would also
point out in response to your question that subsequent to this RFP, this Commission
has issued another RFP requesting a legal consultant to make the legal
determinations for -- to assist Staff from the legal standpoint, so you have a factual
side and a legal side. When I responded to the RFP, it was not intended nor did I
expect to provide legal advice. It’s not what the RFP called for.

COMMISSIONER CAMPBELL: Let me ask you a question. Why are you not
qualified to do legal work in Louisiana? What’s the reason? What’s the reason?
You told me -- you told me one thing and I’m sure you’re going to tell me the same
thing today, but I just want to hear it again.

MR. MCQUAIG: That’s interesting because when I told you that in your office,
you said you would never bring that up, but --

COMMISSIONER CAMPBELL: No, I never told you that.

MR. MCQUAIG: Oh, yes, sir, you did. But I’ll be happy to respond.
COMMISSIONER CAMPBELL: No, I never -- Mr. McQuaig, I’m asking the questions, just answer, hear?

MR. MCQUAIG: I’d be happy to answer again, Commissioner Campbell.

COMMISSIONER CAMPBELL: I’m the judge today. I’m the judge today.

MR. MCQUAIG: I voluntarily entered into an interim suspension of my law license about three years ago. The operative words there being voluntary and interim. I have not been disbarred, I have not been sanctioned, I have not been reprimanded.

COMMISSIONER CAMPBELL: Well, let me ask you something. Was that the only reason you gave up your license because of what you told me?

MR. MCQUAIG: I gave up my license because of that in connection with my ability to get medical treatment recommended to me by my doctors and there were circumstances involving a third party that are still open circumstances and somewhat tragic circumstances that I related to you in your office.

COMMISSIONER CAMPBELL: Have you -- do you know any lady named Ms. Pitre?

MR. MCQUAIG: I do.

COMMISSIONER CAMPBELL: Did you represent Ms. Pitre?

MR. MCQUAIG: I did.

COMMISSIONER CAMPBELL: Okay. Ms. Pitre makes a accusation that you represented her and you settled a case without her authority and you kept the money. Matter of fact, it’s just not a accusation, it’s a lawsuit. She sued you for this; is that right?
MR. MCQUAIG: Two things, allegations were made on an administrative level that are still outstanding that involved, as I related to you in your office, the suicide in my office of a staff member and therefore, because of those circumstances, I’m not going to discuss them any further. I did represent Ms. Pitre. Our firm was sued. That suit was dismissed.

COMMISSIONER CAMPBELL: It’s been dismissed?

MR. MCQUAIG: Uh-huh.

COMMISSIONER CAMPBELL: So are you telling me that -- was it -- did you pay her back or was it -- did you owe her or what? I just want to know, has that been completed and everything is fine there with Ms. Pitre; is that correct?

MR. MCQUAIG: Commissioner, as there are certain administrative aspects of that are still open, I’m simply not at -- it’s not possible for me to comment further than what we discussed in your office and what I’ve said here today.

COMMISSIONER CAMPBELL: You never mentioned Ms. Pitre in my office.

I’m the one mentioning Ms. Pitre today.

MR. MCQUAIG: To the contrary, Commissioner, I explained to you that lawsuit. I may not have used her name, but I explained to you the lawsuit and the claim and the circumstances that gave rise to that claim having involved the suicide of a 14 year old boy at night in our office and the subsequent non-availability of a senior staff member that resulted in those claims being made.

COMMISSIONER CAMPBELL: What you told me in my office was this: That you had that terrible accident in your office and I appreciate it. That was a son of one of your employee’s office that did this. That she was real integral in your
operation and you couldn’t really do the rest of it without her and she didn’t
mentally -- she wasn’t ready to talk about it because her son had this terrible
situation in your office. That’s what you told me.

MR. MCQUAIG: Among many other things, yes, sir.

COMMISSIONER CAMPBELL: Yeah, that’s what you told me.

MR. MCQUAIG: Among many other things, that’s true, Commissioner.

COMMISSIONER CAMPBELL: Well, you’re never -- I don’t want to argue
with you today. That’s why I put you under oath. I’m not here to argue with you.
We have a lot of things. I got some more questions. So are you trying to get your
license back now?

MR. MCQUAIG: Commissioner, I would suggest that this RFP has nothing to do
with the status or lack of status of me as a practicing attorney.

COMMISSIONER CAMPBELL: Well, I would tell you that it means a hell of
a lot to me. That’s what I mean, that’s what I tell you. It means a hell of a lot to
me. When people come here and they’re asking for the public’s money and you
haven’t -- don’t have your license, you either gave them up for whatever reason,
that means something to me. Now, I’d like to know about it. I was never notified,
you said you told Brandon or Brandon told -- was told, but Brandon never notified
everybody up here. I heard by innuendo what this, that, and the other, that would
have made a lot of difference to me. And I expect from now on if this ever happens
again, that you call, you write, you have a registered letter saying this man has given
up his law license. This is a big deal to me because I don’t know any lawyer that
takes this lightly, and I don't know any lawyer that gave up their license wouldn’t
be trying to get them back because you make money as a lawyer.

**MR. MCQUAIG:** I agree with that.

**COMMISSIONER CAMPBELL:** I once hired a guy, Mr. McQuaig, I had a
fellow come to my office, had a master’s degree, business degree, and a law degree,
and he had to give his license up. First day he walked in my office, he said Mr.
Campbell, I’m so and so, this is my qualifications. I had to give up my license,
right off the bat. I said, man, so I did some research and found out it was what he
told me. It wasn’t about taking anybody’s money or anything like that. He got
inebriated one night and his wife was having trouble -- he and his wife, it was a
fight, and so they made him surrender his license. That boy’s got his license back
now and he works at one of the departments -- top departments in state government.
But the difference was he was honest with me and he came in and told me that, and
I checked everything he said, came to fruition. So what you’re telling me about
Ms. Pitre is you don’t know if that case is settled or not but it might be.

**MR. MCQUAIG:** No, sir. I’ll be happy to be more specific. That case has been
dismissed. The issue with my license is still interim in nature. I have not been
permanently suspended, that is an ongoing situation.

**COMMISSIONER CAMPBELL:** Is it true that lawyers, I’m just asking, I’m not
a lawyer. Is it true to keep from getting disbarred sometimes you surrender your
license?

**MR. MCQUAIG:** Some lawyers surrender their license permanently.

**COMMISSIONER CAMPBELL:** If you’re 95 years old --
MR. MCQUAIG: And they can never been reinstated.

COMMISSIONER CAMPBELL: -- and you can’t practice, I know that happens all the time.

MR. MCQUAIG: Some lawyers enter into an interim suspension subject to reinstatement, which is my status, and it’s still pending.

COMMISSIONER CAMPBELL: Uh-huh, okay. Let’s go on.

COMMISSIONER FRANCIS: Commissioner Greene, I want to say something.

CHAIRMAN GREENE: Commissioner Campbell, Commissioner Francis would like to say something.

COMMISSIONER SKRMETTA: I was on the list, too.

CHAIRMAN GREENE: Okay. Would you like to finish or us to circle back to you?

COMMISSIONER CAMPBELL: Yeah, I would. I would. I got a few more questions, okay. And basically, what you have told us, basically, Mr. McQuaig, today is that you think you have the qualifications. Our rules say you don’t have the qualifications, real clear and we said you’re going to work on these rules. We have a problem here -- we have a problem here of not getting enough bids. We talked about that last time and what I heard and the disrespect -- I don’t know how you couldn’t say that you didn’t disrespect this committee here, this Public Service Commission. When you walked out, you thumbed your nose on us because you said you had a car that needed to be picked up and it was 11:00 and you couldn’t get to Shreveport to pick up your car and you were renting another car, so you just
decided to go on out when you knew people were going to ask you questions that
made you feel a little bit uncomfortable.

MR. MCQUAIG: No, sir. The reason I had to leave was because I had to return
to New Orleans, to my home in Metairie that evening because I had medical tests
scheduled for the next day.

COMMISSIONER CAMPBELL: Well, I have another motion. And based on
all that I’ve read and heard, Commission’s awarded this contract on electric vehicle
stations, without you being there, without your testimony, I’ve got a motion to
rescind this Commission’s award of the contract and electric vehicle charging
stations. Mr. McQuaig does not have the required qualification to meet the job. He
showed disrespect to the Commission in the December meeting when he declined
to answer question that had previously been raised about his qualification, just left
and said, see y’all later and then was awarded the contract. I think it’s imperative
that this Commission clear the air to make sure that we’re doing the right thing and
I’m sure that all -- everybody up here wants to do the right thing. I’m positive. I
think that we ought to, basically in my motion, to rescind this contract, start all
over, ask for bids, make sure the qualifications are there because I think we’ve been
damaged here. Mr. McQuaig has damaged us by walking off and didn’t give a
damn, and then he got the contract anyway, 30,000 -- $45,000. I never seen that
and I been here longer than anybody. I’ve never seen this Commission operate like
that. I don’t -- I’m not accusing anybody of doing anything wrong, but I think for
the good of the Public Service Commission and the faith that people have in us that
we have to do this. We have to and if you want to bid again, get with it, but I think that we ought to open this thing up, rescind this, and open it back up.

CHAIRMAN GREENE: So there’s a motion --

COMMISSIONER CAMPBELL: And I make a motion to do that, to rescind this contract.

COMMISSIONER SKRMETTA: We still have an argument on the floor.

CHAIRMAN GREENE: Okay. So after discussion, you will have a motion --

COMMISSIONER CAMPBELL: Yeah.

CHAIRMAN GREENE: -- and we’ll see if there’s a second. So were you -- you’re next, Commissioner Skrmetta?

COMMISSIONER SKRMETTA: I believe so.

CHAIRMAN GREENE: Commissioner Skrmetta then Commissioner Francis.

COMMISSIONER SKRMETTA: Yeah. Thank you, Mr. Chairman. First off, you know, I’d like to say that I think Commissioner Campbell’s original motion on Rule 43 is out of order. I think he explained that it would be by his own words in his letter to the Commission in his letter that he leaked to the press was out of order when he determined that he could not bring this matter up as he was a anti-vote in the original matter, so that this entire argument is out of order for the purpose of this discussion under Rule 43. Also, when he goes through the determination of Rule 43, in his determinative explanation of the argument, he goes into the discussion of the intricacies of Rule 43. I believe Rule 43 is more involved when people are qualifying for issues associated with the deep consultancy as we go into the regulatory aspects of electric utilities, and I think that’s an important
differentiation in this moment. What we are looking at here is simply looking at
how we’re going to determine the best value associated with what we do about
determining who is going to have the jurisdictional ability to provide retail sales of
electricity at electric charging stations, of which we already have people who are
operating outside the parameters of the Public Service Commission at this time, and
that needs to change because it is my opinion as a Commissioner, excuse me, that
the only people that have the ability to sell electricity at retail rates or retail sales of
electricity are investor owned utilities and electric co-ops that are under the
regulatory component of the Public Service Commission. Obviously, jurisdictions
that are not under the Public Service Commission meaning municipalities, et cetera,
they have their own ability to determine rules and regulation. But there is no issue
of going into the intricacies under which Rule 43 demonstrates itself into how we
look at tax positions and other issues is when you’re looking into the real regulatory
aspects or determining rates, et cetera. What we’re looking at is jurisdiction and
not rates, and that was what the purpose of the original asked for or the RFP for bid
is about. Now, I’ve got a couple of questions for you two gentlemen because I
think the question is about your thing, but I would like to point out that the
Commission has in the past entered into working relationship with attorneys who
have been at different stages of determinative administrative levels with the Bar
Association. As Commissioner Campbell has said, he actually hired Mr. Holliday
at one point who was disbarred over a domestic abuse issue. That is not the case
here. This is a voluntary issue on medical issues and an administrative element that
is still continuing, so we understand that and the Commission has a long history of
engaging in the proper element of hiring people for what their skill set is for and
not for the purposes of hiring them for legal work but for hiring them for
administrative or consultancy work. So that goes beyond the thread of the argument
that was represented by Commissioner Campbell. Now, what I’d like to ask you is
in your preparation for your work on this particular docket about who is going to
cover the electric retail sales of electricity to electric vehicles in the infrastructure
associated with it, how did you prepare in moving forward to develop the requisite
skill set to gain the knowledge necessary to provide the Commission the valuable
information that you can provide the Commission?

MR. MCQUAIG: I’ll speak to that, first, Commissioner Skrmetta. With regard
to the threshold issue of jurisdictional determination and facts which support
jurisdictional decisions, I’ve dealt with jurisdictional issues my entire professional
life. I’ve taught them, I’ve dealt with them, I’ve testified about them, so I’m
particularly equip in that regard to assist Staff and to assist the attorney that will be
hired by this Commission on the legal side with regard to those issues. I’ll also
point out that it calls for policy determinations or assistance of Staff with regard to
development of policy. I’ve worked in various capacities on various dockets before
this Commission for the last 12 years or so. I’ve never heard a complaint. I’ve
heard compliments from Commissioners, compliments from Staff. We’ve brought
those dockets in generally under budget and we’ve offered a substantial quality of
work. Prior to this RFP being issued by this Commission, I asked by NARUC to
join the State Electric Vehicle Working Group which is indicative of NARUC’s
efforts to look at and determine and investigate virtually the same issues that
subsequently became a part of this RFP. I was pleased to do so because in looking at the scope of that working group agenda or scope or work, I saw that they were connectivity issues. I invited Mr. Demint to join the State Working Group as well so in fact, there’s a meeting this afternoon of that group that we intend to virtually attend, so those are my qualifications and work that I did with respect to these issues even before this RFP came about. I’ll let Mr. Demint address his qualifications and work he did in connection with the connectivity side.

COMMISSIONER SKRMETTA: Well, I do have another -- a couple questions because I know you prepared some information for the Commission ‘cause I asked you to prepare some information on kind of status of kind of where we are on the electric vehicle charging stations.

MR. MCQUAIG: We did, yes, sir.

COMMISSIONER SKRMETTA: Because my concerns about where we are as a state is Louisiana has to be Louisiana. We don’t have to follow suit with other states, and I know you’ve determined that a lot of states have already gone with the fact that the charging stations aren’t necessarily regulated as the same as retail consumer or commercial based public utilities, and so that’s been one of my concerns for y’all to make the, I guess, the determination that we should be in a position for our regulated monopolies to control the retail sale of electricity at all levels whether they be to retail consumers, commercial consumers, industrial consumers or because of this new pact in here, is another layer of potential revenue source for these bodies and not having a third party that’s going to be coming into a sort of questionable determinative sourcing of wholesale electricity to make retail
sales that are differential from the retail sales of the regulated bodies under the Commission. And I know you’ve already made some determine -- I’m looking at Page 8, actually Page 7 of this docket, which I know all the Commissioners have, and it says that many states have ruled on the issue, all deciding that charging stations should not be regulated in the same manner as a utility. So are you -- have you, you know, where have you gone on this because this is, you know, in the working group and on NARUC’s end, which is more of the national view point on this.

**MR. MCQUAIG:** Sure.

**COMMISSIONER SKRMETTA:** You know, where are we as a state on the ability of protecting the investor owned utilities and the co-ops on creating a mechanism for them to be the retailers of electricity for electric vehicles?

**MR. DEMINT:** I’d like to make a comment about that.

**COMMISSIONER SKRMETTA:** Go ahead.

**MR. DEMINT:** We found --

**COMMISSIONER SKRMETTA:** Just say your name once for the record.

**MR. DEMINT:** Rick Demint.

**COMMISSIONER SKRMETTA:** Okay.

**MR. DEMINT:** In our investigation and participation in the NARUC group, many of these states that we point out here that have made that finding, that was done so through their legislatures, not by their Commissions. You know, in many states, Louisiana being different --
COMMISSIONER SKRMETTA: Do you think that’s because their states are different than the constitutional authority of Louisiana?

MR. DEMINT: Right. Absolutely.

COMMISSIONER SKRMETTA: Okay. Well, you know, ‘cause -- and there’s been a issue of, you know, Commission Campbell saying that, you know, you as a consultant, are fiddling with the law by trying to determine jurisdiction. It’s my understanding the Commission is the plenary authority and determines the jurisdiction. You can only -- you’re like an administrative law judge, you make recommendations. You don’t make decisions. The Commission makes the decision, the Commission makes the jurisdictional decision. That’s where we are on this.

MR. MCQUAIG: With facts that we discover.

COMMISSIONER SKRMETTA: Right.

MR. DEMINT: We just bring forth those findings.

COMMISSIONER SKRMETTA: You go through the analysis. You do like any other consultant and get to this point.

MR. MCQUAIG: Right.

COMMISSIONER SKRMETTA: But my question to you is, do you plan on going into the tax components of rates and structures or are you just looking at how the state can determine how we can develop the jurisdiction to protect how we sell electricity through the charging stations for vehicles?

MR. MCQUAIG: We intend to go into the entire scope of the docket. I would -- in answer to your question and as an initial comment, suggest that some of the other
information that we provided, too, by way of these slides in connection with our anticipated report shows that while other states, perhaps are far passed initial determinations regarding these issues, Louisiana and this Commission has the luxury of being in front of this wave of momentum that obviously is building with regard to these issues.

COMMISSIONER SKRMETTA: Do you feel like we can take -- learn from the mistakes of the other states and learn from the -- the good things they did to try and find the best way to project ourself forward?

MR. MCQUAIG: That’s absolutely true and when we comment, I believe on Page 7, that a number of states have determined that -- ruled on the issue deciding the charging stations should not be regulated in the same manner as a utility. I think that number is 26 or 27 as we currently sit here.

MR. DEMINT: That’s correct.

MR. MCQUAIG: The other states are still looking at those issues and thus, the NARUC working group.

COMMISSIONER SKRMETTA: All right. Do you feel that you and, Mr. McQuaig, and you, Mr. Demint, are in a position to adequately represent the Commission for the purposes of working on the issue of helping us determine how we’re going to help figure out our jurisdiction and methodology associated with electric charging stations?

MR. DEMINT: I certainly believe we are well capable of doing that.

COMMISSIONER SKRMETTA: Okay. Thank you.

CHAIRMAN GREENE: Commissioner Francis.
COMMISSIONER FRANCIS: Commissioner Frey or Secretary Frey, a question for you. On the last exhibit, it says -- at the end, it says recommendation. Staff makes no recommendation as bidders are qualified. Aren’t y’all the qualifiers for us, for the five Commissioners or could we -- do we assume that somebody might come before us is not qualified? Is that yes or no?

SECRETARY FREY: Yes. With some caveats. When we issue -- so we’ve got standards under the order itself for outside counsel, consultant or I don't know that it actually uses those exact terms, but if we need outside assistance, it sets like a basic framework, this is what we’re looking for. And then with each RFP, you’re going to have specific data there therein that puts the brackets of scope around that hire. So for example, that last one dealt with an engineering component, so we need someone who is a qualified engineer. So that’s not going to be something generally in the order, but the RFP itself will do it. So when a bid comes in, Staff reviews it. If it checks those minimum boxes, we make that recommendation. But to Kathryn’s point on the last one, this is a Commission order so you five are ultimately decider of whether someone’s qualified or not. We give you a recommendation based on what we see, so that’s, I guess, a long way of saying yes, but.

COMMISSIONER FRANCIS: All right. Okay. Yeah. We’re lawyered up pretty good over there and you don’t -- I just myself, you know, I’m just a oilfield guy, okay. And my Staff or myself, we’re not qualified to go out and research and qualify these people as our general rule, you know, and it sounded like in this issue here, that well, we’re kind of doing your job for you to make sure somebody’s
qualified here. I just -- I trust y’alls judgment so far, the people that have come before us have been very honorable, reputable folks that are qualified and, you know, I compliment Rick Demint. He had a great service with AT&T, retired, and now he’s back on the job. I’m glad to have someone and although, you were in the AT&T business, I think you can figure out this electric car charging business, too. You’re -- and so thank you for approaching us and trying to get some work. Okay, Rick. Thank you.

MR. DEMINT: Thank you, Commissioner, and I was invited to participate in this particular docket because of my telecommunications experience. These stations will require telecommunications connectivity or internet, wireless, you know, just the way these stations will be located by users and a lot of different capabilities that are required so that’s my --

CHAIRMAN GREENE: So we’re going to have one more quick round of comments and then we’re going to move to a vote. Commissioner Boissiere, Commissioner Campbell, and then Commissioner Skrmetta.

COMMISSIONER BOISSIERE: I have one brief question I just want to ask. And I guess my question actually, I feel like I -- I think McQuaig and Demint have enough questions to answer and I just want to ask a question to Staff. Thank you. I know we let some contracts out when we need work, when we need the expertise. I have to -- I’m asking the question and I hadn’t really considered until this point, the scope of this seems pretty straightforward. Why aren’t we handling this in-house?

SECRETARY FREY: That decision --
COMMISSIONER BOISSIERE: Why do we need to make an outside contract for something like that this when we can -- we have enough opinions and ALJ’s right in-house that may be able to do this without letting it --

SECRETARY FREY: I guess the short answer is that the Staff makes those recommendations or -- when you -- when a docket is open and I’ll kind of go through the standard process, whether it be a Commission initiated docket or a utility initiated docket and we’ve got the different R, S, X, T, whatever. But those dockets are published in the bulletin. Once the bulletin comes out, I assign who’s responsible for that docket. So when it’s a rulemaking, I assign it to legal. If it’s a transportation whatever, then each individual -- each individual entity within the Commission will assign a specific person to it and that’s the supervisors who are responsible for that. But they’ll also, at that time, notify if they need outside assistance. So if auditing or utilities is assigned to it, they think they need outside help, they’ll notify me. If legal thinks they need outside help, they’ll notify me. The RFP is then issued based on that information. Why they would ask for that, it’s typically going to be a manpower issue, not necessarily an expertise issue. But there are some examples where that is the case and we get some of these complex dockets. The one a couple before, we don’t have an engineer on Staff, so there’s no one on Staff even if we had the manpower, we don’t have an engineer. In this instance, I’d have to defer to them as to why they asked for outside assistance, but that’s typically the way it happens. It’s typically a manpower, we don’t have the people on Staff to perform the work timely.
COMMISSIONER BOISSIERE: Okay. Because like I said, this seems so straightforward. It seems like we would have the available expertise even if we took a day or two to examine it and look, it’s just a question I thought of while we were having this examination, not something I prepared for. But just hearing the description of it, I know we understand our jurisdictions here at the Commission and we have enough attorneys and non-attorneys even on Staff that could probably examine this for jurisdiction. But I just thought it was worthy to add into the discussion. Thank you.

SECRETARY FREY: Sure.

CHAIRMAN GREENE: Commissioner Campbell.

COMMISSIONER CAMPBELL: Mr. Boissiere brings up a issue that --

MS. BOWMAN: Commissioner, your mic.

COMMISSIONER CAMPBELL: Mr. Boissiere brings up a great issue. Rather than giving all -- all this work out to all these people, we ought to be lobbying the legislature to get more money over here and -- ‘cause we can save a lot of money.

COMMISSIONER CAMPBELL: And we could put more money in your -- to hire people to help us. We don’t need to have to hire everything, that’s what he’s saying. He’s absolutely right. We could save a lot of money. Mr. Demint, are you a partner with Mr. McQuaig?

MR. DEMINT: I’m not a member of his LLC, no, sir.

COMMISSIONER CAMPBELL: You were when this -- you were working --

MR. DEMINT: No, I just agreed to assist him.
COMMISSIONER CAMPBELL: Are you still doing that? Last time, you said you’re no longer doing that.

MR. DEMINT: I had committed to Mr. McQuaig that I would work with him on this docket.

COMMISSIONER CAMPBELL: Well, are you working on him with other dockets?

MR. DEMINT: Yes. There was a 5G docket that --

COMMISSIONER CAMPBELL: Well --

MR. DEMINT: -- Mr. McQuaig and I had begun about a year ago.

COMMISSIONER CAMPBELL: Rick, I love you, but you got trouble with the truth, man.

MR. DEMINT: How is that?

COMMISSIONER CAMPBELL: Because last time you said this is the last docket I’m working on and now you got another one.

MR. DEMINT: No, no, you misunderstood what I said.

COMMISSIONER CAMPBELL: I misunderstand you all the time now.

MR. DEMINT: I came to your office to say -- pardon me. I’m going to defend myself. I came to your office to say I was going out on my own to bid on some future projects, and I don't know what the issue is between you and Mr. McQuaig.

COMMISSIONER CAMPBELL: Don’t make --

MR. DEMINT: I didn’t want to be a part of that.

COMMISSIONER CAMPBELL: Come on Rick, come on now. You’re trying to play politics on a politician.
MR. DEMINT: Well, let’s don’t be politicians then. Let’s be truthful, but I said in your office I was going out --

COMMISSIONER CAMPBELL: Just respect me a little bit more than putting a politics on me now.

MR. DEMINT: And then I also told you we were still working on the 5G docket, I told you that I had agreed to help with this docket. I have no issue with Mr. McQuaig. I told you he and I were friends and we fished together and do a lot of other things.

COMMISSIONER CAMPBELL: It’s not about that. You just told me -- that’s okay.

MR. DEMINT: Well, this is -- you’re saying I said something and I’m going to have to defend myself because none of these other people were there. I know, you know, you claim that Gary Hobbs said he heard the same thing. I don’t know what y’all heard. I said, I’m coming to your office to make you aware that I’m going out on my own. I gave you the name of my business and that I would be bidding on projects.

COMMISSIONER CAMPBELL: I got you, I got you.

CHAIRMAN GREENE: My understanding is that moving forward, you were going to be on your own, but you had things open --

COMMISSIONER CAMPBELL: I just have one --

MR. DEMINT: Yeah, I may work with other -- other consulting companies.

COMMISSIONER CAMPBELL: I know, I got you. Come by and see me, okay.

CHAIRMAN GREENE: Let’s try to land the plane.
COMMISSIONER CAMPBELL: I got another question.

CHAIRMAN GREENE: Yeah, try to land the plane.

COMMISSIONER CAMPBELL: Last time, I was talking and Mr. Skrmetta took over the whole show, and that’s all right. But just one thing Mr. Skrmetta got wrong. I’m not going through all that. Mr. Skrmetta said something, I was in the insurance business, which I am, and I had a gas well in my back yard.

COMMISSIONER SKRMETTA: Don’t forget the cattle.

COMMISSIONER CAMPBELL: That’s not true. I’ve got five gas wells in my back yard.

COMMISSIONER SKRMETTA: Oh, wee.

COMMISSIONER CAMPBELL: Just for the record. So anyway, there’s only one way to solve this problem. We’ve got a stain on us here and there’s only one way to get it off, to make sure it’s crystal clear that this Commission is doing the right thing. I think that this whole deal doesn’t smell good, doesn’t smell good to me at all. I get different kind of answers, this and that and the other, but there’s only one sure fix and the sure fix is this. My motion -- I’m making the motion and I hope my Commissioners will join with me. I have a motion to rescind the Commission’s award of this contract on electric vehicle stations. Mr. McQuaig does not have the required qualifications to do the job and he showed disrespect to the Commission at our December meeting when he declined to answer questions had previously been raised about his qualifications.

CHAIRMAN GREENE: So we have one more comment from Commissioner Skrmetta. We have a motion and is there a second?
COMMISSIONER BOISSIERE: Yeah, I second the motion.

CHAIRMAN GREENE: Seconded by Commissioner Boissiere. One last comment by Commissioner Skrmetta and then we’ll plan a vote.

COMMISSIONER SKRMETTA: Thank you, Mr. Chairman. You know, there is no truth like a twisted truth as Commissioner Campbell has shown you. Commissioner Campbell has put out here twisted truth. He’s tried to mar these two gentlemen, which the best part is is pretty sure that about 80 percent of the people in this room know these two people to be intelligent, useful to the Commission, useful to the public, and he’s trying to redefine things by, you know, I heard this and I heard that when -- I’m kind of wondering what he heard because I know what truth is and truth will find its own natural path. It’s like water running down a drain pipe. It’s going to find its way and I think ultimately that, you know, some Commissioners want people to bid on contracts who are going to do only what they want them to do. They don’t want them to represent the Commission. They want someone to bid and if this had been a solitary bid by someone who would be someone’s lapdog and, you know, drink from the saucer of milk at their foot, then it would’ve been fine. It would’ve been absolutely fine. I guarantee it. There would’ve been no question whatsoever. We hire people all the time with single bids. But I can guarantee one thing that’s can happen, you know, in this effort to get more people bidding, I would genuinely believe we’re going to have fewer people bidding and we will have people that we can’t figure it out. And as far as Commissioner Campbell, you know, talking about we need to go to the legislature to get more money to do this thing, I think Commissioner Boissiere and
Commissioner Francis and even Commissioner Greene would recognize that we have gone to the legislature for as long as I’ve been here, which is 14 years, and asked them to let us hire more attorneys, let us -- we’ve publicly gone to the streamlining Commission and said how we can save money by not hiring lawyers by adding Staff and remember when a Senator Kennedy was the treasurer and he was on the streamlining committee and he went, you’re absolutely right, no. And I said, you know, we don’t get that kind of reception at the legislature even though we raise our own money, we have to appropriate it back from the legislature and we could do so much more good with hiring our own Staff. That’s not going to happen. The legislature does not like to do that with us, they do not want us to hire more people so we’re at the mercy of hiring people and when we hire people, we ask for bids and people come forward when they are willing to eventually now put up with the ridicule that Commissioners can lay into it. And I think it’s interesting because, you know, largely we don’t do that, but when somebody takes it personal because, you know, I believe the quote in one of the newspapers is Commissioner Campbell running his own personal protection racket on prison telephones, that they went and did something that created a uniform system across the state that allowed for, you know, the system to work well that now he’s going to wreak vengeance about the person who created a system that works well for the state. So this is no confusion. This isn’t about electric charging stations, this isn’t about a person who is going through a change in life because of a medical issue and about a thing because of a tragedy. This is about vengeance. This is about utilization of a public pulpit to get even. This is about changing a dynamic as we move forward.
This is about getting even with the sheriffs of the state. This is about all those things, but ultimately, it’s going to find a dry hole because that’s not where it’s going to end up. But I ask my Commissioners to not fall victim to this and let’s move forward, and even despite the vote, whatever it is, I do think that we owe the respect to these people who have done the work to create this report to sit here and listen to the report because it’s the value to the state and to these electric utilities to understand where we have to go. They’ve been working they created this for the Commission. They’ve created it for you, so let’s go ahead and have the vote and we’ll see where it goes, but I can tell you this. Understand when you let one person who is going to tell little -- there’s a little expression in east end slang, porky pies that rhymes with something, when he’s going to do that and he’s going to come forward and you’re going to listen to that, be able to demonstrate how you’re going to have to change everything you did just to satisfy one guy who’s going to be there and be the mouth of the South, I think you’re probably going to rue the day that you did something like that. So I’m done and I call for vote.

CHAIRMAN GREENE: All right. So we have a motion in the second. Is there an objection? Do you object?

COMMISSIONER SKRMETTA: Object, yes, absolutely.

CHAIRMAN GREENE: Okay. Objection by Commissioner Skrmetta, so roll call vote in favor of the open -- reopening the bid. Commissioner Campbell.

COMMISSIONER CAMPBELL: Yes.

CHAIRMAN GREENE: Yes. Commissioner Boissiere.

COMMISSIONER BOISSIERE: Yes.
CHAIRMAN GREENE: Commissioner Skrmetta.

COMMISSIONER SKRMETTA: No.

CHAIRMAN GREENE: Commissioner Francis.

COMMISSIONER FRANCIS: No.

CHAIRMAN GREENE: What’s that?

COMMISSIONER FRANCIS: No.

CHAIRMAN GREENE: No. Chair votes yes. So we’ll reopen the bid process.

COMMISSIONER SKRMETTA: And I’d like -- since they’re up here to give their report, I’d like them to --

CHAIRMAN GREENE: Yes, we’d like to --

COMMISSIONER SKRMETTA: -- continue and give their report.

CHAIRMAN GREENE: Please continue the report.

COMMISSIONER SKRMETTA: You guys want to go ahead and do your report, I’d appreciate it.

MR. MCQUAIG: Okay.

COMMISSIONER SKRMETTA: And who’s handling the audio visual?

MR. DEMINT: I am.

COMMISSIONER SKRMETTA: You are.

MS. BOWMAN: Rick is.

COMMISSIONER SKRMETTA: Okay. I didn’t know if they were or you were.

Okay. The floor is yours.

MR. DEMINT: We’ve got the first slide up there and it basically restates the objective of the docket, determination of the Commission’s jurisdiction over the
various methods of providing electricity to electric vehicles and infrastructure associated therewith.

MR. MCQUAIG: Go to the second slide, Rick. This second slide is intended to indicate the substantial increase year-over-year of sales growth in electric vehicles as a total market. As you can see with only a modest dip of 2.9 percent from 2018 to 2019, the subsequent year had a growth rate of 8.4 percent and then almost 70 percent increase in growth. Next slide. This slide is interesting in that it communicates a number of different pieces of information regarding battery powered electric vehicles and plug-in hybrid electric vehicles with respect not only to the total amount of sales, but the percentage of the share of the market of electric vehicles in general. As you can see, it’s a substantial increase from the year 2021 as anticipated to continue to the year 2030. In the year 2025, just to pick a year, it’s anticipated that sales of electric vehicles including battery-powered vehicles only and plug-in hybrid electric vehicles would top 2 million such vehicles and the share of the market is approximately 12.5 percent. Next slide. This slide indicates battery-powered electric vehicle registrations per 1,000 people by state. What’s remarkable in that it was, I believe the date is 2017 -- 2016, 2017, what’s remarkable is that it shows Louisiana is at the beginning of this wave of momentum that has been experienced in a number of other states. For example, we have .24 electric vehicle registrations per thousand people. We are, I think, the fourth lowest in the country in that regard. The states that are lower than us are Mississippi at .15, Arkansas at .21, and West Virginia at .23. So again, it shows that timing with regard to this docket is particularly appropriate. Next slide. This slide is very
current, exhibiting very current data. As of May 2021, it shows the number of
public charging outlets in the various states, and as you can see, Louisiana, the vast
portion of Louisiana, has zero public charging outlets per 25 square miles and in
some areas has anywhere from 1 to 25 public charging outlets over a period of 25
square miles as opposed to more serious coverage in various parts of the country.
Next slide. This is an example of one company’s efforts and intent regarding the
infrastructure deployment of ultrafast electric vehicle charging networks in the
country. This one country -- company rather has chosen the I-10 corridor to provide
ultrafast EV charging stations. They have three of them in Louisiana currently.
They do not have any multiple metro charging stations as opposed to some other
areas. As discussed previously with Commissioners, various states have made
determinations primarily by their legislatures that they have ruled on the
jurisdictional issue that charging stations should not be regulated in the same
manner as a utility. The remaining states have an open question in that regard,
together with Louisiana, and NARUC is moving forward in that regard.

MR. DEMINT: We listed a few other key issues and considerations that would be
-- need to be considered by Staff and any recommendation they make to the
Commission. And we’ve talked about some of these or touched on them. Revenue
opportunities for the electric utilities that could fundamentally change over, you
know, a period of many years, but change the revenue makeup and time of day and
other concerns with that, could create some opportunities for the rate base.
Legislative policy interest in expanding EV adoption could require PSC action. I
think every year we see activities at the legislature. This will be a topic that will
no doubt be -- draw a lot of interest, so we’ll see some activity there that could
require the Commission to, you know, play some role in that. Balancing the interest
of various stakeholders, I think in every issue, you inevitably find that each side
pulls in their direction, so there would be the need to consider those things. EV
specific tariffs may need to be filed by the electric providers. Rate design
consideration and impacts, we’ve touched on that a few times. Load management,
that’s a big piece of this, where the charging stations are actually connected and
communicate information that’s used to meet the demand, manage load based on
time of day, influencing charging times, and other factors. Also the incentives that
would be designed to maximize the absorption of renewable energy, you know, that
certainly comes into play, so. One of the reasons, again, I touched on this, that I
was glad to participate in this docket was public charging stations require
communications connectivity. They’ll connect via cellular, land base, broadband,
Wi-Fi, satellite; there’ll be various methods because these connected stations will
enable providers to manage their load, and there’ll be vehicle to grid applications,
so a lot to learn about all this. There’ll be mobile apps for iOS and Android that
will help EV owners do their trip planning, finding reserve stations, starting in
charging times, pay for the sessions, and track overall usage and payment history.
There’ll be a lot of new applications that users will use their phone, basically, to
find these things. Here’s just a network that -- or a diagram that shows how the
communications network would interface with the electric grid. Beyond that, I
think we touched on the fact that Scott and I both are members of the NARUC
Electric Vehicles State working group, something that Scott became interested in,
asked me to join. I’ve listened in on a number of the sessions, there’s a lot of good
information there. I think it’s something that needs to continue with whoever
handles this matter. Monthly group calls, overall, you can read the objective of the
group. It’s an excellent resource, highly recommended. Any questions beyond
what we’ve already covered?

CHAIRMAN GREENE: I’d like to say thank you for your work so far on this.
You will be compensated for what you’ve done and we do ask you both to consider
re-submitting in the open bid process, so.

MR. DEMINT: Thank you very much.

CHAIRMAN GREENE: Thank you very much. Next item, Kathryn.

MS. BOWMAN: Exhibit Number 10 is Docket Number R-36199. It’s Louisiana
Public Service Commission’s review and possible modification of the
Commission’s General Order dated October 10, 2013 governing transmission
certification and general citing. This is a discussion and possible vote to retain
Stone Pigman. Stone Pigman was retained to assist Staff in Docket Number U-
26018, which was opened to determine whether the Commission should assert its
plenary authority and primary jurisdiction over the certification and siting of utility
transmission projects within Louisiana. General Order dated October 10, 2013
resulted from Docket Number U-26018, and advances the Commission’s ability to
achieve the regulatory goal of promoting safe, reliable utility service at the lowest
reasonable cost while reaffirming its jurisdiction over transmission projects within
Louisiana. At October 20, 2021 B&E, the Commission directed Staff to open a
rulemaking to review and revise, as deemed appropriate, the Commission’s
Transmission Siting Order to determine whether the order needs to be updated and/or clarified to continue to meet its intended purposes. Pursuant to this directive, Staff initiated Docket Number R-36199, which was published in the Commission’s Official Bulletin. Staff solicited Stone Pigman to assist in Docket R-36199, given their assistance in the drafting of the Commission’s Transmission Siting Order. Staff is of the opinion that Stone Pigman’s assistance in Docket Number R-26018 and the ultimate General Order is substantially related by common factual and legal components to the instant rulemaking, and, therefore, no formal RFP is required, pursuant to the Commission’s General Order dated November 10, 2014. In response to Staff’s solicitation, Stone Pigman proposes to complete all work required for 68,000 in fees and 1,200 in expenses. Staff recommends that the Commission retain Stone Pigman for 68,000 in fees and 1,200 in expenses, for a total budget not to exceed of 69,200.

CHAIRMAN GREENE: Chair motions to accept. Is there a second?

COMMISSIONER CAMPBELL: I was going to ask a question.

CHAIRMAN GREENE: Okay. Yeah, I was going to get to that.

COMMISSIONER CAMPBELL: Okay. Go ahead.

CHAIRMAN GREENE: Okay.

COMMISSIONER SKRMETTA: I have a substitute motion.

CHAIRMAN GREENE: This is on Stone Pigman.

COMMISSIONER SKRMETTA: Oh, Stone Pigman?

CHAIRMAN GREENE: Yeah.

COMMISSIONER SKRMETTA: Yeah, I just have a question for Stone Pigman.
CHAIRMAN GREENE: Anybody for Stone Pigman? So Commissioner Campbell has a question and then Commissioner Skrmetta. Commissioner Campbell?

COMMISSIONER CAMPBELL: Mr. Frey, here we go again.

SECRETARY FREY: This -- so the reason why there is only one bid on here is because Staff specifically solicit a bid from Stone Pigman only because of their prior work associated with this matter.

COMMISSIONER CAMPBELL: You know, I hear you and you’re probably logical and making sense, but here we go again. Staff asked one person, you didn’t ask two people, you asked one person. Is there -- there’s nobody else that’s ever dealt in this subject matter before?

MS. BOWMAN: Well, it’s the fact that Stone Pigman actually wrote and assisted in drafting the Commission’s General Order, so they have the institutional knowledge and the background, so we actually would save some money in the --

COMMISSIONER CAMPBELL: I got it. I understand that, I understand it, but nobody else has ever worked in this area before that’s practiced up here?

SECRETARY FREY: Not that I’m aware of, in front of the Commission.

MS. BOWMAN: Not to my knowledge.

COMMISSIONER CAMPBELL: Okay. But here we go again. Look, I’m not just kidding about this. This stuff of just having one bid’s got to stop. And I was going to tell y’all this, and you’re going to have to get your Staff busier. And call some of these people in other states and find out who is doing this kind of work and let them know we got that kind of stuff going on in Louisiana, because when you
have more than one bid, you know what’s going to happen? Somebody’s going to get a deal. But if we just rely on one person, last month, we had eleven items, eight of them were one bid. It doesn’t look good at all, you know. And there’s a reason, and I hear y’all’s reasons, maybe these people don’t do that and all, but it looks bad. And Stone Pigman. Okay.

CHAIRMAN GREENE: All right. Commissioner Skrmetta.

COMMISSIONER SKRMETTA: Yeah, just to confirm, Noel, this is not a bid, correct? This is a solicitation?

MR. NOEL DARCE: It was a solicitation letter that we responded to, yes.

COMMISSIONER SKRMETTA: So we didn’t even offer a bid to anybody, did we?

MR. DARCE: That’s correct.

COMMISSIONER SKRMETTA: Yeah, so the Staff just reached out and said we’ll pay you the money if you do the work, right?

MR. DARCE: They asked us to submit a proposal, which we did.

COMMISSIONER SKRMETTA: Yeah, and you just saw people who bid under a formal bid process and go to an open bid, receive a bid, do work, got voted out because one Commissioner didn’t like the way their shoe smelled. So why should you get an unsolicited bid for more than they got to do work, when somebody else just got their bid overturned by a Commissioner because he doesn’t like the way that their, you know, they look or they feel or they think or their politics? So why do you deserve to get something for not even going through a bid process? I don’t understand that.
MR. DARCE: Commissioner Skrmetta, we got solicited for a proposal

[INAUDIBLE] --

COMMISSIONER SKRMETTA: I mean, are you his friend?

MR. DARCE: No.

COMMISSIONER SKRMETTA: I mean, did you ever give Foster Campbell money?

MR. DARCE: We’ve contributed to probably every campaign --

COMMISSIONER SKRMETTA: I didn’t ask you that. You’re an attorney, answer the question as presented.

COMMISSIONER CAMPBELL: I’m on your side, I’m not voting for it.

COMMISSIONER SKRMETTA: I’m not talking to you, Commissioner Campbell.

COMMISSIONER CAMPBELL: I’m not voting for it. Don’t -- don’t -- I’m with you.

COMMISSIONER SKRMETTA: Did you --

MR. DARCE: Stone Pigman --

COMMISSIONER SKRMETTA: I’m not finished, answer my question.

MR. DARCE: Stone Pigman has contributed to the campaign of Foster Campbell --

COMMISSIONER SKRMETTA: Did you ever give Foster Campbell money?

MR. DARCE: Stone Pigman has contributed money to Foster Campbell’s campaign.

COMMISSIONER SKRMETTA: Okay. All right.
MR. DARCE: I may have personally at some point, I don’t remember.

COMMISSIONER SKRMETTA: Well, that’s fine. But my question is, I don’t understand the concept of this Commission, where they’ll, like, you know, join the lemming parade to, you know, do this sort of, you know, group psychosis to kind of step in against some people and then they’ll just swallow the hook up to the cork on somebody else. So I just don’t understand it. So, you know, this is one of those moments when normally I kind of go with it, but, you know, I’m just not going to go with it this time. Okay? So thank you for answering my question.

CHAIRMAN GREENE: All right. Any other comment? Is there a second for this?

COMMISSIONER FRANCIS: What was the second?

CHAIRMAN GREENE: Well, I motioned to accept Stone Pigman on this.

COMMISSIONER FRANCIS: Yeah, I’ll -- absolutely, I’ll second that.

CHAIRMAN GREENE: Okay. Second by Commissioner Francis. Any objection?

COMMISSIONER SKRMETTA: Yes. Roll call vote.

CHAIRMAN GREENE: Object -- I know that when there’s an objection, there’s a roll call vote.

COMMISSIONER SKRMETTA: Oh, well, good for you.

CHAIRMAN GREENE: So there’s a roll call vote on whether or not to accept Stone Pigman. Commissioner Campbell?

COMMISSIONER CAMPBELL: Who made the motion?

CHAIRMAN GREENE: I made a motion to accept Stone Pigman.
COMMISSIONER CAMPBELL: Okay. I object. See, Eric, I'm with you, man.

CHAIRMAN GREENE: Yeah, so --

COMMISSIONER SKRMETTA: Roll call vote.

MS. BOWMAN: So it’s a no?

CHAIRMAN GREENE: There’s a roll call vote because everyone take note, Commissioner Skrmetta and Commissioner Campbell are in agreement.

COMMISSIONER SKRMETTA: It happens. It happens.

CHAIRMAN GREENE: So there’s objection and a roll call vote. Commissioner Campbell.

COMMISSIONER CAMPBELL: No.

CHAIRMAN GREENE: Commissioner Boissiere, are you here?

SECRETARY FREY: He was in the room, I saw him.

MS. BOWMAN: He’s out.

COMMISSIONER SKRMETTA: He’s gone.

SECRETARY FREY: We need to get him.

CHAIRMAN GREENE: Commissioner Skrmetta.

COMMISSIONER SKRMETTA: No.

CHAIRMAN GREENE: Commissioner -- yeah, we need him. Yes, please.

Commissioner Francis.

COMMISSIONER FRANCIS: I heard so many people talking here. We’re voting --

CHAIRMAN GREENE: We’re voting up or down on whether or not to hire Stone Pigman.
COMMISSIONER FRANCIS: I think I seconded that. I support hiring Stone Pigman.

COMMISSIONER SKRMETTA: There’s Commissioner Boissiere.

CHAIRMAN GREENE: Commissioner Boissiere, how do you vote on Item 10 to hire Stone Pigman?

SECRETARY FREY: And this to hire Stone Pigman, we have a roll call.

COMMISSIONER BOISSIERE: Really, guys, that’s what we already --

COMMISSIONER SKRMETTA: Yeah, you’re the deciding vote. That’s the best. It’s all up to you.

COMMISSIONER BOISSIERE: Hello, Noel.

MR. DARCE: Good morning.

COMMISSIONER BOISSIERE: Did they rake you over the coals so far?

COMMISSIONER SKRMETTA: A little bit.

MR. DARCE: I’m fine.

COMMISSIONER BOISSIERE: I’ll tell you something, you know, every once in a while, you see a Commissioner getting up because we look at the docket and we look at the item, and if it seems to be an easy slam dunk, then we feel like there’s a few minutes we can work a few things out, so I apologize for getting up, but I just thought this was a done deal, right? Are we divided on the vote?

CHAIRMAN GREENE: Yes. Well, it’s -- I haven’t voted yet, but there’s two no’s and one yes. I made the motion to accept, Commissioner Francis seconded it, and Commissioner Skrmetta and Campbell, in agreement, opposed.
COMMISSIONER BOISSIERE: Imagine that. All right. Guys, let me say this. I looked at the issue, I looked at the docket item, and of course I feel very confident in Stone Pigman, but I will add one thing about this that I do not like because I didn’t get a chance to be part of the discussion or the questions, I want to add this in now. And I’m going to look at Staff for this, and I’m going to say that we need to work on expanding participation in these bids, okay? I see this as problematic, and I think it doesn’t give us the best choices. Now, even if we had more choices, the truth is I’d probably still vote for Stone Pigman because they’ve been a good company, a good firm for us, and I know that they have the expertise to handle this. So in this case, I’m going to vote yes for Stone Pigman, but I think we have to change our process to open this up a lot better in the future.

CHAIRMAN GREENE: Commissioner Boissiere votes yes. Chair votes yes. They are hired. Next, please.

MS. BOWMAN: Exhibit Number 11 is Docket Number S-36167 - BellSouth Telecommunications doing business as AT&T Louisiana. It’s a petition for order confirming the relinquishment of the eligible telecommunications carrier designation in specified areas. It’s a discussion and possible vote on Staff report and recommendation. On October 12, 2021, BellSouth Telecommunications doing business as AT&T Louisiana filed a petition for an order confirming relinquishment of an eligible telecommunications carrier designation in specified areas. Notice of the company’s petition was published in the Commission’s Official Bulletin and no interventions or protests were received. AT&T Louisiana is an incumbent local exchange carrier who was granted ETC designation on November 6, 1997 by the
Commission. AT&T seeks to relinquish its ETC for all of its service areas in Louisiana and consistent with the Communications Act of 1934, an ETC that seeks to relinquish its designation for an area served by more than one ETC shall be given advanced notice to the State Commission of such relinquishment. The State Commission must determine whether the customers of the affected area will continue to be served by the remaining ETCs following relinquishment. The Commission has previously granted AT&T Louisiana’s petition to relinquish its ETC designation for a portion of its service areas within Louisiana on November 3, 2017. AT&T provided the necessary advanced notice prior to the anticipated relinquishment, and per its petition, AT&T Louisiana’s service areas are served by multiple ETCs. Upon Staff’s review, there is at least one additional ETC serving each of the areas in which the relinquishment is being sought, thus alleviating any concerns that could exist regarding lack of the provider for the customers. Furthermore, Staff believes that those ETCs will not be required to purchase or construct additional facilities to ensure AT&T Louisiana’s Lifeline subscribers continue to receive service. On January 13, 2022, Staff filed its report and recommendation into the record, finding that AT&T’s application was submitted in accordance with the requirements outlined in the Communications Act of 1934. Therefore, Staff recommends that AT&T’s ETC relinquishment be relinquished.

CHAIRMAN GREENE: Chair motions to accept. Is there a second? Second by Commissioner Campbell. Any discussion or objection? [NONE HEARD] Hearing none, the matter is passed. Next. Exhibit 12.
MS. BOWMAN: Yes. Exhibit Number 12 is Docket Number S-36216 - Entergy Louisiana’s request to modify Legacy ELL Rider Schedule (Rider 2 to Schedule LIS-L). It’s a discussion and possible vote on Staff’s report and recommendation. Entergy filed this request on November 29, 2021 and notice of the request was published in the Commission’s Official Bulletin without intervention. Entergy’s request states that it is seeking to modify the Interruptible Power Service Rider Schedule 2 to Legacy ELL Rate Schedule LIS-L, which has been closed to new business since January 1, 1999 and has only two customers taking service under this tariff. The modification is needed to address a recent change in regulatory requirements approved in FERC Docket Number ER20-1846, which reduced the advance notification time from 12 hours to 6 hours for load to be interrupted and fully accredited as a load modifying resource for planning purposes. Rider 2 to LIS-L currently requires a six hour notice; thus, ELL must modify its tariff to provide sufficient time for Entergy to process notices from MISO and relay notices to its participating interruptible customers. Entergy proposes to change the current notice in the tariff from six hours to four hours. This is the only proposed change to the tariff. Entergy submitted the request pursuant to the Electric Tariff Filing Rules Section 501(D), which governs the tariffs that do not result in a change in rates, but which would impact the substantive rights of customers. The two affected customers were notified of the proposed amendment via electronic and U.S. Mail on November 8, 2021. Considering the unique circumstances of this proceeding in that the tariffs at issue have been closed to new business for over 20 years, Entergy gave actual notice of the proposed revision to the affected customers, and
constructive notice was provided in the Commission’s Bulletin. Staff recommends that the Commission find, on a non-precedential basis, that the actual notice satisfies the notice requirement of the Electric Tariff Filing Rules in lieu of journal publication. Staff filed its report and recommendation into the record on January 13, 2022 recommending approval.

CHAIRMAN GREENE: Chair motions for -- to accept Staff recommendation. Is there -- a second by Commissioner Campbell. Any discussion or objection? [NONE HEARD] Hearing none, the motion is passed. Next. On this one, Kathryn is going to read, I have something to say, and then -- with a motion, then it’s Commissioner Campbell, then Commissioner Skrmetta, then other Commissioners, then we’re going to hear from whoever wants to talk succinctly, and then lastly, we’ll hear from Staff.

MS. BOWMAN: Exhibit Number 13, that’s Docket Number U-35927 - 1803 Electric Cooperative’s application for approval of power purchase agreements and for cost recovery. This is a discussion and possible vote on the final recommendation of the Administrative Law Judge. On behalf of Beauregard Electric Cooperative, Claiborne Electric Cooperative, Northeast Louisiana Power Cooperative, South Louisiana Electric Cooperative, and Washington-St. Tammany Electric Cooperative, which are the 1803 Cooperatives, 1803 filed the instant application for approval of the 1803 Portfolio, which was selected as the result of 1803’s 2019 Long Term Request for Proposals process conducted with the assistance of the Alliance for Cooperative Energy Services Power Marketing LLC or ACES. The following contracts make up the 1803 Portfolio: There’s a capacity
sale and tolling agreement between Magnolia Power, which is a subsidiary of Kindle Energy, and 1803 for 409 megawatts of Combined Cycle Gas Turbine and it’s a 20 year PPA. There’s a renewable generation unit PPA between 1803 and Bayou Galion Solar Project, which is a 20-year PPA for 98.1 megawatts. There’s a solar energy purchase agreement between 1803 and Bayou Chicot Solar for a 20-year PPA for 150 megawatts. There’s a solar energy purchase agreement between 1803 and Bayou Teche Solar, it’s a 20-year PPA for 95 megawatts. There’s a power supply agreement between Exelon Generation Company and 1803, which is a 5-year PPA for the purchase of firm electric energy, capacity, and ancillary services for 27 percent of 1803’s real-time total load. And there is an EEI master purchase and sale agreement between Calpine Energy Services and 1803, which is a 5-year PPA for 185 megawatts. If approved, the 1803 Portfolio will serve the 1803 Cooperatives’ power supply needs upon the expiration of the current full requirements contract with Louisiana Generating, LLC, which is a subsidiary of Cleco Cajun. Member cooperatives, WST and NELPCO, intervened in support of the certification. Cleco Cajun, owner of LaGen, and Entergy Louisiana intervened in opposition. Commission Staff supports the certification, subject to certain conditions. A contested hearing was held on October 25 through November 1, 2021, wherein 1803, WST, Cleco Cajun, and Commission Staff presented live testimony, and Entergy submitted pre-filed testimony. A summary of the findings and conclusions of the Administrative Law Judge are as follows: ACES undertook a rigorous RFP process and economic evaluation, as evidenced by the robust response. No party alleged that 1803 failed to meet the procedural requirements of
the Commission’s MBM Order. ACES’ economic evaluation optimized eight portfolios among nearly 200 bids to select the 1803 Portfolio, which is, by far, the lowest-cost portfolio. The 1803 Portfolio maintains flexibility and allows 1803 to take advantage of the technology improvements. In addition to reliably serving load at the lowest reasonable cost, the 1803 Portfolio minimizes volatility by including four fixed price contracts, three of which are 20-year PPAs. The 1803 Portfolio also minimizes exposure to future environmental regulations, pass-through cost increases, counter-party credit risk by diversification, and nearly all of the resources are located near load or in MISO Zone 9 in Louisiana. ELL raised important reliability concerns that will apply to all Louisiana utilities and are better suited for a rulemaking proceeding. ELL did not challenge economic analysis. Staff Consultant, Mr. Hayet, was involved in every step of the process and testified that the RFP and the economic evaluation were done in a fair and unbiased manner and that the models and inputs were industry standard. Cleco Cajun lodged a general complaint that ACES was biased, and that the scorecard analysis was designed to lead to the selection of a portfolio rather than a full requirements contract. The portfolio versus full requirements service distinction made by Cleco Cajun is misleading. There were many safeguards in the economic analysis to ensure that all portfolios were on a level playing field. The economic evaluation involved a four-step process and over 100 iterations of potential outcomes and, even when adjusted for Cleco Cajun’s “corrections,” with which 1803 and Commission Staff disagreed, the 1803 Portfolio is still competitive. The ALJ, therefore, made the following recommendations: Subject to the following conditions, and based on...
the testimony, evidence, and argument considered in this matter, we conclude that
the 1803 Portfolio, taken as a whole, serves the public convenience and necessity,
is in the public interest, and is therefore prudent in accordance with the
Commission’s 1983 General Order. 1803 complied with the requirements under
the Commission’s MBM Order. In accordance with Paragraph 2 of the
Commission Order Number S-35709, rate recovery will be determined in a separate
proceeding. Further, consistent with the testimony of Staff Consultant, Phil Hayet,
the wholesale contracts between 1803 and the 1803 Cooperatives should be
reviewed in that proceeding. Nevertheless, 1803 will be eligible for rate recovery
of its prudent investments as a general rule, subject to 1803’s affirmative obligation
to prudently manage the agreements for the benefit of the 1803 Cooperatives and
their members, and provide input into the administration and management of the
agreements, consistent with any other requirements herein and any other applicable
rules and regulations of the Commission. 4) We decline to establish minimum
physical capacity threshold requirements in this proceeding and instead, direct the
Commission Staff to open a rulemaking consistent with this order, without offering
grandfather protection to 1803. 5) We direct the Commission Staff to open a
rulemaking docket to consider modifying the IRP General Order to remove the
exemption from electric cooperatives. 6) Notwithstanding the rulemaking docket
above, 1803 shall file its request to initiate an IRP Process with the Commission
within six months of receiving its certification in this docket with a timeline such
that the completion of its IRP would occur within a year of filing its notification
with the Commission. 7) When 1803 conducts its first IRP, 1803 should develop
and file a risk management policy to be put in place in order to manage its risk exposure, including the costs of acquiring natural gas, MISO market capacity, and MISO market energy. As part of the risk management policy, the 1803 should investigate the costs and benefits of acquiring capacity outage insurance as protection in the event that Magnolia CCGT Generation Station suffers significant outages. As the Commission’s IRP General Order permits parties to participate in a utility’s IRP, any party that has concerns about 1803’s risk management policy will have the opportunity to file comments, and will have the opportunity to litigate issues pursuant to the dispute procedures discussed in Section 10(f) of the IRP General Order. 8) 1803 shall issue an RFP for an energy manager and the costs of any proposal submitted by ACES may not exceed the costs for those services identified in 1803’s bid evaluation analysis. 9) 1803 shall file in this proceeding quarterly monitoring reports, to begin 90 days after the issuance of a certification order in this proceeding, regarding the construction and applicable financing of the Magnolia CCGT and the solar PPAs. In addition, 1803 should file any significant developments within five days. Lastly, 1803 shall facilitate any site visits that Commission Staff deems necessary. The ALJ recommends that the Commission adopt the final recommendation of the ALJ and the draft order issued January 14, 2022.

CHAIRMAN GREENE: Thank you, Kathryn. While I’m making my comments, I’d like for President Ourso, Sheriff Stassi, and Mr. Sexton to come up front, please.

COMMISSIONER SKRMETTA: Are you going to do a motion to start with?

CHAIRMAN GREENE: I am.
COMMISSIONER SKRMETTA: Okay.

CHAIRMAN GREENE: I got this.

COMMISSIONER SKRMETTA: I didn’t know if you were doing comments first, that’s all.

CHAIRMAN GREENE: Just pay attention.

COMMISSIONER SKRMETTA: Yeah, I did. I thought you said you were going to comments.

CHAIRMAN GREENE: I’m going to proceed now.

COMMISSIONER SKRMETTA: Okay.

CHAIRMAN GREENE: Commissioners, we have in front of us a utility, 1803, that followed all of our rules and conducted a competitive RFP whereby 31 bidders put forth 197 qualifying offers. This robust response to 1803’s RFP, I think is a powerful indication that a broad cross-section of companies want to invest in Louisiana’s energy future and deliver lower rates and reliable, flexible options to customers. That interest is a strong sign that companies believe our rules provide a fair shot for those willing to compete for the co-ops’ power supply. Again, 31 companies bid and 1803 got to look at nearly 200 offers to find out what’s best for their customers. A rigorous evaluation of those bids, conforming with all of our rules, and performed by industry experts and evaluators over 18 months determined the best solution for 1803 co-ops, the portfolio that’s now in front of us. The portfolio that will reduce electric rates by -- for 120,000 co-op customers and over 30 percent reduction and provide over 1,000 new megawatts of generation in Louisiana. Our Staff confirmed that conclusion and recommending approving that
portfolio. Moreover, we then had an intensive trial to evaluate the 1803 co-op’s
decision, after which the ALJ also confirmed the co-op’s decision and recommends
approving the portfolio in front of us. This is a great day for Louisiana and for this
Commission. This is an opportunity for the Commission to demonstrate that in
Louisiana, if you play by the rules and compete for the benefit of your customers,
politics will not change the results. This Commission should seize the day for the
customers we represent. I move to accept the ALJ recommendation approving this
portfolio.

COMMISSIONER FRANCIS: I second.

CHAIRMAN GREENE: Second by Commissioner Francis.

COMMISSIONER SKRMETTA: I have a substitute motion.

CHAIRMAN GREENE: I think, as stated, we’re going to go in order. It’s going
to be Commissioner Campbell and then Commissioner Skrmetta. Commissioner
Campbell.

COMMISSIONER CAMPBELL: I got a -- I have an amendment.

MS. BOWMAN: So Commissioner Campbell has a second to Commissioner
Greene’s --

COMMISSIONER CAMPBELL: Yeah.

MS. BOWMAN: Or an amendment now, being that Commissioner Francis -- so
Commissioner Campbell’s amendment to Commissioner Greene’s motion is that
Magnolia Power will increase the total amount of liquidated damages it may pay to
1803 to $15 million in the event Magnolia Power is late in opening their plant.
COMMISSIONER CAMPBELL: All this is just a little extra insurance that helps 100,000 people. I didn’t think 5 million was enough, 15 million helps, the companies agreed to it, and we’re the Public Service Commission and we asked them to step it up, they did it, and that’s what it does.

COMMISSIONER FRANCIS: My second still holds there.

SECRETARY FREY: Okay. And that’s what we need to confirm. And then you’re okay with that?

CHAIRMAN GREENE: Yes, I’m okay with that amendment. So do you have anything else to say Commissioner Campbell?

COMMISSIONER CAMPBELL: No.

CHAIRMAN GREENE: Okay. Commissioner Skrmetta.

COMMISSIONER SKRMETTA: I have a substitute motion to reject the recommendation of the ALJ and approve the Kindle Magnolia, LLC power plant and to approve the three industrial scale solar bayou plants, subject to a caveat review on the rejected offer of Icon USA Solar, which I’ll explain later in my comments, and to submit the remainder of the issues of 1803 to a 60-day rulemaking, to make determinations if it’s in the best interest of the ratepayers.

CHAIRMAN GREENE: Commissioner Skrmetta has a substitute motion. Is there a second? [NONE HEARD] Substitute motion dies for lack of a second.

Any other comments from Commissioners or questions?

COMMISSIONER SKRMETTA: I have some comments, in general.

CHAIRMAN GREENE: Commissioner Skrmetta.
COMMISSIONER SKRMETTA: I’m submitting written comments in this matter for the following reasons: Because of the complexity and potential impact of this particular issue, I’m submitting written comments regarding my position in this matter. Could somebody turn their phone off, please? Thank you. This has been a very complex proposal, brought to the Commission in a very novel and previously unknown process. It is due to the very fact -- to this very fact that we are reviewing, for a vote, a 62 page recommendation from one of our Administrative Law Judges regarding this particular case. That, in and of itself, is a testament to the complexity of the proposal that is presented to the Commission for a determinative vote. And I’d like to thank the Administrative Law Judge for her service in this matter, for providing the recommendation, and however, I disagree with the result on a number of issues. First, I perceive that there is a significant risk to ratepayers, both within the 1803 system as well as outside, who will be within the same marketplace, particularly during times of critical demand on the resource electrons, primarily during extreme heat or extreme cold and during emergencies. Second, my concerns are that the proposed system is overly complicated, and therein of itself is more likely to be subject to failure than a system that is more simplified and based on traditional utility practices. And three, I have had a complaint sent to my office from a company that bid on the solar component of this process, wherein they claim that they engaged with Mr. Marionneaux, who refused to accept their bid, which they claim, in fact, was the lowest bid. And I would like to address each of these issues quickly, or as quickly as possible. On January 20, 2022, my office was contacted by Mr. Brent Abadie of Icon Energy
USA. In their email to me, which is a public record, they stated the following: Commissioner Skrmetta, in the spirit of full disclosure, I was the lowest bidder for solar power, but did not get a contract. I tried to intervene in the preliminary proceedings in this matter, but Kyle Marionneaux, ACES, and 1803 opposed my participation. I questioned their integrity then, and I continue to question it now. My company, that submitted the lowest bid in the 1803 bid round, is Icon Energy USA. It is part of an international organization which has built and operates utility scale solar generation in a number of foreign countries. I sought to bring that success to my own home in Louisiana. I suggest that there are least three significant issues that support a vote by the Public Service Commission to deny approval of the solar contracts proposed by 1803 and their consultant, ACES. Because I have been denied access to the actual documents and information as a result of the efforts of Mr. Marionneaux, 1803, and ACES to exclude me/Icon from the review process, I am forced to rely on informal sources of information. I believe my representations regarding the terms and conditions of the proposed contracts is true and accurate. First, it appears that Mr. Marionneaux, 1803, and ACES made less than truthful and accurate representations to the LPSC when it obtained approval of its bid solicitation RFP. Specifically, in Article 1.2 of the RFP, Mr. Marionneaux and ACES specifically included language and represented to the LPSC on behalf of 1803 that the RFP did not contemplate or allow proposals where the utilities would be involved in self-build or self-supply projects. Therefore, the rules requiring an independent monitor did not apply to the RFP. This is exactly what they said: Neither 1803, the member cooperatives, nor any affiliate thereof are proposing a
self-build or self-supply option through this RFP. Accordingly, the 2019 long-term
RFP does not require supervision by an IM pursuant to the MBM Order. However,
it is my understanding that a $4 million capital investment is required in the
proposal for which 1803 seeks approval, and that an additional larger capital
investment by 1803 could be required if a contractor elects to convert from natural
gas to hydrogen fuel generation. This would seem to violate the spirit and the letter
of the law and would also be contrary to 1803’s and the member co-ops’
representations to the LPSC. LPSC rules and orders, including but not limited to,
General Order 6-7-2019, Docket Number R-34246 state that the MBM Order
requires that the electric utilities shall conduct its planning and RFP processes with
the objective being the provision of reliable, electric service at its lowest reasonable
cost. In cases in which a regulated utility is considering building or investing in
generating capacity, the LPSC requires direct oversight of the process by an
independent monitor. 1803 avoided the oversight by the LPSC independent
monitor, but now seeks approval of contracts which appear to require investment
of ratepayer funds in generating capacity. If that is true, then 1803 simply
circumvented the rules. Therefore, The LPSC should impose sanctions against
1803, ACES, and Mr. Marionneaux, and should disqualify the bids and contracts
that require capital contributions from 1803 or its member co-ops. And secondly,
1803 seeks approval of solar generation contracts, which do not provide the lowest
reasonable cost to the ratepayers. In fact, according to the information I have
received, the proposed contracts are more than 20 percent more expensive than the
proposed contracts from Icon. The Icon proposal would save ratepayers nearly
$100 million over the life of the contracts. Icon’s base rate is lower. Icon’s proposal would eliminate cost for transmission of electricity on the MISO transmission system. Icon’s proposal would eliminate the loss of electric power in transmission. And Icon’s proposal requires absolutely zero capital contribution from 1803 or the member co-ops. Indeed, Icon would pay for upgrades at certain substations that would enhance the capacity of the co-ops at no cost to them. Icon’s proposal is cheaper and better. General Order 6-7-2019, the MBM, and the rules of the LPSC clearly require that regulated utilities acquire power at the lowest reasonable costs. 1803, ACES, and Mr. Marionneaux are asking the LPSC to approve contracts which are contrary to this most fundamental requirement and which are contrary to the best interests of the ratepayers. The LPSC should deny approval of these contracts. Further, it should order a comprehensive review of all the bids and proposals by a qualified independent expert and a report from his or her recommendations. Third, General Order 6-7-2019, the MBM, and the rules of the LPSC clearly require that regulated utilities acquire electric service that is reliable. The contracts proposed by 1803, ACES, and Mr. Marionneaux select the less reliable solar generation than offered by Icon. More specifically, the proposed contracts have generation at two large sites that connect to the MISO transmission grid and the power’s transported to the individual co-ops. We have seen -- recently seen the risk of relying on the over-burdened MISO transmission system with failures during cold weather and hurricane events. Plus there is the cost of using transmission, often called wheeling costs, and the transmission loss that would take place and result in the ratepayers paying for generated electricity that never actually
reaches the end-user. Then there is also the risk that a single, local weather event or catastrophe or at near a large generation site could disable hundreds of megawatts of the generating resource. The Icon proposal provides a much more reliable, efficient, and secure generating resource. Icon proposed to construct and operate a number of smaller five megawatt to fifty megawatt solar generating facilities located strategically nearer the demand. This is sometimes called distributed generation. Distributed generation micro-grids has been recommended by the United States Department of Energy, Office of Electricity as a superior methodology to improve grid resilience, improve resource security, and decrease transmission losses. A single event or catastrophe, natural or man-made, would only disable a small portion of total generating capacity, perhaps a few megawatts. MISO transmission failures, curtailments, or losses would have zero impact on the consumers because the Icon generated electricity would be generated and delivered locally, independent of the transmission system. This would also mitigate congestion on the MISO transmission system. Distributed energy is much more efficient and results in less generation capacity needed to satisfy the demand because there would be little or no transmission losses. Icon proposed using all premium USA made components to prevent hacking by Chinese, Russian, or hostile parties and proposed designs that are specifically hurricane resilient and EMP protected. None of the competing bidders included those critical features. And Icon can deliver at a significantly lower cost to the ratepayers. Icon’s local generating facilities would create new jobs in the communities they serve. Fourth, in addition to the offering the lowest cost, most reliable solar and generation
proposal, Icon offered a unique protection package for 1803 and the consumers. Icon has the financial backing of the largest capital management organization in the world, Allianz, A-L-L-I-A-N-Z. Not only would Allianz provide all of the financial resources required to the project, Allianz would also provide an insurance package that would guarantee Icon’s performance of its delivery obligations. In the event Icon failed or was unable to deliver the electric power it commits to the contract, then Allianz would cover the cost of 1803 acquiring equivalent power in the marketplace. 1803, the co-ops, and the consumers would then be insured by the Allianz insurance package at no cost to the ratepayers. Because I and Icon have been screened out of the preliminary evaluation process, I am unable to evaluate other features in the Icon proposal compared to the contract selected and proposed for approval by 1803. I presume you have the data. In conclusion, I hesitate to speculate on why 1803, Mr. Marionneaux, and ACES would prefer to contract for more expensive power from less reliable resources. And I seriously doubt that there is a legitimate rationale. But I hope that the Commissioners will give the petition by 1803 to approve the contracts rigorous scrutiny and then act in the best interest of the consumers and ratepayers. It seems that the mission of the LPSC is fulfilled by denying approval to 1803 and closer supervision of what appears to be a flawed and fundamentally unfair administration of the RFP process. I appreciate your time, am willing to discuss this matter with any Commissioners. This is signed Brent P. Abadie of Icon, and I just have some short comments from me to finish this up. My concern about the contents of the email is due to the ALJ supporting comments, as follows: The ALJ emphasized on Page 39 of the draft order that no
one else besides ELL and Cajun complained about the RFP process. But the ALJ clearly denied the Icon late intervention back in June, in part, on grounds that the others in the docket will undoubtedly challenge the RFP process. It is not consistent and goes against fundamental fairness to say ELL and Cajun are the only parties complaining, but denied intervention of someone else trying to complain about the process. It is a strong due process issue and affects the rights of the bidders and they should be protected. That completes that issue, and now for the issue of complexity. Consider the development of a system to deliver electrons to consumers. It’s almost like saying that the shortest distance between two points is a straight line. Now, the concept proposed by 1803 is a spirograph of complexity, one with many more moving parts than necessary. We must remember that every moving part becomes a potential risk of failure and that creates an unnecessary risk to the consumer, both on reliability and pricing. The more complicated the system, the bigger the opportunity for us to engage in a mini-Texas disaster during a period of critical demand. Now as a child, I remember receiving a game for Christmas and it was called Mouse Trap, and it was a Rube Goldbergian game that took numerous steps to create a complicated device that would ultimately result in a trap to snag a mouse. When in real life, a simple trap with a bit of bait resolved the riddle expeditiously. And that brings me to Rube Goldberg. For those of you who don’t know, he was a famous cartoonist who cleverly created complex, useless machines to accomplish simple tasks. He was popular throughout the 1940s and ’50s, so much so that his name became part of the lexicon. The term Goldbergian is defined in Webster’s as something grotesquely complex, contrived with inept
and excessive intricacy. So famous was he that he was honored with a U.S. stamp
dealing with his self-operating napkin. And at this point, the Commission should
avoid the creation of a self-operating napkin. Goldberg was so popular with his
comical contrivances that Purdue University started a Rube Goldberg machine
contest for engineering students that went national in 1989, where young
engineering students, and later high school students, were given a simple task, a
one-step task, that required completion through 20 steps. The pinnacle of over-
 complication of a simple task. And that application of understanding the
Goldbergian conundrum also finds its way into the application of law. In 1998,
Justice Anton Scalia remarked in his descent in the habeas case of Bousley versus
the United States, 523 U.S. 614 that Rube Goldberg would envy what the Supreme
Court has created. Now, Scalia recognized that there’s no particular reason to over-
complicate a system, and that concept has a long history that goes all the way back
to an unknown origin, but we could start with Aristotle. And Aristotle had a theory
about simplicity in that nature itself operates in the shortest way possible. And
Aristotle sort of migrated to Thomas Aquinas, and he referenced that if a thing can
be done adequately by a means of one, it’s superfluous to do it by a means of
several, for he observed that nature does not apply two instruments if one suffices.
And then we get on to one of my favorite philosophers, who is William of Ockham.
And Ockham was a 14th century English friar. He was a scholar, a philosopher, and
he developed what is largely known as Occam’s Razor and it’s also known as the
Law of Parsimony, and it’s a simple problem solving principle. And it says entities
should not be multiplied beyond their necessity. This theory, simplified, is other
things being equal, simpler explanations are generally better than complex ones.

These concepts continue throughout history. Even in the medical field, there’s a medical diagnostic concept called Zebra, and it’s likely derived from a famous quote of Teddy Roosevelt, who said once, when you hear hoof beats, think of horses, not zebras. And that was in a book called Zebra Cards, which were an aid to obscure diagnosis. So the modern context comes into place from a guy named Ernst Mach, who formulated his theory in physics to the Principle of Economy, that scientists must use the simplest means at arriving at the results. Now, unfortunately, the designers of 1803 plan did not utilize Occam’s razor in their concept, but relied heavily on Hanlon’s razor, although clearly not through malice. My concern is that the complex models at the root of 1803’s analysis are subject to overfitting and possibly affected by statistical noise. Instead of approving this plan by taking alternative action through a Commission rulemaking, we would be better suited to analyze this matter to find more secure, predictive performance potential. Only through independent, in-depth rulemaking analysis can we ensure a secure plan for ratepayers that will not be subject to stress during critical demand periods.

And while I appreciate that this matter was analyzed under traditional concepts, this is a plan that is taking place outside the traditional parameters of development. This requires new analysis and considering new techniques that have new impact on the consumer. Under no circumstances can we take action which would cause harm to the ratepayers simply to accomplish an action of expediency. My primary interest is to send this entire plan back to the drawing board, either through a rulemaking or through some other mechanism that the Commission determines, with fresh eyes
and fresh analysis. I do not believe the recommendation of the Administrative Law
Judge is in the best interest of the Commission, nor do I believe that the analysis of
the consultant has provided the proper scrutiny for the Commission to make a
significant determination in this matter. My only full acceptance for part of this
plan is for Magnolia Power, LLC Power Plant. I’m also fully supportive of the
concept of industrial scale solar facilities, but due to the email of Mr. Abadie of
Icon USA, I’m concerned that the consumers did not get the best value of which
industrial scale solar system to select, particularly involving the potential of
insurability of market purchases to offset the bill of consumers during disaster. And
lastly, about risk and reliability. And I’m concerned for the welfare of the
consumer, both reliability wise and price wise with the mechanism that is being
presented to the Commission. In my opinion, it represents an unreasonable risk of
economic harm to the consumers that, due to its complex nature and lack of
empirical data within this state to prove its viability, does not deserve to be
approved in its current form. Thank you.

CHAIRMAN GREENE: Thank you, Commissioner Skrmetta. Just in follow up
to that, I would like to say that Mr. Abadie did not intervene in this docket and that
the ALJ made the decision on the intervention and not 1803. And as well, thank
you for your thought out comments. Those are the thoughts of Commissioner
Skrmetta and not of the Commission, so any other thoughts?

COMMISSIONER FRANCIS: Mr. Chairman.

CHAIRMAN GREENE: Commissioner Francis.
COMMISSIONER FRANCIS: I’d like to recognize all the co-op board members who are here. Would you please stand up and stay standing? And camera, I’d like for you to -- these co-op board members. Smile, now, y’all going to be on TV. Thank y’all for coming. Thank you.

CHAIRMAN GREENE: All right. I’d like to get y’all’s thoughts on what this means for the community and how the process went for y’all.

SECRETARY FREY: And state your name before you speak.

MR. JESSEL OURSO: Full name, Jessel M. Ourso, Jr., Plaquemine, Louisiana, Iberville Parish President. So Commissioner Greene, members of the Commission, good morning and thank you for having us here this morning. This is the first time that I have ever been into one of these meetings, interesting. I should come more often to your Staff.

COMMISSIONER SKRMETTA: It’s a lot more crowded than usual.

MR. OURSO: Yeah. Very interesting, it’s better than our council meetings. So glad to be on board. Mr. Greene and I have a special relationship. He was a former Iberville Parish resident and grew up in Maringouin, Louisiana. Mr. Campbell, him and my father was put into the political hall of fame many years ago in Winnfield, Louisiana. Don’t have too much relationship with Mr. Skrmetta or do I know Mr. Boissiere. And Mr. Francis, you and I was in the vacuum truck business together, you was red and I was yellow way back then over there in the vacuum truck business and the frac tank business. So anyway, you know, gentlemen, three years ago, I was introduced to Kindle Energy through my economic development specialist, and I started having a relationship towards the end of 2019 and kind of
lost track when 2020 come with COVID. And met the people and, you know, I put
them through a battery of tests, as you would, Dr. Greene, you know, to see if these
people can fit into our parish. Iberville Parish, over the last 12 years, has had
probably $12 billion invested into the southern part of our parish with the
Shintech’s of Louisiana and the SNF Flopam’s and everything that we have brought
here to the state coffers, here when these companies are delivered to our doorstep,
whether it’s from Louisiana DED and we take these clients and we try to fit them
in to our parish here for jobs and revenue for our people. So after meeting these
people and working with them over the years, checking them out, and this, and
before I brought them to my Parish Council and let them meet our assessor and our
sheriff here, I wanted to make sure that when I bought them to my Council that
these people were valid. My Parish Council patted this project on the back and said
we want this project. And with that, the land that they were looking at, that land
had to be put into an industrial zone and my Parish Council approved the potential
site. There’s an enormous amount of natural gas that’s going to feed this facility,
if it is built. I’m very happy about that. The emissions are not going to be a
problem. And so I’m in here for asking you, and you have a -- as all of us are, as
elected officials here, have a -- you are regulators, and I want you to do what’s right
for the people, for regulation, whether it’s phone bills or whether it’s electrical bills.
I’m the only regulator in the parish to see what not -- whether or not they’re coming,
because either I’m going to let them in or I’m going to let them out. I would beg
of you, and if my client -- what I say my client, my parish’s client, is happy with
y’all decision on this $15 million over here in default or whatever it is called. I

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don’t know nothing about no 1803. All I know about is 2022, of what’s happening here. I don’t know nothing about no 1803, and all the industry that I have dealt with in our parish over the years, the Dow Chemicals, the Shintechs, and the SNF, the French, the Germans, I’ve never had to come up here and talk about a $750 million little electrical plant because I didn’t understand how it worked. Now, I understand. So I’m just asking you. Iberville Parish is open up for business, and if -- I expect them to follow all rules of what y’all put down. They are not above the law. I don’t expect none of my energy -- I’m expecting them to follow the rules, so I’m just asking for your support. This project is important to my parish, it really, really is. Hopefully, it will reduce the rates to our people, what it can do to our industry, and what this industry brings to our parish. And so I’m here to ask you to please let this project go forward. Now, I’m speaking on behalf of myself as the Parish President over here and I’m going to let the Sheriff say what he got to say. He puts them in jail. I only say if they come here. He taxes them. So I’m going to move over and if my client is happy with whatever you come up with, I am tickled to death.

CHAIRMAN GREENE: So on that note, I think Commissioner Campbell has a question for you, but I’d like to hear from Sheriff Stassi and assessor. Do you have anything you want to say or you just echo his?

SHERIFF BRETT STASSI: I echo a lot of what Jessel said, but at the same time --

MS. BOWMAN: Please introduce yourself for the record.

CHAIRMAN GREENE: Just introduce yourself.
SHERIFF STASSI: My name is Brett Stassi. I’m the Iberville Parish Sheriff; I live in Plaquemine, Louisiana. Our citizens have paid a high price for electricity over the years from different entities, and we have -- we almost lost a client at our hospital over some bills for the amount they were paying per square footage --

MS. BOWMAN: Mr. Stassi, could you speak more into the mic so we could pick it up?

SHERIFF. STASSI: We almost lost our hospital client over the high rate that they were paying at our emergency room hospital that we have in Iberville Parish because they were paying over the rate per square foot of all the hospitals in the entire state that they own, 25 percent more. So any opportunity we can to bring the rates lower to the citizens of Iberville Parish and the surrounding parishes and the industry that we do support in Iberville Parish that supports this state, I’m here asking for y’all to give us that opportunity to bring the lower rates to the people of our parish and our industry in our parish.

CHAIRMAN GREENE: Mr. Sexton, do you have anything to say or just [INAUDIBLE]?

MR. RANDY SEXTON: No. My name is Randy Sexton; I’m Iberville Parish Assessor. I can only vouch for -- this is a $750 million capital improvement in Iberville Parish. And I don’t know if any other parish in this state would say that they want to turn down a $750 million project. But we are very, very fortunate, we’re industry rich in Iberville, and we’re welcome to see possibly a 40 percent reduction in the rates to some of our industry right there. I think it’s just a go-go
situation on our [INAUDIBLE], so I appreciate y’all’s support in this project, and
that’s all I’d like to say.

CHAIRMAN GREENE: Thank you. Commissioner Campbell.

COMMISSIONER CAMPBELL: I want to congratulate you, in particular. I
was around last spring when I saw you on TV with your suspenders on.

MR. OURSO: Junior Sample.

COMMISSIONER CAMPBELL: You quoted the great Junior Sample, and I
appreciate it, but he was taking up for you guys, keeping high water out of your
houses. And I watch this guy operate, he is actually a great politician and a great -
- a leader over there because he genuinely looks after the people in Plaquemines
Parish, and that’s what we all want to do. That’s what we all want to do. So I’m
going to be with y’all on this project and I know you’re going to take care of the
folks over there and hopefully not only in Plaquemines Parish, but a lot of parishes
in Louisiana will see rate reductions. And that’s a good way to start because I know
what competition does. Say you have a barbecue going on and some people at the
barbecue have their electricity coming from a different place. And you get to
talking about electricity and then the co-op guy says hey, look at my bill. And the
guy on the other side says well -- then that’s where the mule jumps the fence,
everybody gets involved and rates go down. That’s what makes rates go down --
and competition. This is what it’s going to bring to Louisiana is competition,
discussion, and once people realize that your neighbor is getting electricity a lot
cheaper, business picks up. And so that’s what we want, we want people in
Louisiana to pay as least as possible. It’s never going to be cheap, it’s going to be
reasonable. And I’m supporting this project, Mr. Greene and I, and Mr. Boissiere and Mr. Francis. We just added something to give you more insurance. We increased the retirement — I mean the liability for the company up to 15 million instead of 5 million. So I think it’s a good project and so I’m in support of it and whenever you want to vote, I’m ready to vote.

CHAIRMAN GREENE: Commissioner Boissiere.

COMMISSIONER BOISSIERE: Well, I’d like -- first of all, I’d like to thank the Parish President, Sheriff, and Assessor. The three big jobs in Iberville. I’m glad to know now you’ve made it to the Commission and now you see how it works. I represent Iberville Parish and I’ve been down there quite a few times on water issues and electricity issues and storm restoration issues, and I’ve usually met with the council, the Parish Council and different other bodies. So I hear what you just said, I hope you come back to us whenever you need us, you know how it works here. I’d love to come back down there, now you have an interest in the Commission.

MR. OURSO: I’ll get you in and out quick.

COMMISSIONER BOISSIERE: You’ll get me in and out quick, good. And I hear the Sheriff, let’s work to get those rates as low as possible. I’ll meet with you on anything you need. I’ve done it on smaller issues down there before, I’ve come whenever you’ve called, so I’m looking forward to it. And I think this particular issue, to get back to what we’re doing here today, is going to be really positive for the parish and the utility companies there.

CHAIRMAN GREENE: Thank you. Commissioner Skrmetta.
COMMISSIONER SKRMETTA: Yeah, I just wanted to thank you guys for coming here and tell you that the cherry on this, whatever it is, is what you guys get. So the rest of it is the part that I’m scratching my head over, but there ain’t no problem with what part affects you and your community. So on that one, you know, I’m sure that you will be the one that is still standing if everything else fails. So I just want to let you know that you have confidence in whatever happens, that your part will be the success.

CHAIRMAN GREENE: Thank you very much. You gentlemen are excused. Thanks for being here. I think we have some other people that would like to speak to this matter. Is there anyone else that would like to speak to this matter?

MS. BOWMAN: Well, we have oral arguments --

SECRETARY FREY: Yeah, we have oral argument requests, and I don’t know if they’ve turned in cards or not, but Kathryn can go through the list of all our requests for oral arguments.

CHAIRMAN GREENE: Kathryn, can you run point on that?

COMMISSIONER SKRMETTA: Brandon, do you have representatives of 1803, ACES, and are they going to come up?

SECRETARY FREY: Yeah, they’re a part of the argument.

COMMISSIONER SKRMETTA: They’re going to be part of the argument?

SECRETARY FREY: I think pretty much everybody asked for oral argument.

MS. BOWMAN: I’m pretty sure they also filed.

COMMISSIONER SKRMETTA: Okay. I was just wondering because I just got some questions for certain groups and I wanted to know.
MS. BOWMAN: We can start, I guess, with representatives of 1803 just to --

COMMISSIONER SKRMETTA: It doesn’t matter to me.

MS. BOWMAN: -- answer some questions and then we’ll go into the oral arguments.

COMMISSIONER SKRMETTA: I just hadn’t seen your list of who was coming up.

MS. BOWMAN: Yeah.

CHAIRMAN GREENE: 1803.

COMMISSIONER SKRMETTA: Is ACES available? Are you going to represent ACES as well today?

MR. KYLE MARIONNEAUX: I’m not. I’m representing 1803. ACES is a consultant of 1803.

COMMISSIONER SKRMETTA: Is ACES here?

MR. MARIONNEAUX: They’re here, yes.

COMMISSIONER SKRMETTA: Could they come up as well?

MR. MARIONNEAUX: Absolutely.

COMMISSIONER SKRMETTA: Because my questions will be for you and them.

MR. MARIONNEAUX: Yeah. Yes, Commissioner. I was leaving the chair open because I didn’t know where the questions where going to come, we have a lot of folks here.

COMMISSIONER SKRMETTA: Because my questions are for you and them, so they can kind of get done at the same time.
CHAIRMAN GREENE: Yeah, look. This has been hashed out for 18 months and a lengthy trial, so let’s try to keep it succinct.

MR. MARIONNEAUX: Commissioners, you know, a lot of -- Commissioner Greene, you said a lot of what I was going to say. We had a unprecedented amount of bidders and bids in this matter, very diverse, you know, group of bids. It went through a very, you know, comprehensive process in the, you know, before the Administrative Law Judge. We had two rounds of written discovery by both parties. We had hundreds of discovery requests and responses. We had a five day -- it was scheduled for five days, but we had six days. I mean, everyone had their shot at this. We have two opponents to the matter, Cleco Cajun and Entergy. They raised a lot of issues in the docket, they put witnesses forward. All of their complaints have been fully vetted in the docket. You had Mr. Hayet, a very experienced outside consultant who’s done a lot --

COMMISSIONER SKRMETTA: Is he the Staff representative for the -- on this docket?

MR. MARIONNEAUX: Yes, Commissioner.

COMMISSIONER SKRMETTA: Mr. Hayet, could you grab a chair and just come up, just in case.

MR. MARIONNEAUX: And he’s got a lot of experience in these type matters as well. Had the very confident firm, the Patrick Miller firm, good litigators, involved in the matter, and after -- in hearing the testimony, discovery, and evidence presented, the LPSC Staff agreed with 1803 that this was the lowest cost reliable portfolio, and as you stated earlier, the Administrative Law Judge agreed. So, you
know, we ask that you approve the 1803 Portfolio in full, and the ALJ did also say
that the ALJ -- that the 1803 Portfolio, as a whole, is in the public interest. And
since it was a lengthy, I guess, reading of an email from Mr. Abadie of Icon, I -- he
had his opportunity to participate in the matter. There’s a process in the
Commission’s procedural rules. If he felt that he shouldn’t have been dismissed
from the matter, to come before you and to ask that they be allowed in, there’s a
process, so he would have been heard in the hearing. They can speak to the
proposals.

COMMISSIONER SKRMETTA: Well, I’m going to ask you questions about it,
but go ahead.

MR. MARIONNEAUX: That’s fine.

COMMISSIONER SKRMETTA: I will.

MR. MARIONNEAUX: I don’t want to, you know, get more on it, but, I mean,
basically side-stepping the process by sending an email that I hear for the first time,
you know, in here. But he wasn’t involved in the hearing. He had an opportunity
to be. My understanding is he’s an attorney.

COMMISSIONER SKRMETTA: He is.

MR. MARIONNEAUX: He can read the rules, okay, and see that he’s got a
chance to come to the Commission and say, hey, I should have been allowed to stay
in here. He didn’t do it. Several parties filed for oral argument. I don’t know, you
know, having not been a party if he could, but he didn’t do that either, and I don’t
-- there’s a bunch of people here I don’t, you know, I don’t see him, but, you know,
I think that’s an improper consideration and kind of the characterization in the
email, it was read into the record in the public setting that Mr. Marionneaux, ACES, and 1803 -- we work for 1803. And, you know, that we dismissed his bid. Mr. Marionneaux doesn’t analyze bids, not qualified to do it, and I didn’t do it, so, you know, I just want to address that since it seems pretty inflammatory. So that’s what I had.

COMMISSIONER SKRMETTA: Okay. Well, I’ve got some questions, just whenever.

CHAIRMAN GREENE: Yeah. Commissioner Skrmetta, questions?

COMMISSIONER SKRMETTA: Yeah. I mean, you know, and let’s go over and talk about that. So my question is: Did Icon ever offer a bid?

MR. MARIONNEAUX: Yes.

COMMISSIONER SKRMETTA: Okay. So what bid did they submit and when was it submitted?

CHAIRMAN GREENE: Just introduce yourselves, please.

COMMISSIONER SKRMETTA: Go ahead. Thanks.

MR. JASON PAINTER: Jason Painter, ACES, and --

COMMISSIONER SKRMETTA: I’m sorry, could you say your name again?

MR. PAINTER: Jason Painter, ACES.

COMMISSIONER SKRMETTA: Okay. Thank you, Jason.

MR. PAINTER: They submitted a 250 megawatt proposal consisting of five 50 megawatt distributed generation sources across the state. I don’t think I can talk about the price and all that, but they -- it was one of the lower ones. We reviewed
the bid. It was submitted in the first round of bids in May, end of May of 2020.

It’s been a while.

COMMISSIONER SKRMETTA: So this wasn’t rooftop solar, was it?

MR. PAINTER: No.

COMMISSIONER SKRMETTA: So this was distributed energy, small field solar?

MR. PAINTER: Fifty megawatts was the issue. It was a 50 megawatt proposal and that was too large for the distribution system of any of our co-ops.

COMMISSIONER SKRMETTA: Right.

MR. PAINTER: We visited with the engineers of the co-ops to see what they could take under the distribution system, none who could actually receive a 50 megawatt project at a distribution station, so that was part of the issue, among many reasons we rejected the bid.

COMMISSIONER SKRMETTA: So, you know, how were they taken out of the process?

MR. PAINTER: Their bid was rejected after Phase I for numerous issues.

COMMISSIONER SKRMETTA: Who rejected it?

MR. PAINTER: 1803 via -- I mean, it was our recommendation, reviewed with Staff, and then ultimately, 1803 approved that.

COMMISSIONER SKRMETTA: Was it the lowest bid?

MR. PAINTER: No.

COMMISSIONER SKRMETTA: It wasn’t?

MR. PAINTER: No.
COMMISSIONER SKRMETTA: Okay. And who was -- what was their bid compared to the other people?

MR. PAINTER: They were probably $3 lower than some of the other ones.

COMMISSIONER SKRMETTA: They were $3 lower than the other ones?

MR. PAINTER: Yeah.

COMMISSIONER SKRMETTA: Okay. So they were the lowest bid?

MR. PAINTER: For an infeasible project, right, that was the -- there was other aspects of the project that need to be considered when besides [INAUDIBLE] --

COMMISSIONER SKRMETTA: All right. Well, I get it. So, you know, and Mr. Hayet, do you have anything to add to that commentary? Were you involved in that part of the discussion with Icon?

MR. PHIL HAYET: We were involved to the extent that the -- we discussed problems with bids and we had discussions throughout the process, so there was no step of the way that they did not involve Staff. Staff was a part of the process.

COMMISSIONER SKRMETTA: Did you oppose Icon?

MR. HAYET: No, I did not oppose either way. On Icon, it seemed reasonable to me that there is an issue with the amount of the space required, there is an issue with the notion, you know, the notion and the space, the size for the distribution substations that would accept the amount of megawatts that was proposed. For reasons such as that, it was not feasible.

COMMISSIONER SKRMETTA: And Jason, they -- I’m told that Icon offered to build the substations to make them acceptable; is that accurate?
MR. PAINTER: I mean, I -- we -- they produced no work on engineering on any
of the substations on any of the land, they had no -- they had no project data, so we
had nothing to evaluate it from.

COMMISSIONER SKRMETTA: Did they offer it?

MR. PAINTER: I think, generically, but yeah, it wasn’t --

COMMISSIONER SKRMETTA: So they did offer it, generically?

MR. PAINTER: Sure, yes.

COMMISSIONER SKRMETTA: Okay. So, you know, the -- and I guess this
is really -- I want to move on because we’ve determined that Icon was the lowest
bid, whether you had a question on what they were able to do, your question on the
substations has sort of been sort of overlooked by the fact that they offered to build
new ones, generically. My question, I guess, really is for everybody at the table,
including you, Mr. Hayet, is, you know, why don’t you take turns or whoever wants
to do it, summarize the components of the portfolio as it’s in front of us today.

MR. KEVIN SUHANIC: I guess I should say my name. Kevin Suhanic, also
with ACES on behalf of --

COMMISSIONER SKRMETTA: Kevin?

MR. SUHANIC: Kevin.

COMMISSIONER SKRMETTA: Kevin. Okay.

MR. SUHANIC: So the Portfolio is basically six pieces that work together. Just
like anyone would supply them, even if it was a standalone contract, they’re still
using pieces, so it’s no less or more complex on the backend for the electrical
system. But so we have the solar, we’ve talked about three large-scale solar, so
who are all experienced and reputable developers. We’ve got the Magnolia unit, the most efficient combined cycle generator that will be in Louisiana, capable, if it comes to fruition, that hydrogen is a viable fuel supply, burning hydrogen. Very low heat rate, very efficient, so it uses less gas than you’d need normally for a power plant, it’s got an existing one. We also have Exelon, who is going to, for five years -- those are all 20 year deals -- for five years, supply 27 percent of the load, just look like Cleco Cajun, but being Exelon, and they’ll supply whatever the load is times 27 percent, all the MISO means, all the capacity, energy, ancillaries, all that. And then as well as we have a Calpine call option that’s very nice to help with the solar intermittency that we can call -- they can call on power. Some days they need it, some days they don’t. And those are all fixed price or have a set escalation in them, so that really reduces the risk a great deal. And when we did the analysis, even the second best offer is hundreds of millions of dollars worse off, and Staff agreed in this scenario where it’s well beyond that. I think 1803 really found the lowest cost in these -- lowest cost reliable power in these six.

COMMISSIONER SKRMETTA: All right. Kevin, how far away are the Exelon assets that you are applying to this Portfolio from the, I guess, the three co-ops that are participating?

MR. SUHANIC: So the Exelon contract calls for the --

COMMISSIONER SKRMETTA: No. Where are the assets of the Exelon? The Exelon assets that are going to provide electricity.

MR. SUHANIC: They will procure them. They owe 1803 power at the load, [INAUDIBLE].
COMMISSIONER SKRMETTA: Okay. So they’re not going to be utilizing their own assets, they’re going to be going to the market on that?

MR. SUHANIC: They may do one or both. They’re --

COMMISSIONER SKRMETTA: I’m sorry, I couldn’t hear you.

MR. SUHANIC: They may do one or both. They’re as big as Entergy, I think or close to it, across the United States, so they’re --

COMMISSIONER SKRMETTA: Right. So where are their closest assets for their own assets?

MR. SUHANIC: I think you’d probably have to ask them, but I know they do serve Alabama and some other --

COMMISSIONER SKRMETTA: Is anybody here for them? Okay. Well, is Exelon in the room? If somebody’s here, they can just come pull up a chair, I’ll ask you when you get comfortable. Let me switch over to Phil for a minute. Okay. And this is for Phil and anybody else who wants to answer. It’s on capacity and capacity shortfall. Okay. Can somebody give this gentleman a chair, please? Phil, Entergy is asserting that the 1803 Portfolio, as it’s proposed, does not contain sufficient physical capacity, actual generation resources to meet 1803’s load. And particularly, its peak load in the winter season and Entergy is suggesting that it calculates that under the portfolio presented today for certification, 1803 will be short of actual, physical capacity of approximately 35 percent for the calendar years 2025 through 2030. Did you hear my question?

MR. HAYET: Yes.
COMMISSIONER SKRMETTA: Okay. Where, you know -- is that accurate to say that there’s going to be a 35 percent shortfall for five years? Actually more than that, up through 2030?

MR. HAYET: It is not accurate to say there’s a complete shortfall in the sense that there’s no capacity in the market.

COMMISSIONER SKRMETTA: I didn’t say that. I said physical assets.

MR. HAYET: Commissioner, there -- according to independent market monitor - -

COMMISSIONER SKRMETTA: Physical -- yeah, actual generating resource. Actual generating resources.

CHAIRMAN GREENE: Commissioner Skrmetta, let’s let him answer the question.

COMMISSIONER SKRMETTA: No, I’m trying to get him to answer the accurate question. I don’t want him to --

CHAIRMAN GREENE: Yeah, but you keep interrupting him.

COMMISSIONER SKRMETTA: Well, I’m interrupting to make sure we get the actual question answered.

CHAIRMAN GREENE: Well, let him answer the question, please.

MR. HAYET: Thank you. According to the independent market monitor, there is a 43 percent surplus of capacity that can serve the market.

COMMISSIONER SKRMETTA: Where is that?

MR. HAYET: That -- throughout the MISO South market.
COMMISSIONER SKRMETTA: So that’s not in the state of Louisiana, it’s throughout MISO South through the five jurisdictions?

MR. HAYET: It’s throughout the MISO South portions, so --

COMMISSIONER SKRMETTA: MISO South being everywhere south of Missouri?

MR. HAYET: It includes Arkansas.

COMMISSIONER SKRMETTA: Right. Everywhere --

MR. HAYET: It includes Louisiana, it includes the eastern part of Texas, the western part of Mississippi.

COMMISSIONER SKRMETTA: That’s the five jurisdictions, right?

MR. HAYET: Excuse me?

COMMISSIONER SKRMETTA: The five Entergy jurisdictions?

MR. HAYET: That -- yes.

COMMISSIONER SKRMETTA: Okay. All right. So what you’re saying is those are -- those actual generation assets are not in Louisiana.

MR. HAYET: I’m saying there are assets in Louisiana, but throughout those areas, correct.

COMMISSIONER SKRMETTA: What I’m trying to get at is actual generating resources that we’re short 35 percent; is that correct?

MR. HAYET: That is correct that --

COMMISSIONER SKRMETTA: Okay.

MR. HAYET: -- that calculation, but that does not mean -- this contract calls for there to be served by -- 90 percent of the credits will be local within the MISO --
within Zone 9, that’s what the contract called for. Exelon is obligated to provide
their portion of the entirety, and it’s supposed to be -- 90 percent will be located in
Zone 9. So 90 percent will be served, according to the zone of resource credits per
contract.

COMMISSIONER SKRMETTA: You know, you answered my question saying
it’s accurate that there’s a shortfall, right, of hard assets in Louisiana and that the
reach is to MISO South for accessing other power. Now, I want to do a follow-up
question with you. How many of those reachable assets are the same assets that
Texas tried to access during their failure during the winter storm event that took
place in Texas?

MR. HAYET: Well, first of all there’s not a connection between Texas and
Louisiana --

COMMISSIONER SKRMETTA: Well you just said Texas assets.

MR. HAYET: Eastern Texas.

COMMISSIONER SKRMETTA: Okay.

MR. HAYET: ERCOT, which is where the problems happened --

COMMISSIONER SKRMETTA: I understand. Right.

MR. HAYET: -- those assets --

COMMISSIONER SKRMETTA: But they still had problems across Texas, even
with the Entergy system. So my question is, how many of the assets in Texas were
affected by the Texas event?
MR. HAYET: Okay. Well, first of all, I’d like to say that the Texas event that occurred, the weather event, first of all, you’re right, it didn’t just affect the ERCOT area, it affected other portions.

COMMISSIONER SKRMETTA: Right.

MR. HAYET: It was found to be an issue that the weather caused outages of the gas compressor stations did not have electricity that could serve, frozen coal piles. It’s not clear that additional reliability would have been brought about during that period had there been more gas fired generating units. For example, it could have been that those units would have been -- 

COMMISSIONER SKRMETTA: Phil, Phil, I will tell you that -- and with all due respect to you as a consultant, I think I know more about what happened to Texas than you do, and it would take you an hour and a half to really tell what it was. What I’m asking about, because I’ve studied this issue aggressively with college professors at LSU and other professors and people at NARUC, and we have gone to the nitty on this, okay. I’m asking you a very specific question, and what you’re doing is the consultant two-step. Okay. I want to know how many Entergy assets, Entergy assets, in Texas, that you’re quantifying as part of the potential serviceability of this 35 percent non-hard -- this gap, of what you’re going to provide to the co-ops, how many of them did not work during the winter storm event in Texas. Because what we’re talking about is critical times. Super heat, super cold, and are we going to get power to the co-ops. Okay. That’s all. Which ones in Texas that you are talking about as part of your amount that’s going to provide this power, which ones didn’t work?
MR. HAYET: There were some that did not work during the course.

COMMISSIONER SKRMETTA: But you don’t know which ones?

MR. HAYET: I don’t know the number.

COMMISSIONER SKRMETTA: Okay. Then that’s the answer.

CHAIRMAN GREENE: Commissioner Skrmetta, if you’re going to ask a question, I want you to let him answer it.

COMMISSIONER SKRMETTA: Yeah.

CHAIRMAN GREENE: If not, we’ll move on past this questioning.

COMMISSIONER SKRMETTA: Thank you very much. He answered my question when you interrupted. So the answer is you just don’t know.

CHAIRMAN GREENE: How many more questions do you have?

COMMISSIONER SKRMETTA: I’ve got as many as I want.

CHAIRMAN GREENE: You have five minutes.

COMMISSIONER SKRMETTA: Well, talk to Commissioner Campbell about time. So, you know, the issue is, what I’m trying to say is, you’re making very big statements about what’s going to fill that gap of the unknown hard asset when we don’t really know what’s going to be there during the issue associated with what’s not there in a critical time issue. Okay. And I think as part of what you do, it should have been known what assets couldn’t deliver during a critical time because, look, we all know during regular events, everything’s going to run as smooth as a baby puppy. But what we do know is at critical moments, we know what assets don’t deliver through empirical data. I’m not asking you to read a crystal ball, but as a consultant, you should have been able to go to data that we know about on what
didn’t work and show what can’t be relied on to deliver power to these co-ops.

That’s what I’m saying, okay? Let me go on to my other questions because --

MR. HAYET: Well, excuse me. Can I respond to that?

COMMISSIONER SKRMETTA: Yeah, go ahead.

CHAIRMAN GREENE: Yes, you may.

MR. HAYET: Okay. Thank you. Commissioner, first of all, there is an enormous effort going on across the country at every single commission to evaluate what went on in Texas, that it may never happen again. There are enormous steps being taken in my state, South Carolina, Texas, throughout MISO to ensure that those issues -- because that event happened, we know that we’re going to have future weather events. We can’t assume, necessarily, that nothing is being done to take care of that event such that in the future that will occur again. So I don’t think that looking at that event -- furthermore, in the case of reliability, no reliability, no analysis, no planning is done to perfection, 100 percent reliability. There’s a one day in ten year criteria that is established. That means there’s an expectation that there will be loss of load. If we were to plan for 100 percent reliability, the cost would be enormous and I think that this portfolio is about establishing the cost of lower in this portfolio and will save customers money, recognizing that there are certain risks. There are also certain risks on other portfolios that are being considered, that have to be analyzed that affect the cost.

COMMISSIONER SKRMETTA: Right. And we want to minimize risk. We do NURC tabletop exercises to determine how to -- we don’t look for 100 percent perfection. Look, I do system engineering before I ever went to law school. We
understand systems fail. What we look for is to minimize failure. But what I’m
telling you is to not know the empirical data on physical assets that you are
quantifying as deliverable during a critical asset moment is not looking to the thing.
So I got -- I think you’ve answered every question I have and I do have questions
for Entergy representatives when the time comes. So I’m finished asking my
questions, and thank you very much for, you know, asking my questions --
answering them. Appreciate it.

CHAIRMAN GREENE: Thank you very much. Anybody else have any
questions for this group? Gentlemen, you’re excused. Thank you.

COMMISSIONER SKRMETTA: I just -- one quick question for Exelon, which
how far away are your actual, physical assets. Not talking about how you work the
market, just your actual assets for potential, hard assets that deliver power.

MR. JOHN ORE: So my name is John Ore, I’m with Exelon.

COMMISSIONER SKRMETTA: Thank you.

MR. ORE: And thank you for your question, sir. The short answer is probably
the mileage closest is in Alabama; that will be Alabama close to Alexander City. I
think it’s notable that prior to Entergy joining the MISO and MISO being part of
Louisiana, we served two municipalities here in the state using that asset under the
old way of doing it where you pipe the physical asset with transmission to the cities
of Ruston and Abbeville. So we -- it’s very doable, we can do that, that’s one
resource that’s physically the closest, technically not in MISOs, but is the precise
answer.
COMMISSIONER SKRMETTA: That’s Florida Power and Light, or is that separate?

MR. ORE: It’s Southern Company.

COMMISSIONER SKRMETTA: Southern Company?

MR. ORE: It will be Alabama Power. Yeah.

COMMISSIONER SKRMETTA: Okay.

MR. ORE: So -- and then our next closest asset is our nuclear facility in southern Illinois. Now granted, that’s above the MISO constraint, right, above the 3,000 megawatt limit north to south, but we do have the physical asset there. But I think another just point to make here is that ZRCs, the coin of the realm from a capacity standpoint in MISO, right, are certified by physical capacity. So when those are purchased, either on a bilateral transaction or in the PRA, they actually do tie back to something that was certified and accredited as being physical resource. So when we go to the market, rather than use one of our physical assets, right, it doesn’t mean that it’s a fictitious financial instrument, it has been certified as a legit physical asset by the MISO in the ZRC certification process.

COMMISSIONER SKRMETTA: All right. Have you -- what is your position on MISO’s attempt to eventually bypass the North/South interconnect on its artificial limitation?

MR. ORE: We haven’t really gotten into that at this point, so I don’t really have a formal opinion on that, to be honest, sir.

COMMISSIONER SKRMETTA: Okay. Thank you.

MR. ORE: Thank you, sir.
CHAIRMAN GREENE: Thank you very much.

MR. MARIONNEAUX: Thank you for your consideration.

CHAIRMAN GREENE: Kathryn, who’s next?

MS. BOWMAN: So WST and Northeast also filed requests for oral arguments. I don’t know if they still would like to speak or not, but I’ll give them the opportunity and then we’ll call up the other two.

CHAIRMAN GREENE: We’re going to give about five minutes per group, so.

MS. BOWMAN: And just please state your name for the record and Luke, if you would just sign the clipboard, please.

CHAIRMAN GREENE: Can you introduce yourself, please.

MR. LUKE PIONTEK: Good morning, Commissioners. Luke Piontek on behalf of --


MR. PIONTEK: Sorry. Good morning, Commissioners. Luke Piontek on behalf of Northeast Louisiana Power Cooperative. I don’t want to belabor everything that’s been said. We’d just voice our support for the ALJ’s recommendation. We agree to the conditions in the ALJ’s recommendation. We ask for your approval in the certification of the portfolio.

CHAIRMAN GREENE: Thank you. Any questions for Luke? Thank you for your support.

MR. PIONTEK: Thank you, Chairman.

MR. CHUCK HUGHES: Good afternoon, Commissioners, Chairman Greene.

My name is Chuck Hughes, I represent Washington-St. Tammany Electric Co-op.
I’m not going to belabor the points, except to say Commissioner Greene, Chairman Greene, I think you hit it right on the head. It is a great day for the state. The rural ratepayers in this state are going to enjoy low rates, reliable service, with a reasonable assumption of the risk. And I think the rest of the country can take a look at this process which was done robustly, very vigorously, fully, fairly, with great transparency, and understand that that’s the way we’re going to do things in Louisiana. So WST would urge adoption.

CHAIRMAN GREENE: Thank you very much. Any questions?

MS. BOWMAN: Chuck, will you please sign the clipboard? Thank you.

CHAIRMAN GREENE: Next.

MS. BOWMAN: Next is -- and I don’t know if they want to come up separately or together. We have Entergy Louisiana and Cleco Cajun both filed requests for oral argument.

CHAIRMAN GREENE: Y’all can come together.

COMMISSIONER SKRMETTA: I’ve got questions for them.

MR. LARRY HAND: Chairman.

CHAIRMAN GREENE: Yes. Go ahead, Larry.

MR. HAND: Larry Hand on behalf of Entergy Louisiana. We would like to present separately from Cleco Cajun. They have a very different perspective on their opposition than we do. So with your permission, we’d like to let them go first and we’ll follow.

CHAIRMAN GREENE: That’s fine.

MR. HAND: Thank you.
CHAIRMAN GREENE: I’m trying -- five minutes. Randy?

MR. RANDY YOUNG: Thank you, Commissioners. Randy Young on behalf of Cleco Cajun. Appreciate the opportunity to be here today and speak to you on this topic. And we have a different view. We’re opposed to the certification, we’re opposed to the ALJ recommendation, and I want to talk through that with you and there’s three points that I want to cover. First is the opportunity that Cleco Cajun has brought to the table for full requirements service, that our testimony and analysis shows brings a 32 percent reduction to the current rates. And we also allowed an option that 1803 could bring their own solar and have room for additional technology as well over time, and we would backstop that with both energy and pricing so they would not be exposed to the market. That’s the first point I want to talk through. Second point I want to talk through is that what 1803 has brought to the table and their plan would mark a very significant policy change for the Commission. Nothing like it has ever been approved by the Commission before. It opens the door to reliability concerns for electric power supply in Louisiana for the future, and it has a very high risk profile for the ratepayers. The third point that I want to talk through is what are we asking of the Commission today. So as you think about these issues, I’d ask that you keep several points in mind. The first is that we asked 1803, we asked their CEO if the ratepayers of the 1803 Member Cooperatives are obligated to pay every penny of cost that is incurred by 1803. And the answer was yes. We also asked there are no costs that would be incurred by 1803 that the ratepayers would not be obligated to pay. And the answer was yes. The point, Commissioners, is that there’s no limits, there’s no caps, and
there’s a full flow through of all of the costs of this deal to the ratepayers and that’s already set up in contracts. So it’s important that you know this is all on the ratepayers. The second point that I ask you to think about as you think through these issues is that the Commission is not going to have its usual regulatory tools that you always have in place, that you use to discipline the utilities and to keep them in line, like disallowances if they spend too much money or if a deal goes bad or imprudence, if something goes wrong in how they manage it. You’re not going to have those tools. I asked Mr. Hayet, the Commission consultant, the ratepayers of the 1803 Member Cooperatives are obligated to pay -- no, sorry, wrong board. If the Commission denies for costs recovery to 1803 for any amounts, if there’s any disallowance by the Commission, who pays the costs? The members. So who’s the members? The members are the members of the 1803 regulatory -- or the 1803 Electric Cooperatives. So as you think about this and think about all the complexities, and you think about all the moving parts in this deal and all the reliability concerns and all the cost risks, think about you’re not going to have your regulatory tools in place. All of the costs goes straight to the ratepayers. So the last point that I ask that you keep in mind as you think through this is that all of this begs the question with reliability concerns, with cost concerns, with all the moving parts and the complexities, why? Why are we trying to change what we’re doing now? Is this what’s best for the ratepayers at the end of the day? And so keep that important question in mind. So let me talk now through my first point. The opportunity presented by Cleco Cajun. So Commissioners, at the start of the day and the end of the day, this is about the ratepayers. There’s 119,000 ratepayers of
these five cooperatives, 119,000. Compare that to a lot of these deals that you look
at may have a million customers that are sharing the risk if this thing goes bad.

That’s not the case here. We’re talking about 119,000 customers. Some of these
coop-ops only have 10,000 customers, 20,000 customers. There’s not a lot of folks
there to share this thing if it goes bad. The second point is that what’s the starting
point? So when we look at what the rates have been for the last few years for the
coop-ops, most of them have been at or below 10 cents for the last few years, through
freezes, hurricanes, floods, and everything else, so they’ve done well. That 10 cent
benchmark, Commissioner Campbell, that you talk about, they’ve been at that
point. So the point is, we’re not trying to solve a problem. We’re at a good starting
place, and that’s a good thing for everybody, and it’s about how do we try to make
it better, how do we bring lower rates. We’ve done that with the Cleco Cajun
proposal. It presents an opportunity. The analysis shows a 32 percent reduction in
rates in 2026. It’s full requirements, full service for 20 years. And the point is you
can lock in now, you can lock in now with known pricing, take advantage of the
low rates for the future, and it’s a full service deal. And it’s got this option that
allows them to bring solar if they want to get into that business over time. Cleco
Cajun brings an established track record on reliability and price. The Commission
knows what it’s getting from a Louisiana company. So Commissioners, when I
look at head-to-head comparison of what Cajun put on the table and what 1803 put
on the table, and you do all this complex modeling analysis, what you see is that
you’ve got a platter of costs over 20 years that’s multiple billions of dollars, in the
billions, several billions of dollars. We look at the modeling data and we look at
the assumptions we think are appropriate and we think we won by $110 million without solar, by $20 million with solar. They started out saying they think they won by $193 million. The Staff did one sensitivity analysis on that after seeing our testimony, they cut that in half. They said, well, now we’re in the $80 million, we think is better. But Commissioner, what’s important to realize when you think about what they’re claiming they’re going to save you is that all of that is so back loaded. Seventy-five percent of their savings claims are in the last 10 years of a 20 year deal. Fifty percent of their savings claims are in the last 5 years of a 20 year deal. So all these claims about they’re going to save money on this deal are very tenuous, all of this is razor close. But what’s not different, what’s not close about this deal and what is vastly different between the two proposals is the difference in reliability concerns and the difference in the cost risk to the ratepayers over time.

So let me talk about those two points --

CHAIRMAN GREENE: Randy, can you try to wrap it up? We’re trying to keep it -- you’re over five minutes, but --

MR. YOUNG: Let me talk about those two points, the reliability piece and the cost risk piece. So reliability. And this is important, Commissioners, because you’ve never done anything like this before. Cleco Cajun brings 100 percent support from physical generation. We spent a billion dollars to buy physical generation assets and have those assets to serve the ratepayers. Factually, today, in MISO Zone 9 that Louisiana is in, Louisiana and a little piece of Texas, that’s Zone 9, you look at the data and you’ve got 95 percent coverage with owned and contracted capacity, real, physical generation, owned and contracted capacity. You
look at all the zones, 8 out of the 10 have 95 percent coverage today with real
generation. Two of them have less. One’s at 71 percent, one’s at 77 percent. But
that’s not what we’re talking about here. Here, 1803’s trying to lower that bar.
They’re saying we want to do a deal that only has 60 percent coverage with real
generation assets. So it’s lowering the bar from where we are right now in MISO
9. The Commission has not looked at this before. The market’s going to be a very
different place by 2030 when they’re back out there looking for power again. We
know, from Cleco Cajun facts to what we see in other published data, there’s going
to be over 3,000, getting closer to 4,000 megawatts that are going to be going away
in the market that’s not going to be there. So when they’re going back out for -- to
buy more power over time, the market’s going to be a very different place. So what
happens next? And some will say, well, don’t worry, the market’s going to build
it. So let’s look at what we know. We know that current market prices will not
support building new generation on short-term market prices. We know that short-
term contracts will not support building new generation. Experience tells us that
the market will not finance and build new capacity today without a long-term
contract. A lot of folks tried that in the early 2000s, it didn’t work out too well, so
now people are looking for long-term contracts. This case opens the door on this
issue for the first time before the Commission with 1803 wanting to lower that bar
down to the 60 percent level. And so no matter what perspective or position you
have on this issue, the Commission hasn’t looked at this yet, it hasn’t come up yet.
And so in a lot of ways, this is getting the cart before the horse and saying let’s do
this, let’s go down this path, let’s lower the bar, the Commission hasn’t studied it
yet. And at some level, Commissioners, if there’s not enough generation to go
around, as you move the policy needle, if there’s not enough generation to go
around, at some point, there’s going to be reliability problems. So -- and reliability
is the ultimate responsibility of this Commission. It’s not MISO’s responsibility,
it’s this Commission’s responsibility. There have been other states that have looked
at this and set thresholds, this is where we want the bar to be. But the important
thing is under the Cajun proposal, you don’t have to worry about that. We already
bring all of the physical generation because we’ve invested a billion dollars to have
it. The second point that I wanted to talk through, Commissioners, is the cost risk
pieces of this, and there’s a number of them. And I’ll try to go really quickly --

CHAIRMAN GREENE: How many more points do you have?

MR. YOUNG: I have this cost risk piece and then I was going to wrap it up.

CHAIRMAN GREENE: Okay.

MR. YOUNG: I’m trying to talk fast, Commissioner. On the cost risk piece,
there’s a number of elements. Commissioner Campbell, I’m glad to see that you
got them to raise the liquidated damage piece from 5 million to $15 million, but I
can tell you, that doesn’t cover it. I mean, our testimony showed that we think that
risk number is up in the $25 million range for a one-year delay. So we think about
what can go bad in terms of delays on this project. COVID, so we know that we’ve
got labor issues all over the place, we know that we’ve got supply chain issues all
over the place, and can this thing be done on time? Hopefully it can, but if it can’t,
it’s all on the ratepayers. All the risk is on the ratepayers. And with your proposal,
Commissioner Campbell, the first 15 million of delay would be covered but all the cost above that is on the ratepayers.

COMMISSIONER CAMPBELL: Based on what you said y’all thought not being on [INAUDIBLE] --

MS. BOWMAN: Commissioner, can you please speak into your mic? Thank you.

COMMISSIONER CAMPBELL: [INAUDIBLE] thought 25 million would be enough.

MR. YOUNG: We thought that -- our testimony said that a one year --

COMMISSIONER CAMPBELL: Seventeen to 25.

MR. YOUNG: Yeah.

COMMISSIONER CAMPBELL: Well, we’re at 15, that’s not bad.

MR. YOUNG: It’s in the right direction, Commissioner, but I want you to know that you haven’t covered everything. That’s the --

COMMISSIONER CAMPBELL: You know, I mean, y’all said 17, we’re at 15. I got no further questions.

MR. YOUNG: All right. So one is in terms of delay, so you need to think about COVID, you also need to think about this turbine, Commissioner. And look, I know that we built a lot of CCGTs in Louisiana, so we have experience with them, I’m not going to deny that. But what we’ve built in more recent years and what’s been built is Mitsubishi, not GE. So we look at this GE turbine. First, let the facts show that Kindle and Magnolia have not built one before. I know they’ve hired some people that have built them, but as a company, they have not before. Number two is that this model they want to build is supposed to be bigger and faster and
hotter and more efficient, but it doesn’t exist anywhere yet today. It’s not been built before, and we know that the previous models that have been built had some very significant problems. We’re talking about serious things like melting blades and outages and fuel stage failures, those kinds of things. Maybe we won’t have those here. Hopefully we won’t have those here. But if they do, that risk is on the ratepayers because even at 15 million, you’re not covering all the risks. Next point is merchant generator risk. So you need time -- I ask that you understand that what you’re doing here is you’re creating a new merchant power company, as a monopoly, with ratepayer funding, that’s what we’re doing. They’re not just buying power and saying I’m going to go buy some power from contracts, they’re getting in the business of selling power. So there’s literally tens and tens and tens of millions of dollars of power they’ve got to sell over and above what they need to make this deal work. And if they don’t get the sales, either in kilowatt hours or in price, this deal fails, and that’s a big risk and it’s all on the ratepayers. Operational cost risk, so if there’s outages, particularly on the Magnolia plant, you need to understand that it’s a single shaft unit. If it goes down, the whole thing’s down. It’s not like our units that’s got four different units to it, this one’s only got one. And so if there’s outages, you have to go to the market for that. There’s some protections in the contract with some credits, but it doesn’t cover all of the risks. I asked Mr. Hayet, does this cover everything? He said no, the extra risk is on the ratepayers. Energy management and administrative cost risks. So Commissioners, we have different views on this, but they put a number on the table and said here’s what we think this is all going to cost to run this whole thing. We think that
number’s wrong by half. We think the number is twice what they’re telling you it’s going to cost to run this thing. Who’s going to be right? I don’t know. But if it costs more than they’re telling you, it’s all open-ended, all on the ratepayers, they have to pick up the tab, and there’s no way for you to regulate it because it’s a straight flow through to the customers. The capacity cost exposure, and that’s the 350 megawatts. So Exelon does not have any capacity in MISO Zone 9 right now. Plus, when that deal expires, they have to go out to the market again and buy power, they’ve got to buy 350 megawatts of power. They claim don’t worry, we’ve got a couple of short-term bids and one long-term bid, we put it together and we think prices are going to be okay at that five year point. We looked -- brought in a guy, an outside consultant, and he said, look, I didn’t prepare my cost projections for this case; what I’m showing you in terms of what I think capacity is going to cost, we use this to analyze, out in the real world, utility transactions, as much as $15 billion worth of transactions and hundreds of transactions, and this is the number we use for all of that. We didn’t design it for this case, here’s the numbers we use. When we look at his numbers, we see capacity prices in the future being a whole lot higher than what they’re telling you here. And if it costs more, all of that risk is on the ratepayers. So, Commissioner, to wrap this up, and in terms of who’s going to run the plan, I asked 1803 over and over, do you know how to do this, do you know how to do this, do you know how to do this, do you have experience or background on this? 1803 or the board members, every question they said, no, we don’t, we’ve never done this before. And they said don’t worry, we’re going to hire somebody. Well, they haven’t hired anybody yet, so basically, Commission,
you're approving a deal that you don’t know who’s going to run down the road or
what it’s going to ultimately cost. And all of that risk is on the ratepayers. So
there’s lots of moving parts, there’s lots of things that have to go perfectly or this
deal is not the right answer and it’s a failure for the ratepayers. There’s no cost
caps, no limits on the ratepayer exposure. A one penny misstep, one penny, it’s
$40 million a year. Twenty years, that’s $800 million difference. And I’m not
going to go into this part, but I can tell you, we worked through the Staff conditions.
Staff conditions put some dressing on it and said we’ll identify if something goes
wrong and we’ll deal with it when it goes wrong, but it doesn’t cure this risk. That
risk is there and I think the Commission just needs to understand that. Finally, I’ll
wrap up, Commissioners, in terms of what are we asking for. We believe that there
should be a better way. We believe there should be a better way to protect the
ratepayers. We understand that there’s some pieces of this that the Commission,
you know, may like and want to do some things with, but overall, we think that
there’s a better way. We’re asking to deny the 1803 application as presented and
direct 1803 to present a plan that brings less concerns for reliability and more
protections for the ratepayers on risk.

CHAIRMAN GREENE: Thank you, Randy. I think Commissioner Skrmetta has
a question.

COMMISSIONER SKRMETTA: I’ve got some questions. Just for the record,
what co-ops are part of 1803, Randy?

MR. YOUNG: It is Northeast, Claiborne, South Louisiana, Beauregard, and
Washington-St. Tammany.
COMMISSIONER SKRMETTA: Okay. Let me ask you question. Let’s say something goes wrong in the system in Northeast, okay, and it has to be repaired, okay, or some costs associated are strictly associated with Northeast, those costs, are they recoverable across all members of the 1803 system from WST, et cetera?

MR. YOUNG: My understanding, Commissioner, it’s done as a global deal and all the costs get pushed down to all of the --

COMMISSIONER SKRMETTA: This sounds an awful lot like what Commissioner Campbell was talking about earlier about north Louisiana getting hit with costs from Entergy when, you know, the south gets, you know, the trouble. So, you know, my concerns are, you know, when we look at -- and you brought this up about them being the ultimate responsible party is the members of the co-op. So we’re going to start looking at them as effectively shareholders like we do investor owned utility shareholders then.

MR. YOUNG: Yes, Commissioner. They’re the only ones there to pay is the ratepayers.

COMMISSIONER SKRMETTA: So when you talk about disallowance and imprudence, normally we would be able to take like we look at Entergy or Cleco and we could help the ratepayers by disallowing sending that cost to the shareholders and saving the ratepayers within that system. That’s impossible under this program because the members are the shareholders.

MR. YOUNG: That is correct, Commissioner.
COMMISSIONER SKRMETTA: Okay. So that means that no matter what we look at, any disallowance of a claim, anything we find that is wrong with the system down the road, it effectively is going back as a charge to the members, correct?

MR. YOUNG: That is correct. And 1803 has set that up already in the contracts. It’s a full flow through.

COMMISSIONER SKRMETTA: Now, we have looked before at manager and executive salaries under investor owned utilities and looked at revenue they received, sometimes in stock shares or viability -- I guess you wouldn’t have it the same way, but there is probably going to be -- if these companies are making money and there will probably be a mechanism for them to find ways to spend that money, possibly not all on rate reduction. But if the Commission can look at that and we reduce that, that’s just going to be an overall reduction in rates. That’s not money that we can, you know, determine on reductions like we do on investor owned utilities to where we can’t -- like you said, we can’t disallow that, send those costs back to the shareholders like we do on, let’s say, Entergy or Cleco. That’s going to have to go back and that is a direct cost that will land in the members’ laps that will be their -- they’re effectively a shareholder and they’re going to be responsible for the whole cost.

MR. YOUNG: Correct, Commissioner. Any past cost that they spend, once it’s spent, it’s at the ratepayers.

COMMISSIONER SKRMETTA: And -- go ahead. Well, and then I want to talk to you about the marketplace. Because what we’re looking at in the marketplace is some fairly long-term looks at this. And I think it’s fairly obvious under the current
administration in Washington that development of generation resources is not increasing. Would you say that’s a fairly accurate statement?

MR. YOUNG: You know, what I know, Commissioner, is that -- and what I’ve seen is that in order to build generation, people are looking for a long-term contract. Beyond that, I --

COMMISSIONER SKRMETTA: Right.

MR. YOUNG: -- I don’t have specific data.

COMMISSIONER SKRMETTA: Well, because we’re looking shrinking markets with -- and the more -- fewer assets in the market, the price is going to go up as the demand grows into the market. And so that’s my concern about this. Do you anticipate that as we get through the timeline in this, that the prices that they’re anticipating in the market will rise because the amount of available generation systems on a normal basis, not in counting critical times, that those will rise?

MR. YOUNG: Yes, Commissioner. That is what I’m saying is that we know that there’s thousands of megawatts retiring, that’s coming. It’s coming. The question is: Is there going to be enough replacement and where’s it going to come from?

And the Commission hasn’t looked at this issue and hasn’t studied where are we going on this yet.

COMMISSIONER SKRMETTA: And, you know, if you were going to advise the Commission how to look at that particular issue, I mean, how do we look at that issue on potential rising costs in the market through a generation constriction?
MR. YOUNG: I mean, the Commission opens dockets all the time in terms of whether you do it as a rulemaking or some other form, the Commission opens study dockets all the time.

COMMISSIONER SKRMETTA: Okay.

CHAIRMAN GREENE: That’s been 15 minutes now so we have to wrap this up and have Entergy come up, please.

COMMISSIONER SKRMETTA: Okay.

CHAIRMAN GREENE: Thank you, Randy.

MS. BOWMAN: Randy, will you sign the clipboard?

MS. LAUREN EVANS: Randy, also, can you send me your demonstratives in slide form or Word document so I can --

MR. YOUNG: I can. They’re direct quotes from the transcript, but I’m glad to send them to you.

MS. EVANS: Thank you.

CHAIRMAN GREENE: Thank you, Randy. Welcome. You do 10 minutes. Okay?

MR. LARRY HAND: I’ll do my best, Commissioner. I’ve scribbled a few things out, so I’ll do my best to move quickly. For the record, my name is Larry Hand. I’m counsel for Entergy Louisiana. I’m joined at the table with Mr. John Hurstell who was a witness in this case for Entergy Louisiana, but perhaps more importantly given the discussion about MISO ZRCs and the market, Mr. Hurstell was the principal witness for Entergy when we got the Commission’s approval to join MISO and also led Entergy -- it’s integration into MISO. So if there are questions
about the MISO market, what it does, what it doesn’t do, Mr. Hurstelle is a great
d person to answer it for you. You know, at the start, this is all about reliable electric
service and that requires generation, transmission, and distribution. It’s the same
today as it’s always been. You have to generate the electron, transmit it, distribute
it. This docket relates to the generation component of that reliability chain and the
responsibility of 1803 and this Commission to provide adequate physical
generation to serve the load. We sometimes refer to this as resource adequacy or
reliability. More specifically, this docket presents the question of whether the
public interest in Louisiana is served by a utility planning to serve its load with less
than an adequate amount of physical generation capacity. If you think about where
this Commission has been since it began regulating electric utilities however many
decades ago when I was not even a twinkle in my parents’ eye, it’s always been
that the utility would procure physical generation facilities’ capacity to serve the
load it had. If that utility, for whatever reason, didn’t have enough generation to
meet its load, that utility’s customers would be cut and curtailed and the
consequences of that would be confined to the utility who failed to plan
appropriately. However, in MISO, it’s a little bit different. If you fail to plan and
procure enough physical generation, as 1803 is proposing to do, that consequence,
the reliability impacts of that will not be borne only by 1803. They will have some
financial consequences, but the vast majority of the harm will flow through to all
of the load in the state of Louisiana. If you think about 20,000 megawatts of
capacity load in the system, Entergy’s about half, Cleco’s probably about 20
percent or so, that means that Entergy’s customers, it’s 1.1 million customers across
the state of Louisiana, will be curtailed by MISO if MISO runs out of capacity due to 1803 or other co-ops’ lack of planning of physical generating capacity. There was discussion about -- earlier about, you know, the market can really change the way we do things. That has not been what this Commission approved when it authorized us to join MISO. The Commission made it very clear when we joined MISO that nothing was changing about what the utility is responsible for. It made clear that utilities are still responsible for planning, building, and operating generation. So the notion that 1803 can come here in a utility specific docket and change the entire resource adequacy and resource planning paragon before this Commission without thoughtful consideration and the industry-wide implications is really mind blowing.

You know, there was talk about Commissioner Campbell getting them to agree to more liquidated damages, which is very beneficial to 1803’s members. It will provide them financial protection, but it does nothing to provide reliability protection. So if Magnolia is delayed in getting their plant on by six months, a year -- I hope that’s not the case, we wish them all the best because it’s physical generating capacity. But if they are, the liquidated damage provision will be a payment from Magnolia to the 1803 members and whatever reliability consequences have occurred because that plant’s not available or other physical generation is not available, that -- there’s no compensation for the rest of the ratepayers in the state of Louisiana. There’s a little bit of discussion in the ALJ’s recommendation about what is the public interest. And her recommendation, which with we disagree, because it -- first, it certifies a resource portfolio without adequate physical resources. But one of the things she misunderstands is the public interest
standard. She confuses the prudence standard, which is a rate recovery standard, when you look at whether or not the utility went through a reasoned decision making process to arrive at a decision. If they did, the prudently incurred costs are eligible for recovery and ratemaking. The public interest standard, however, is much broader. It’s not a ratemaking standard to determine whether this portfolio will lower the cost for 1803 or not. The public interest standard requires that you, as a Commission, think about the entire state and the implications that the proposed action here will have on the state of Louisiana as whole and all customers, whether it’s Entergy customers, Cleco Power customers, any co-op customers, even entities you don’t regulate are impacted by the decision you make here today, whether that’s the city of New Orleans, customers there, other municipally owned utilities. They’re at risk of being curtailed if 1803’s planning or lack of physical generation being planned causes a curtailment event by MISO. As we’re all aware, there was an extreme weather event -- it’s been chilly this last week, but thankfully not as chilly as February 2021, but that February 2021 event did lead to load sheds has been discussed and I think will be discussed on a later agenda item. The Commission did hire Mr. Sisung to lead Staff investigation into what caused that event, and his report, and I’m going to paraphrase it, since you’re going to have it later, but basically it found that the lack of available generated capacity during the critical hours contributed to the load shed event. So regardless of why they failed, whether it was weather related operation issues, whether it was gas supply issues, or whether it was the utility didn’t plan enough generation to have it there, the fact of the matter is there was not enough operating physical generation capacity to
serve the load. And there was a load shed event that led for all load across Louisiana and other places to be curtailed. It’s troubling to say the least that the Commission would proceed to approve 1803’s portfolio here without understanding the implications of Mr. Sisung’s report. And I say that because we asked 1803 specifically in discovery, have you considered, you know, what the effects that the winter event -- an extreme winter event would have on the portfolio you have selected. And their answer was no, we have not. The explanation was it was too recent of event and so we haven’t studied it yet. As Commissioner Greene pointed out, this is a fairly quick moving case. They filed in March of 2017. They filed a month after that event and they’ve had plenty of time to consider it but haven’t. It really falls to the Commission as the final, you know, check here to make sure that someone considers the portfolio proposed here, can it adequately serve their load during extreme weather conditions. When you think about the physical generation resources they have, which we do not oppose, you know, the PPA with Magnolia, that’s 407 megawatts; the three solar PPAs, that’s about 343 megawatts. You know, collectively that’s 740 megawatts or so. We do not oppose those because it will add physical generation to the state of Louisiana, but in a winter event, that physical capacity, when the winter peak occurred in February of 2021, the sun wasn’t shining. So the solar, the 300 megawatts of solar was not contributing to serve their load, which means if you assume the Magnolia CCGT will be in operation, it may -- I hope it is -- it may or may not be. At best, they’re going to cover 400 megawatts of their load, physical generation, and they peak in the winter, 1803 does, at about a 1,000 megawatts. So you’re setting up a scenario to approve
a portfolio that leaves them with about 40 percent of their peak load in the winter
covered with physical generation capacity. And I respectfully submit,
Commissioners, that does not satisfy the public interest standard for the entire state.

COMMISSIONER SKRMETTA: I have some questions.

MR. HAND: And I want to comment a little bit on the MISO market. The reliable
electric grid, as I said, requires physical generated capacity, transmission, and
distribution. MISO serves a very important role but not as important as the role
that you serve as the owner, the exclusive owner, of resource adequacy in the state
of Louisiana. MISO has a role in planning the transmission system and optimizing
the utilization of generation on that system, but it does not plan generation. It, being
MISO, does not plan it, does not own it, does not build it, does not maintain it. As
it’s always been utilities and Louisiana jurisdictional utilities for this Commission
are responsible for providing physical generation to serve their load and joining
MISO didn’t change it. And that’s a fact that you acknowledged in your order,
Order Number U-32148 when you approved entry into MISO, Commission stated
that reliability involved more than just transmission, it must also ensure safe,
reliable, and adequate generation. And I’d also clarify that utilities remain
responsible for taking all actions necessary to supply retail load, including
procuring fuel, capacity, and energy. And those concepts are consistent with the
MBMO order of the Commission as well the IRP general order, but it’s not
consistent with the planning model that 1803 has asked you to sign onto where they
shirk their responsibility to meet their load physical capacity. Regarding the Exelon
PPA, there’s been some discussion about ZRCs and maybe in a moment, Mr.
Hurstell can explain why the statement made earlier was not entirely -- I’ll say
entirely clear. It’s my understanding that the price of the Exelon PPA has not been
finally set or determined yet. My understanding is that will be determined and set
after the Commission approves it. So in my opinion, there’s no need to hasten
judgment on whether or not the Exelon PPA serves the public interest. As we’ve
talked about earlier, and you’ve heard, there’s no physical capacity backing it up.
There’s an obligation of Exelon to, you know, procure ZRCs or make payments to
MISO but they don’t have to build capacity. They don’t have to buy capacity --

**CHAIRMAN GREENE:** Larry, it’s been 10 minutes. Do you have much more
or do you want to -- do you still need to speak, sir?

**MR. HAND:** I have this much.

**CHAIRMAN GREENE:** Okay.

**MR. HAND:** Almost done. You know, because there’s no requirement of Exelon
to build anything, you don’t have the same pressure that we need to prove it now
like you do with Magnolia so they can start building it. The same with solar. They
need to start building it to be ready for 2025 when their load -- when their contract
goes away and they need to serve load. For Exelon, there’s no such pressure. And
so on Exelon, Commission, we specifically request that you defer consideration of
that until you have a rulemaking to consider do we really, as a state, want to change
the paradigm for resource adequacy and say that it no longer matters, utilities, that
you have physical generation to cover your load. And I would just ask the
Commission to think about a world where all utilities in Louisiana took the same
planning approach with regard to physical capacity and only for procured 40 to 50
percent to cover their peak load. That would mean Entergy’s 10,000 megawatts of
generation, you would be telling us, Cleco and others, all you really need is 50
percent. It would be a heck of a lot cheaper for us not to build and buy all that
capacity and maintain it if we could just rely on the PRA, but that’s not what the
PRA is for. And that’s why it will break the market. And I would ask Mr. Hurstell
to comment on that market issue as well as the ZRCs and I do appreciate the time,
Commissioners.

CHAIRMAN GREENE: Yes. How long do you need?

MR. JOHN HURSTELL: Just a few minutes.

CHAIRMAN GREENE: Okay.

MR. HURSTELL: My main comment is the information you were provided by
friends from Exelon is just not true. The idea that the ZRCs represent one real
megawatt of capacity is simply not true. That is only the case when there is -- when
there happens to be excess capacity in the market, but in 2025, if Exelon goes to
the MISO planning resource auction and says I want to buy 300 megawatts of
capacity and no generator offers 300 megawatts of capacity, MISO will sell them
the Zonal Resource Credit. They will sell them the Zonal Resource Credit so that
Exelon will go to 1803 and say we have met our contractual obligation. So it’s -- I
think it’s incumbent upon the Commission to understand that under this contract,
there is no obligation for Exelon to ever actually supply physical capacity. And the
idea that there will be plenty of capacity out there, and as Commissioner Greene,
as you mentioned, there was a lot of responses to the RFP, but all those responses
said we will build capacity if you give us a long-term contract. There has not been
a merchant generator built in this state without a long-term contract since the early
2000s when all those generators came in and they all went bankrupt. So now
without a long-term contract, no one is going to add new generation. And finally,
one last point -- well, two quick points. One is if you want proof of that, you’re
going -- you know, they asked for the expedited schedule so that they could
commit to Magnolia, so that Magnolia wasn’t going to build the generation without
a long-term contract. And finally, if there is going to be plenty of capacity
available, then it would not be a burden for this Commission to tell 1803, fine, if
that capacity is going to be available, that means you can go sign it up right now.
And instead of allowing Exelon to play the market and risk the reliability to all of
customers in Louisiana, this Commission could simply just say no, go get the
physical capacity that you claim is abundant in the market.

CHAIRMAN GREENE: Thank you very much. I think Commissioner Skrmetta
has a question.

COMMISSIONER SKRMETTA: No, I’m going to pass.

CHAIRMAN GREENE: Okay. Commissioner Francis.

COMMISSIONER FRANCIS: What’s the -- John, what’s the length of the
contract with Exelon?

MR. HURSTELL: Twenty --

MR. HAND: It’s five years, Commissioner.

MR. HURSTELL: Yeah, it’s 2030.

COMMISSIONER FRANCIS: It’s a five year contract.

MR. HAND: 2025 to 2030.
COMMISSIONER FRANCIS: What -- we’re all interested in capacity in the future of course because of reliability situations. Would Entergy have a prediction on when they going to have a problem with capacity, what year is that going to happen?

MR. HURSTELL: Well, let me offer this is that Cleco right now -- I’ve heard a lot of discussion that they’re bringing a 1,000 or 800 megawatts of new capacity. Well, between the solar and Magnolia, they are, but the question is if nobody’s paying Cleco for the capacity that it is using right now, why would Cleco keep that capacity operating. It’s -- they’re not going to continue to pay money to keep capacity operating just so that Cleco -- I mean so that Exelon can make money off of this contract. And it’s important to understand MISO has no authority --

COMMISSIONER FRANCIS: Right.

MR. HURSTELL: -- to require a generator to stay on line --

COMMISSIONER FRANCIS: No.

MR. HURSTELL: -- just to provide capacity to entities that have not properly planned capacity.

COMMISSIONER FRANCIS: That’s the Public Service Commission’s job.

MR. HURSTELL: It’s a -- you are the only --

COMMISSIONER FRANCIS: Do you have a prediction on when we are going to run out of capacity?

MR. HAND: Commissioner, we have studies. We look at projections --

COMMISSIONER FRANCIS: That’s what I’d like --

MR. HAND: -- based on publicly available information.
COMMISSIONER FRANCIS: All right. Okay.

MR. HAND: But it’s too hard to predict when, you know, you know about Dolet Hills. That’s shutting down.

COMMISSIONER FRANCIS: Two, three, five, seven, ten?

MR. HAND: You know --

COMMISSIONER FRANCIS: Pick one.

MR. HAND: If you look at ours, you know, we have capacity predictions. I don’t know the exact date but we, too, have older units that economically -- and the Commission has a docket about studying the economic deactivation of Legacy units. So I don’t have an exact number. I can follow up with you, but I would --

COMMISSIONER FRANCIS: You think it would happen before that five year Exelon term is up --

MR. HAND: Very likely.

COMMISSIONER FRANCIS: -- that we might have a shortage?

MR. HAND: Very likely.

MR. HURSTELL: Let me point out one thing that is in the Entergy and Cleco system, there’s plenty of older units and I -- unfortunately, I’ve been around for most of their lives. It’s not unusual for a 500 megawatt generator to suddenly die.

COMMISSIONER FRANCIS: Yes.

MR. HURSTELL: It is very unusual for a 500 megawatt generator to suddenly appear.
COMMISSIONER FRANCIS: Okay. I think we can all understand that. You think those who support 1803 are concerned about the capacity and [INAUDIBLE]?

MR. HURSTELL: I don’t think they are because they are not the ones who will face the reliability risk.

COMMISSIONER FRANCIS: There’s a lot of them here today that believe they are.

MR. HURSTELL: And I understand it, but we --

COMMISSIONER FRANCIS: You think their customers know that they’re kind of walking a tight rope on capacity?

MR. HURSTELL: I doubt if they know that, but the reality is it’s not their customers. It will be Entergy’s customers.

MR. HAND: And Cleco Power’s customers. So if you think about it, if there’s 500 megawatt curtailment in the entire state, a MISO load shed event, MISO says hey, Entergy, the entire state Louisiana get down by 500 megawatts, so we have roughly -- our load is roughly half of that, Cleco Power’s -- you know, that’s probably 250 megawatts, Cleco Power is 90 megawatts, 1803 is a 1,000, which that percentage would be about 25 megawatts. So 1803’s members would get cut if they actually respond to the call to cut, which was the problem the last time around, they would get cut by 25 megawatts. Entergy would be cut by 250. Cleco Power would be cut by 90. And that’s why they’re not going to feel the same pain that their actions can cause.

COMMISSIONER FRANCIS: Okay.
CHAIRMAN GREENE: Thank you very much, gentlemen.

COMMISSIONER FRANCIS: Thank you.

CHAIRMAN GREENE: Appreciate it. I think we’re ready for a vote now. Does
--

COMMISSIONER SKRMETTA: I’d like a closing argument, please.

CHAIRMAN GREENE: I’m sorry?

COMMISSIONER SKRMETTA: I’d like to do a little closing argument.

CHAIRMAN GREENE: You have three minutes.

COMMISSIONER SKRMETTA: Yeah, well, okay. Well, first off, I’d like to
just start by saying when we earlier said about Icon that they were the low bid and
et cetera, there was comment that that wasn’t true on the Commission and then we
elicited testimony through ACES that Icon was the low bid. Icon also did offer to
build substations through some, you know, cursory discussions. So I would like to
point out that the statement was accurate. The other thing is that I’m very concerned
about the fact that the members are ultimately responsible. There is a specter of the
Cajun bankruptcy in the room. There is a little bit too aggressive nature about
jumping into this thing wholeheartedly when what we’re talking about is the market
is not going away, you know, it’s going to be there in 60 days, it’s going to be there
in a 100 days, it’s going to be there in a year. But if we approved the limited aspect
of Magnolia Power Plant, we looked at the solar, about approving that, and left the
rest up to a rulemaking. We would be acting in the best interest of the members
and eliminating the risk associated therein. Look, I’m not about making money for
other states. We should be working on developing the assets that we have and
developing new assets in Louisiana to provide jobs, to provide tax revenue, we shouldn’t be helping Illinois, Alabama, Texas, et cetera, in utilizing their power. You know, I’ve asked about this winter storm report we’re going to get from Mr. Sisung and I asked the Chairman, could we do this before this because I thought it was relevant associated to this. And the Chairman denied moving it -- me, my request to move it into the line because that’s it, and here we have Mr. Larry from Entergy said, it’s an important element that we should have talked about this. We’ve had Mr. Hayet talk about the fact that he is not sure about what assets failed in Texas and how they are possibly included on what power they’re supposed to deliver to the co-ops. These are a problem. And I’m going to tell you that I have a Master’s degree in maritime law and so it interests me to study certain maritime events. And I studied the Titanic, and I’m not trying to be goofy about this. And most of y’all don’t know this, but the Titanic was built as a system, and it was unsinkable. And the reason why it sank was not because it got -- hit an iceberg, it was because when they built their water tight doors, they said well, we don’t have to build them all the way to the top deck, we’ll build them up a certain way because the water is never going to rise that high. It’s never going to overturn the thing. And they didn’t build the water tight doors up to the main deck. Well, what happened? They hit an iceberg, the water flooded up, it covered over the top of the water tight doors and then the next one went and then the next one went and then the next one went. My concerns are there are elements of this discussion that are not taking in consideration that things can happen and we have an impact potential on the members, we have an impact potential in the market. So my
recommendation is to vote no on this, to take it up again immediately under a secondary motion to approve Magnolia, approve the solar fields, and send the rest to a rulemaking where we can really look at the issues associated with the market, with Exelon, and the other elements of it. Because otherwise, most of the Commissioners up here -- well, some of them will still be here, some of them will not, when this all really kicks in and I hate to see a burden placed on the members of these co-ops of sizable potential and also affect the marketplace unnecessarily. So I ask that the members of the Commission consider this element and vote no and let’s bring this immediately back up and look at doing this in a more reasonable way to protect the ratepayers and let us not go into an area where we’re going to have a problem. So thank you.

CHAIRMAN GREENE: Thanks, everyone, for their comments. We have -- we’re going to vote here in one minute but Kathryn has one thing to say. So Kathryn.

MS. BOWMAN: Yes. Staff just wants to correct one thing for the record.

CHAIRMAN GREENE: Staff, yeah, please do.

MS. BOWMAN: It will be short and sweet.

CHAIRMAN GREENE: Yep.

MR. PAT PATRICK: Yes, Your Honor, Pat Patrick. I’m outside counsel for the Staff. This has been a long, drawn out process. I’ll be very brief. Staff certainly supports the ruling of the ALJ and the findings of Staff’s outside consultant. I think one thing that I would like to offer is that the issues about disallowance and oh, well, disallowance, you can’t use that here. Look, regardless, even if the wholesale
contract was the Cleco Cajun wholesale contract, let’s assume that that is in place
in the portfolio, you still have the same problem with 1803 or the same -- I won’t
say problem, but the same situation. For a co-op, the members of the co-op own
the co-op, so you don’t have this distinction that you have with IOUs where you
have shareholders that you can sock it to, who are then going to hopefully fire the
people that screwed things up. Well, now, what you have with a co-op is you have
co-op members that get it socked to them if their people screw things up who
hopefully they can fire if they screw things up. So I think it’s a distinction without
a difference, and I would not pay an awful lot of attention to the whole issue here
on disallowance. Other than that, look, as far as the numbers go, the numbers here,
that’s what a six day trial was about, is going through and having somebody who
has worked for the Staff for -- worked for the Commission for a long time and
looked at it real close to weigh all of the different numbers and come up with what
she thought was the appropriate resolution. So I’m not going to argue about 32 as
opposed to 85, whatever. I think that’s set forth. I think that this Commission has
a system in place, you’ve got an 1983 order, you’ve got an MBM order. We are
here today to certify the results of those and part of the process is to have a ALJ go
through and rigorously examine a mountain, literal mountain, of factual data and
sift through it and divine what the true numbers are. Now, you guys, y’all have --
your role is policy. Your role is order, but when it comes to what the numbers are,
who offers the best price, who offers certain things that are concrete, they can be
examined, I think that’s what the ALJ did. That’s it.
CHAIRMAN GREENE: Thank you very much. So we’re going to go ahead and vote now. There’s a motion by myself to accept and a second by Commissioner Francis with opposition by Commissioner Skrmetta. We’ll have a roll call vote. Commissioner Campbell, do you vote to approve?

COMMISSIONER CAMPBELL: Yes.

CHAIRMAN GREENE: Commissioner Boissiere.

COMMISSIONER BOISSIERE: Yes.

CHAIRMAN GREENE: Commissioner Skrmetta.

COMMISSIONER SKRMETTA: No, with reasons assigned.

CHAIRMAN GREENE: Commissioner Francis.

COMMISSIONER FRANCIS: Yes.

CHAIRMAN GREENE: Chair votes yes. The matter is approved. Thank you.

Next.

MS. BOWMAN: Exhibit Number 14 is Docket Number U-36223, is Baton Rouge Water Works Company doing business as Baton Rouge Water Company. There’s an application for an increase and adjustment in retail rates, it’s a request for interim rates, approval for Hurricane Ida recovery and request for establishment of an emergency reserve fund. It’s a discussion and possible vote on interim rate increase pursuant to Rule 57, so this will need two votes. And it’s at the request of Chairman Greene.

CHAIRMAN GREENE: Motion to take this up under Rule 57.

COMMISSIONER BOISSIERE: Second.
CHAIRMAN GREENE: Second by Commissioner Boissiere. Any discussion or objection? [NONE HEARD] Hearing none, the matter is taken up under Item 57 -- Rule 57. I motion to accept.

COMMISSIONER SKRMETTA: Opposition on this.

CHAIRMAN GREENE: Opposition from Commissioner Skrmetta. Is there a second? I think Commissioner Francis --

MS. BOWMAN: Was there -- there was a motion by Commissioner Greene. Was a there a second by Commissioner Francis on the Staff recommendation and then opposition by Commissioner Skrmetta? I just want to make sure I heard everything on the record. Guys, can you guys like keep it down?

SECRETARY FREY: If you’re leaving the room, please be quiet. Thank you.

CHAIRMAN GREENE: So to clarify, we’ve taken the matter successfully up under Rule 57, and now there’s a motion, a second, and opposition to -- and now we’re discussion.

COMMISSIONER SKRMETTA: Yeah. I just want to make a quick comment. I’ve done the math on this and I can’t see where it’s justified. Staff didn’t meet with me. Who’s the Staff representative on this?

MR. BELLO: Commissioner, this is my docket.

COMMISSIONER SKRMETTA: Is it you, Justin?

MR. BELLO: Yes, sir.

COMMISSIONER SKRMETTA: Yeah. You know, we can do this one of two ways. We can either defer it a month or we can go ahead with the vote. So it doesn’t matter to me.
MR. BELLO: And just to point out, Commissioner, there is no Staff rec on this because it is a interim rate, so.

COMMISSIONER SKRMETTA: Okay. There’s no Staff rec. Okay. I’m just going to oppose it. I went and did some look at, and I just can’t see how it works, so I’m just going to oppose it.

COMMISSIONER FRANCIS: Well, I disagree with Commissioner Skrmetta. I looked at the math. I think the math’s right in my opinion, so I’m going to support this.

CHAIRMAN GREENE: All right. So we’ll have a roll call vote. Commissioner Campbell has left, so Commissioner Boissiere.

COMMISSIONER BOISSIERE: Yes.

CHAIRMAN GREENE: Commissioner Skrmetta.

COMMISSIONER SKRMETTA: No.

CHAIRMAN GREENE: Commissioner Francis.

COMMISSIONER FRANCIS: Yes.

CHAIRMAN GREENE: Chair votes yes. The matter is passed. Next.

MS. BOWMAN: Exhibit Number 15 is deferred. Exhibit Number 16 is a docket to be determined. It’s Dixie Electric Membership Corporation’s application for emergency rate relief, including interim relief to recover extraordinary costs outside of DEMCO’s annual formula rate plan. It’s a discussion and possible vote to retain Resolved Energy Consulting. Staff solicited Resolved Energy Consulting for this due to its work on Docket Number U-35359, which was DEMCO’s annual formula rate plan -- excuse me -- DEMCO’s formula rate plan that was approved and the
subsequent test years. In response to Staff’s solicitation, Resolved Energy proposes
to complete all work required for 26,400 in fees and 1,600 in expenses, for a total
budget not to exceed of $28,000. Therefore, Staff recommends that the
Commission retain Resolved Energy Consulting.

CHAIRMAN GREENE: Chair motions to accept.

COMMISSIONER FRANCIS: Second.

CHAIRMAN GREENE: Second by Commissioner Francis.

COMMISSIONER SKRMETTA: Opposition.

CHAIRMAN GREENE: Opposition by Commissioner --

COMMISSIONER SKRMETTA: For reasons previously assigned.

CHAIRMAN GREENE: Opposition by Commissioner Skrmetta. Roll call -- any
discussion or -- any further discussion? Roll call vote. Commissioner Boissiere.

COMMISSIONER BOISSIERE: Hold on, hold on, hold on, hold on, hold on. I
got the right one.

CHAIRMAN GREENE: Sixteen.


Yes, I vote yes.

CHAIRMAN GREENE: Commissioner Skrmetta.

COMMISSIONER SKRMETTA: No.

CHAIRMAN GREENE: Commissioner Francis.

COMMISSIONER FRANCIS: Yes.

CHAIRMAN GREENE: Chair votes yes, the matter is passed. Next.
MS. BOWMAN: Exhibit Number 17 is our reports, resolutions, discussion, votes, and directives. We have a report from Staff regarding the continued investigation into Docket Number R-34758 into transmission and generation issues occurring during the February 2021 winter storm event. And UPC, Mr. Sisung is going to present that on behalf of Staff.

CHAIRMAN GREENE: Yes. Welcome, Lane.

MR. LANE SISUNG: So I’m the lucky one that stands between everyone and lunch, huh?

COMMISSIONER FRANCIS: Yes. You’re it.

COMMISSIONER BOISSIERE: Introduce yourself, please.

MS. BOWMAN: Lane, here, I got it.

MR. SISUNG: Lane Sisung, United Professionals Company, procured on behalf of the Louisiana Public Service Commission to do an investigation into the transmission and generation issues that were associated with the winter storm. Ms. Bowman is going to go ahead and pull up the slides. I can get started with some of the background information. We don’t need to see it. I mean, it’s pretty much -- we all know what happened. You know, during the week of February 14, 2021, the entire southern region of the United States experienced unprecedented extreme low temperatures. Those storms became known as Winter Storm Uri and Winter Storm Viola. The high temperature during the winter storms were more than 30 degrees below average highs and low temperatures were 20 to 30 degrees below average. As I said, this was not a Louisiana only impact. This was region wide impacts. And when I say region, I will discuss that in terms of ERCOT, MISO, and SPP, the
regional transmission organizations that surround us. There were 4,124 outages, D
rates, or failures of generating units across all three of those regional transmission
organizations. Of that amount, 75 percent was related to freezing issues and fuel
issues. And we’ll get into the fact that it was -- it was -- freezing temperatures were
impacting the units as well as lack of ability to get fuel was another issue, which
we’ll get into in a little more detail. I’m sorry. Don’t count this time against me
keeping you from lunch. Okay. I’ll pick back up here. As everyone knows, the
storm hit ERCOT in a much more impactful way than it hit SPP and MISO.
ERCOT had three consecutive days of firm load shed peaking at 20,000 megawatts
at one point. As most people in here are aware, ERCOT is an island within DC
ties, so those impacts really didn’t bleed into us and we didn’t bleed into them. So
ERCOT had very significant problems and very specific problems that they’re
addressing within their report that we didn’t need to get into. Within MISO, the
unique thing that happened is that typically the transmission flows are from west to
east. They move from generation out to the load pockets. They move from the
seam to the right, but when the winter storm event hit, SPP got the winter impacts
first, to our left. And so all of the transmission flows reversed. And the
transmission flows started going from east to west. This put a tremendous amount
of stress on the transmission system to operate, to not only generate the power to
get to the load as it normally does but to also export wind from east to west. That
in and of itself, that reverse of flows in MISO’s own report resulted in the MISO
Reliability Coordinator having to declare several transmission emergencies which
led to load shed, one in Louisiana, two in Texas. So the winter storm impacts that
occurred in Louisiana, this report that we have written and this presentation that I’m giving today really is broken into two different types of impacts, the reliability impacts and the cost impacts. We’re going to go over the reliability impacts first, which were the outages. There were a lot of distribution system outages caused by ice, caused by wind, caused by normal things that storms cause to give distribution outages. This report did not focus on those. We provide the data points because we were given the data points. But the point of the report was not to form -- not to comment on the distribution system and those typical kinds of outages. What this report focuses on is the impacts that were -- that were experienced in Louisiana from the Regional Transmission Organization load shed, the RTO load sheds. There were four of them that we experienced. And MISO, on the morning of February 16th, we had the Transmission System Emergency. I’m going to go through that. The -- on February 16th in the afternoon, we had the max gen event, and then SPP with SWPPECO up in our northwestern corner of the state, they had two EEA-3 max gen type events. They don’t call them max gen events. That’s a MISO terminology. They’re both related to NURC standards, which say if you don’t have enough generation to serve your load, you have to shed your load. SPP experienced two of those. After I go through the reliability impacts, I’ll also provide you with the data points of the cost impacts. I think most people are aware of them, but the report went through them and kind of explained. And then we’re going to wrap up with some recommendations that Staff would like for the Commission to consider, not for any kind of a vote today, but just to consider maybe in the future that we take up some action items. So the MISO Transmission System
Emergency. So on the morning of February 16th, you had the flows coming from the east to the west and if you see that pretty yellow line over there with our wonderful skills, that’s representative of the Weber Wells line. That line started to become overloaded trying to export all of the power from east to west. Then you had a unit trip, and when the unit tripped and the line was overloaded, MISO was fearful of cascading outages and they called what’s called a Transmission System Emergency. So that load shed was directly related to the transmission line, but as the theme that you will hear as I go through this, it was also contributed by the fact that there was no generation, that generators were tripping and not available. That is consistent throughout every one of these load sheds. I don't think it’s fair that you could say that any of these load sheds were one or the other. They were both contributing factors in a hostile weather situation. With this one, you know, you can see the units. We put all the units that were out. To be fair, though, some of these units had very small D rates and we wanted to make sure that that was expressed. But these were the units that were out for the Transmission System Emergency when that was declared. The next MISO load shed event we had is the max gen event. I think everyone’s become pretty familiar with the term max gen. It means there’s not enough generation to serve load. This occurred on the evening of February 16th. It lasted for about three hours. We had 300 megawatts of Louisiana load shed, over 97,000 customers. These maps only show our regulated utilities generation that was out. Cleco Cajun worked very well with us in providing this information to do analysis, but they did not authorize us to give you specific information as they’re not regulated. So they’re not on the map, but these are the
units that were out and the transmission system was still heavily congested and still
a contributor although this one specifically because you didn’t have enough
generation to meet the load. And SPP, we have another map here. Early afternoon
of February 15th, this one only lasted one hour, over 23 megawatts of load shed,
5,230 customer outages. This was SPP’s first ever load shed event, and they have
taken these load shed events very serious. We’ve been working with them on all
their committees, on their post-weather evaluation. Once again, just for
informational purposes, we were asked to identify the units that were out during the
time and they’re identified on this slide with the caveats. February 16th, they had a
much more significant load shed in SPP, duration was over three hours. You can
see a lot more customers, 42,000 were affected and you can see all of the SWEPCO
units that were not operating during this event. So why were these generators not
operating? Two reasons, cold weather were impacting some of the generators, lack
of fuel supply was affecting the other generators. I can say that the cold weather
issues were more prevalent in MISO Louisiana and that the lack of fuel supply was
more prevalent in SPP, but nevertheless, in both MISO and SPP, every regulated
utility at the Commission had generators that were unable to produce because of
weather and because of fuel.

CHAIRMAN GREENE: Hey. Can I ask you a question on that slide?

MR. SISUNG: Certainly.

CHAIRMAN GREENE: So the generator outages, just to clarify, was it because
there weren’t enough generators built or was it because the ones built weren’t
weatherized and couldn’t get the fuel?
MR. SISUNG: It’s the latter. The -- all the planning that is put in place has indicated that there’s enough generation to be built. I have a slide that will kind of show you the generating capacity that was available.

CHAIRMAN GREENE: Okay. Thank you.

MR. SISUNG: And this is that slide. So this is MISO. No, actually, this is the state of Louisiana because this is over all of the days of the storm, the significant days of the storm. Starting with Sunday, which was, you know, the calm before the storm so to speak, and then getting into the really stressful days of Monday, Tuesday, Wednesday. The red line across the top is the load obligation that each of the four utilities in Louisiana had during these days. The blue bar is the amount of generation that was being offered into the market, so the capacity existed. It was being offered. A blue bar above load can be considered a good thing. What we learned as we went through this report, though, is that operationally, it doesn’t guarantee that the utility had more generation than load available. Because operationally, when a unit trips, you don’t just immediately go reduce your load. You call the real time desk, then you work with the real time desk to try to get that unit back online. It’s not until after you spent a considerable amount of time trying to get back online that you enter into the outage system of MISO or SPP and that you reduce your load offer, so then you reduce your offer. So having blue can be good, but it’s not guaranteed to be good above the red line. The red is the actual amount of generation that was produced by each of these utilities, the red bars. Now being lower in red than your load doesn’t necessarily mean you didn’t have the generation available to serve your load. What it means is -- it could mean that,
it could mean that you didn’t have enough generation, but it could also mean that
there was more economic generation available to serve your load that you didn’t
need to start your units. Okay. So that impact will become more important when
I get to the next slide. But generally what you can see from these slides is that, you
know, across the weather, event you had utilities that were offering more than their
load and you had utilities that were very close to meeting their load and then you
had some utilities who were not close to meeting their load. So this was to give
you a general picture of the days. We thought that the next slide, oh, here you go,
was more impactful. These are the actual hours of the load sheds, and this is a
MISO only slide. There’s one for SWEPCO SPP as well. And what you can see
here is that the red bar once again is below the requirements during the load shed
hours and the blue is the offers, but more importantly, the red is the generation.
And you can see that across the board, no utility was generating enough generation
to cover their load, some much worse than others. And this is the reason that we
have many of the recommendations we have because we count on this capacity for
our most extreme events and it didn’t show up. And so that is a question we need
to get to the bottom of and we need to figure out. Once again, some of the reasons
it didn’t show up was because they couldn’t get the fuel. That’s not really on them.
Some of the reasons is winterization; that can be on them. Those are the things we
need to investigate and get to the bottom of and create rules and mechanisms to
make sure that we don’t do this again. This was SPP SWEPCO, same rationale.
And you can just see that they also were not generating enough to meet their load.
And I will say this: Having the blue bar above the red line doesn’t necessarily mean
that you have more generation load, but having the blue bar below the red line
means you absolutely did not have enough generation online to serve your load. So
what did all these outages lead to? What are the impacts? And these are some data
points, you know, and we can read them off or you can look at them. Entergy had
235,727 outages. These were the non-RTO directed outages. These are the
distribution type outages. Cleco Power had the 78,000. And I will say, and there’s
a recommendation related to this, we asked the cooperatives for their outage
information and only a few provided us with responses. So we think that there
needs to be a better informational system set up and an obligation with regards to
that moving forward. Now, here are the Louisiana reliability impacts, the MISO
directed load sheds. I don’t want to read all these off. I know we’re trying to get
out of here. They’re on the screen; they’re in the report. But you can see that they
were very impactful amounts of load sheds in MISO. SPP directed load sheds.
Here are the numbers. And then -- so that finishes up the section of the report
related to the reliability issues. The other thing that we were asked to look at was
the cost impacts. Entergy Louisiana had 166 million increased FAC cost from this
storm, 145 million of that was directly related to the cost of fuel. And that was
really largely driven by two gas suppliers when unexpected gas had to be procured.
They were in the market. They couldn’t take the risk. They had to go find the
producers. They really only passed through that risk to them and it was just that
need to get gas when it was otherwise unavailable, the prices were extraordinary.
The thousand kilowatt hour customer impact, had Entergy and the Commission not
worked together on a solution would be have been $68.67 on one bill. They
deferred it over five month period, reducing the impact to $15. Cleco Power had a
$78 million increased FAC cost, 46 million of that was related to economy
purchase. That means that because they didn’t have enough generation, they had
to go buy generation. So as you look at their FAC, where was the increase
generated? It was the purchase of other generation. However, that was still natural
gas price driven because they just passing on the cost of the natural gas of those
generators they were buying from. They deferred 50 million over a 12 month
period and reduced one time increase of approximately 57 to over 12. SWEPCO,
the gas prices in SPP were extraordinary and SPP is extremely focused on this issue.
They were outbidding -- the utilities were out -- were just one-upping each other,
driving the price up as everyone scrambled to get such a limited amount of gas that
the prices were unruly. SWEPCO has a 167 million of estimated LPSC
jurisdictional share of the increased energy cost. That’s Louisiana’s share. I mean,
just go back -- I don't know how to go back a slide, but that’s almost a same amount
as Entergy and it’s much larger sampling. You can see the amount’s so large it
could not have been absorbed in one period. And their proposed impact is not to
spread it over a 5 month like Entergy or 12 months like Cleco Power, but to actually
have to spread it over a 5 years of -- at $5 a month. And that actually gets to one
of the recommendations that we have, which is the perfect segue because here are
the recommendations. We have the -- we recommend that all load that has
generation serving it be required to provide winterization reports and analysis on
all the generators that serve their load. Each regulated utility should provide the
Commission with an analysis of each generator’s cold weather risk and fuel supply
risks, including identifying any potential costs which might be necessary to mitigate
those risks. We think that that -- all of the utilities have already engaged in this.
They’ve all done their own lessons-learned reports. They need to produce that to
the Commission and they need to let the Commission have insight into that.

CHAIRMAN GREENE: What’s your recommended timeframe for wanting --

MR. SISUNG: As I say, they’ve all already engaged in this. I would say, you
know, 60 days something --

CHAIRMAN GREENE: Okay. Something like that.

MR. SISUNG: After we get that initial analysis, I think that having experienced
this and, you know, the general theory that these are going be more frequently is
we should get annual reports thereafter on the winterization efforts and the reports.
They already do a winterization report for MISO and the SPP. So we just want to
tailor it to the Commission. The second recommendation is formal communication
protocols as between the RTOs and the Commission. I can tell you that we worked
with the RTOs after 2018 and we have informal communication protocols which
worked quite well. We just think it would be appropriate to formalize them and do
a written action plan so that everybody has something they can point to if it ever
does [INAUDIBLE]. The third recommendation is that -- as we said, we had some
difficulty getting information from some of the cooperatives. We believe that any
regulated load which relies on wholesale generation needs to be responsible for
providing the information related to both its load and its wholesale generator
performance during reliability events. Just like we can go and tell you every unit
that was out for all these units, we want to be able to continue that. We want to
know who is contributing to the problem, and so we believe that that should be taken. A fourth, fifth, and six recommendation, all relate to the gas issue. We think that the utilities have historically purchased gas, you know, a day out, a couple days out because they don’t know if they’re going to get dispatched. If they procure gas over a long term and they’re not economic, and they don’t get dispatched, now they’re selling that gas back into the market and they could be selling at a loss. So traditionally, that’s how gas has been procured for these units. After coming through the winter weather event, the question is do we need to start considering maybe taking a risk of that potential cost of fuel in the winter months because, I mean, you can see all it takes is one event with what SWEPCO had and that cost would be nothing compared to the kind of cost that had to be passed through. So we think that utilities should look at ways to manage those fuel costs during the winter months, whether it be physical procurement, financial hedges, or even gas storage.

**CHAIRMAN GREENE:** Do you know if the weatherization is in place, how that affects the short term procurement of gas that would be necessary?

**MR. SISUNG:** Weatherization of the generator unit or the natural gasses --

**CHAIRMAN GREENE:** Of the natural gas transportation system.

**MR. SISUNG:** Yeah, I mean, the -- it absolutely impacts it and, you know, that is something -- when I say we need to investigate it, we didn’t say you need to do it, the -- at SWEPCO, we have the Improved Resource Efficacy Task Force, IRET. They just received a report that showed that it almost didn’t matter whether you had firm gas or non-firm gas to whether you got curtailed or not for force majeures.
Now, they couldn’t answer the question whether that firmness was related to transportation or to the physical supply of gas so they’re going to go back and research it. But, you know, we definitely don’t want to pay that cost if it doesn’t matter, if force majeure. So that’s what Number 8 is, and I’ll come back to 7. But you know, MISO, SPP, and this Commission need to engage in all the efforts that are occurring at NAESB and at FERC regarding force majeure and how the natural gas electric coordination occurs. This was looked at after the 2018 storm. There were some improvements made, but clearly not enough, and there needs to be an active engagement in ensuring that we have secure gas supplies for our generators during these events.

COMMISSIONER BOISSIERE: Let me jump in if you don’t mind.

MR. SISUNG: Absolutely.

COMMISSIONER BOISSIERE: I know you said you didn’t know how to go back one, you clicked off of six just as you -- I didn’t get a chance to jump in and stop you.

MR. SISUNG: Sure six --

COMMISSIONER BOISSIERE: There you go.

MR. SISUNG: Six was gas storage.

COMMISSIONER BOISSIERE: Right.

MR. SISUNG: Just the third --

COMMISSIONER BOISSIERE: Four, five, and six because you made a comment there.

MR. SISUNG: [INAUDIBLE]
COMMISSIONER BOISSIERE: Right. And so this recommendation is to do what, to protect us from --

MR. SISUNG: So the most secure generators during this storm were those that had dual fuel supplies and access to actual physical gas through storage. And so there are -- some of our utilities for some of the units do have some gas storage. The question is: How much would it cost to get more and do we need to consider getting more gas storage?

COMMISSIONER BOISSIERE: Okay. And you talking about the IOUs here, the utility companies?

MR. SISUNG: Yes, yes.

COMMISSIONER BOISSIERE: All right. Okay. So there’s some potential exposure and your recommendation is to find ways to protect us in the future from a storm like this.

MR. SISUNG: Yes.

COMMISSIONER BOISSIERE: Okay. Just wanted to make sure I heard you correctly.

MR. SISUNG: [INAUDIBLE] -- these are related to the fuel risks as well as Number 7.

COMMISSIONER BOISSIERE: Okay. That’s cool.

COMMISSIONER FRANCIS: Lane, let me ask you a question. Lane?

MR. SISUNG: Yes, sir.

COMMISSIONER FRANCIS: You know, we’ve done a good job with the electric RTOs, looks like it’s a good idea. Do you think in the future we might have
gas RTOs also? It’s a -- you got a generator, you got the fuel, we’re RTO the
generator, we’re not RTO the fuel. So --

MR. SISUNG: I’m going to answer that very nicely. No.

COMMISSIONER FRANCIS: Okay.

MR. SISUNG: I don’t see that. I skipped over seven, but this an important
component. I know Commissioner Skrmetta has been beating on this for a long
time on MISO, as well as the other Commissioners. You know, we have this
north/south constraint. It’s talked about time and time again between MISO North
and MISO South. And you know, there’s talk about expanding the constraint. The
issue is we’ve worked with MISO on this for years and they have done two specific
studies, and to date, they have been unable to find an economic solution to expand
that constraint. Nevertheless, I think it’s important on us to keep pushing and to
look at that and try to figure out a solution because for that max gen event, right
before they declare the load shed, the imports coming from north to south were at
their maximum limit. A phone call was placed, which is allowed under the rules,
can we expand that capacity coming through and the joint parties, I believe it was
TVA, subject to check, said we’re scared that would risk our system, no. And so
right after that no came the load shed, had there been more capacity, you wouldn’t
have had the load shed. Now, we had a three hour load shed. How much money
do we want to spend to avoid a three hour load shed. Those are the difficult
questions we’re going to have to look at and do, but we need to keep engaging in it
because it is a solution. Number 9 is the only utility specific recommendation that
we’re making and it’s simply because of the tremendous impact that SWEPCO had
to endure due to the fuel prices which I showed over five years. You know, securitization is a tool that can be used. We’re using it for other storm costs, to lower the cost to ratepayers. SWEPCO has engaged in discussions of securitization and its other regulated jurisdictions, as had other ADP affiliate. We think that SWEPCO needs to make a serious effort at securitizing those fuel costs. There may be a need to go to the legislature to expand the legislation. Not clear if there is or there isn’t, but if there is, we still need -- that effort should be undertaken because these costs are extreme and the more money we can save our ratepayers, the better. All right. Hopefully, the last slide. One of the things -- all the utilities need to develop policies, practices, procedures that ensure all critical components of their natural gas fuel supply serving their generators are designated as critical load and not shed. I don't know that it occurred in Louisiana. It was a problem in ERCOT. The extent of it is argued over how big a problem it was, but the last thing we want to do is cut off power to the natural gas infrastructure that we need delivers the gas to generate the power. So we believe that every utility should engage in developing these policies, practice, procedures, providing them in submission so that we can ensure that our natural gas supply chain isn’t being interrupted. And last but not least and as important as everything else, one of the tools in the toolbox is getting waivers of NOX emission limits when these big storms come through. There was some answers that were received, some questions that there was some delays in getting those kinds of emissions. We think that the Commission should work with LDEQ to create a streamlined protocol and process so that we can have that conversation and we can do whatever it takes to get the quickest waivers of those
NOX emission limits we can when we get max gen alerts. And with that, I am going to conclude my report.

CHAIRMAN GREENE: Let’s go lights up, please. Lane, I want to thank you for -- and also recognizing that this actual report was just recently made public in order for the stakeholders to have time to review the recommendations that you highlighted here today. I ask that Staff work with the stakeholders between now and the March B&E to discuss comments or concerns they may with these recommendations. But my goal would be for the Commission to take up these Staff recommendations at our March B&E. Thank you for a very good report. And let’s hope and pray we don’t have to deal with that again, but let’s be ready if we do.

MR. SISUNG: Thank you.

CHAIRMAN GREENE: Thank you, Lane. Next, Kathryn.

MS. BOWMAN: So next up is discussions. It’s an update from Charter Communications regarding outstanding bills owed to subcontractors assisting in storm restoration from Hurricane Ida.

CHAIRMAN GREENE: Yeah. So we have a number of people if you want to start making your way up that want to testify. You can come on up. We have Jeff Burdett, Tommy from Infinite Communications, Glen Reymann, Joe Waitz, Jordan Brewer, Katrina, and Raul or Paul Rodriguez.

SECRETARY FREY: And when you begin to speak, make sure to say your name so we’ll catch who all is speaking, and also make sure the mic is on with the green light showing.
CHAIRMAN GREENE: So please introduce yourself and proceed. Please try to be as succinct as possible.

MR. JOE WAITZ: I’m Joe Waitz, Jr.

MS. BOWMAN: You have to hit the button. There you go.

MR. WAITZ: Hello. I’m Joe Waitz, Jr. from Houma with the law firm of Waitz and Downer. I represent Infinite Communications in regard to a very serious ongoing issue we have with Charter. I think the board and the Commission is somewhat aware. We wanted to bring y’all up to speed as to what was going on so we could ask for some potential help from you guys. As you know, Hurricane Ida devastated southeast Louisiana, destroying most of our communication systems. Infinite Communications has been in the business of restoring and working with all the different Cox, Charter, different providers to restore services after such a devastating event. Shortly after Ida, they were contacted by Charter to start restoring southeast Louisiana. Terrebonne Parish, Lafourche Parish, Jefferson, St. Bernard, all these different areas where they provide services. Charter came to them and said this is our hourly rate, we need you all in here as soon as possible, sun up to sun down to restore communications. They’ve been working with this company for many years, other storms doing the same work hourly. They agreed. They started the work. There is a master service contract in effect between them so they knew exactly what was going on. They went to work. They deployed roughly 400 crews to southeast Louisiana to restore the services to our citizens. What’s very important is during this restoration process, Charter field representatives were in the field, seeing what was going on, assisting, providing the
maps, areas to be worked on, giving them some guidance as where to go to get the
job completed. Shortly after the job started, the billing process started. As they’ve
always done in the past on an hourly basis, every week, a bill would go out for that
week’s work, first week, second week, third week, and on down the line. After five
or six weeks, there’s no response. There’s no response like it’s been in the past and
it was like clockwork in the past for the other storms, Eta, Zeta, Laura, all in the
southwest part of the state. So they start calling, trying to find out what’s going on.
They hear -- it’s silence. And then finally, they start saying oh, well, we’re going
through your bills. They start -- they start looking at the bills from a production
standpoint as opposed to an hourly standpoint. And let me make the distinction
between the two different methodologies. Production is done generally in a
controlled environment when new services are being provided, ideal situations, and
that’s why they do it on a per foot, per mile, whatever the case may be. It’s in a
more controlled environment. Hourly, which is chosen here, is because there’s so
many obstacles, there’s so many variables, getting people, getting supplies, getting
-- setting up living quarters, getting water, food, everything they need to house these
people, get them into living conditions and getting them into the work field. That’s
why the hourly system was chosen because of the obstacles that they face. Not one
time during the entire operation, the six to eight weeks that they’re out there billing,
did anyone ever question the bill, did any of the representatives say anything, they
did not. Everything kept going until they questioned toward the end of the job,
we’re not getting paid, they realized that they’re going to switch it to looking at it
from a production standpoint, questioning all the different things that they have
done line by line and using the production methodology, which is completely wrong
and they caught them completely off guard. We’re asking this Commission -- and
with me here today is Tommy McCollum and Tina Mavraj that will testify -- they
are the -- Tina is the owner of the company. Tommy is the COO of the company.
And they will give you some specific instances as to what was going on and how
they were completely caught flatfooted with this change by Charter. We’re talking
about a $51 million project that was ongoing and that’s the total bill.
CHAIRMAN GREENE: Is that what they owe you?
MR. WAITZ: I think what they owe us right now is around 16 --
MR. TOMMY MCCOLLUM: Sixteen million.
MR. WAITZ: Sixteen million still owed. The problem with that is, is that a lot of
these blue collar workers are out there working day to day, a lot of them are from
out of state, have come down. They live from check to check. They have no
backup. They expect -- their families expect a check to go home every week to
take care of their obligations and bills back home. That’s not happening. This is
all just before Thanksgiving and Christmas. It devastated -- and we have a lot of
the contractors here today that will tell you some of the horror stories that were
going on with this nonpayment, some of the binds that they got in from not being
paid, no money, and it’s really heartbreaking. I don’t know what this Commission
can do as far as forcing payment, but we’re here asking you all to do whatever you
can to do the right, just do the right thing. And you know what, what’s really --
what’s really puzzling about this whole situation is that when the tornados hit in
Kentucky just recently, after Ida devastation, who do they call, Charter, these
people. They go out there, they do the work, same methodology, hourly, paid every
nickel of every bill. Tell me how --

CHAIRMAN GREENE: More recently? Wow.

MR. MCCOLLUM: A couple weeks ago.

CHAIRMAN GREENE: All right. We’ll ask them about that.

MR. WAITZ: The problem --

CHAIRMAN GREENE: How much was that bill?

MR. MCCOLLUM: So we were only there for two weeks max. It wasn’t, you
know, it looked really bad on TV.

MS. BOWMAN: I’m sorry. Can you identify yourself for the record, please?

CHAIRMAN GREENE: Just state your name.

MR. MCCOLLUM: Oh, I’m sorry. Tommy McCollum, president of Infinite.

MS. BOWMAN: Thank you.

MR. MCCOLLUM: It looked devastating on TV, but the way these tornadoes
work is they sway, you know, in zigzag lines and there’s just pockets of areas that
were destroyed. We got there. Before we even arrived, we had meetings,
conference calls, defined processes, here’s how we want to see our invoices, here’s
the documentation we want to see you come back with our invoices, here’s the
number of crews we want, here’s how the day’s going to go, here’s where you’re
going to pick your material, night and day from what happened right here. We have
begged for meetings from day one from senior leadership over the Charter south
region, begged for meetings from day one, how do you want these invoices, what
kind of backup do you want, where do we send it. It took five weeks for the area
vice president to even give me a name of who to send it to on his team. And one of his comments was in five weeks after I started screaming, why is nobody responding to our invoices and what’s going on, he said, well, who are you sending the invoices to? I said everybody I can including you, sir. And he said, okay, well, it’s not my job to look at invoices. So how are you going to tell me that I’m grossly overbilling you on hours if you’re not looking at invoices that clearly have hours that are coming to you week over week.

CHAIRMAN GREENE: Hey, Rob, can you and Charter come up, please?

MR. WAITZ: You want us to step to the side?

CHAIRMAN GREENE: Just make room, yeah.

MS. BOWMAN: And Rob, please sign the clipboard for me. Please sign the clipboard for me, and if you would fill out a yellow card, sir. Oh, okay, perfect. Thank you.

MR. ROB RIEGER: Afternoon, Mr. Chairman, members. My name is Rob Rieger. I practice law at Adams and Reese. I represent Charter Communications. With me today is Jeff Burdett. He’s the Senior Governmental Relations Director for Charter; he’s based out of Austin, Texas. He has come in for this meeting.

CHAIRMAN GREENE: Good. I want to direct the questions to Jeff. Jeff, so y’all hired Infinite for south Louisiana, they did the work, not been paid. Do you agree to that?

MR. JEFF BURDETT: I -- well, I can tell you that currently, they’ve been paid 73 percent of everything they’ve billed at this point, and we’re still working through a process to look at the rest of that.
CHAIRMAN GREENE: Is that accurate?

MR. MCCOLLUM: [INAUDIBLE] not been paid. They’ve issued some POs recently but those don’t dictate payment. So it’s much less than 73 percent.

CHAIRMAN GREENE: Has the check been submitted? What’s the discrepancy there?

MR. BURDETT: Well, I will say that either paid or authorized payment that will be --

CHAIRMAN GREENE: Do you not have the funds to pay them or what’s the holdup? Because if the Kentucky tragedy happened and all of this process ensued in a swift manner, what’s the holdup with this one?

MR. BURDETT: There’s a process. I mean, we go through a process that we want to make sure. I mean, we have a responsibility to make sure that all of the billing -- I mean, we’re talking about $50 million --

CHAIRMAN GREENE: So can you give us the name of the person that they can submit the bills to?

MR. RIEGER: Be happy to give you that name.

CHAIRMAN GREENE: What is it?

MR. RIEGER: Want to find out exactly who the right person is.

CHAIRMAN GREENE: Let’s do that in the next few minutes.

MR. RIEGER: I have -- I have a name.

CHAIRMAN GREENE: Well, let’s get it.
MR. RIEGER: I’m not authorized to give it, Mr. Chair, and I’m more than happy to make a text and a phone call and give you that -- give them a name when the meeting is over and certainly give it with you.

CHAIRMAN GREENE: So what are you waiting on in order to give us that name?

MR. RIEGER: Beg your pardon?

CHAIRMAN GREENE: What are you waiting on in order to --

MR. RIEGER: To make sure we have the right person. That’s all.

CHAIRMAN GREENE: Who do you have to check with?

MR. RIEGER: Beg your pardon?

CHAIRMAN GREENE: Who do you have to check with?

MR. RIEGER: My client.

CHAIRMAN GREENE: Isn’t he sitting right there?

MR. RIEGER: This is one of them.

CHAIRMAN GREENE: Yeah. So who -- can you give us --

MR. BURDETT: I mean, we can send it. I mean, ADP is Henry Pearl.

CHAIRMAN GREENE: Okay.

MR. BURDETT: And I mean, I’m sure that Henry can --

MR. MCCOLLUM: Henry is the Senior Vice President, not the area vice president. --

CHAIRMAN GREENE: Have you sent it to him?

MR. MCCOLLUM: All these invoices were copied week over week. So if I work Monday through Sunday, my invoices went in on the following Monday to all --
everybody copied, every new name, new contact that I came across through the
nine weeks we were in Louisiana was copied on these invoices. They are all very
aware of the $51 million in invoicing that we’ve sent to them. They all have it.
They --

CHAIRMAN GREENE: Do you intend to pay?

MR. BURDETT: We intend to pay anything that we believe is appropriate. And
I will tell you, I mean, we have run into a number of issues, and I can give you a
couple of examples if you want me to. For instance, you know, we had ran into
150 tickets that equates to several million dollars from Infinite for work that was
actually issued to other Charter contractors. So you know, obviously
[INAUDIBLE] pay that.

CHAIRMAN GREENE: It’s still Charter?

MR. BURDETT: Yeah. I mean, we’ve got a number of contractors in the state,
not just these guys. And they, you know, they go through the same process --
CHAIRMAN GREENE: I think they’re here to complain as well. So we have a
theme problem.

MR. MCCOLLUM: So can I speak on that? I’m sorry.

CHAIRMAN GREENE: Yes.

MR. MCCOLLUM: The 150 tickets that they’re referring to were sent to us by
somebody with Charter. I didn’t make them up. So if they sent those to us and sent
them to another contractor at the same time and those tickets were closed out with
another contractor, that’s a Charter problem, that’s not an Infinite problem. And
I’ve showed them this over and over where I have received these tickets, this is the
information that I have, this is the work that I’ve done on the tickets, and this is the problem I keep having with Charter. Every time they have a problem like that, they use it as an excuse to delay payment. It’s a stall tactic. It’s an excuse. I have all the documentation. I’ve shared over a thousand emails with them, all the communication. We got several thousand updates. We updated them three times a day on work that was going on. I sent them back all the updates, even though they were all copied on it three times a day. I sent everything back to them again. The 150 tickets he’s referring to, they came to me and asked me how did you have these tickets and why did you have them. We show them closed out under another contractor. [INAUDIBLE] --

CHAIRMAN GREENE: So who’s in charge of the process at Charter for receiving the tickets, approving them, and disbursing the payment?

MR. BURDETT: I would say our ADPs, Mike Sellers and then Henry Pearl would be the main folks that would look through that and [INAUDIBLE] --

CHAIRMAN GREENE: Do you think that they’re aware that this is a problem?

MR. BURDETT: Oh, I think they’re very aware. We had a call, you know, prior to this, this week and, you know, to get these details so yes, absolutely. You know, again, I think we’re working through this process and we’re working through that with our other contractors as well.

MR. MCCOLLUM: That’s a good point. Can I say something right there?

CHAIRMAN GREENE: Sure.

MR. MCCOLLUM: So the other contractors, one was here last month. They actually settled with that -- paid that contractor, I assume, because he’s not here
today. But the other two contractors that worked this storm with us, they’re still going through money problems as well. One of them is owed over $6 million and another is owed 2.2. They are afraid to come to this meeting because they have work in jeopardy, and they’re afraid they’re going to lose some of that work if they bring anything to light. So that’s why they’re being quiet. They’re still owed a lot of money as well.

CHAIRMAN GREENE: Well, Jeff, would you agree that the work that they’ve done for y’all is very important?

MR. BURDETT: Absolutely. I mean --

CHAIRMAN GREENE: And would you agree that it’s probably going to be needed again?

MR. BURDETT: Absolutely. And you know, this is not new for us. I mean, we have lots of construction projects. I mean, we do business in 41 states. And you know, we’ve obviously had a lot of storm damage over the last, as you know, last couple of years here, but also in Texas and also in a lot of other places where this is a continuing situation and then tornadoes [INAUDIBLE] --

CHAIRMAN GREENE: Well, can you commit to -- that a swifter process than has been in place for analysis of the receipts and payment accordingly. I get that there’s a process. I get they can’t throw in a private jet, that kind of thing, but there is starting to smell like a delay tactic, and it’s crippling the people that you’re going to then rely on to help you the next time.

MR. BURDETT: I understand, Chairman. And I will commit to you that I’ll go back and I will very much take this back to our folks and they’re watching probably
on the internet right now. And our -- and we will get this rectified. I mean, this is
not a situation where -- you know, I mean, anything -- I mean, we’re a company
that does business, like I said, in 41 states. We’re not -- this is not a fly by night
organization. We’ve got a lot of customers and we’re a, you know, Fortune 100
compny that is somebody who pays our bills. I mean, we’re [INAUDIBLE] --
CHAIRMAN GREENE: I just don’t want to see in Louisiana it’s allowed that
you can delay, renegotiate, they could go broke during the legal proceeding for
something that they said they were going to do and you said you were going to pay
them for doing. That’s just not what goes on in Louisiana. We don’t want that to
happen.
MR. BURDETT: Right.
CHAIRMAN GREENE: So we want y’all to do business here, but we need y’all
to pay for what’s been done in a more swift manner.
MR. MCCOLLUM: Can I -- I’m sorry. Can I speak on what he said as far as
paying the bills? So we were asked to come in. We were given a 24 hour notice to
get here, right? I had to mobilize crews immediately. I came here. I kept adding
crews every time they asked me to add people. We were covering from Houma to
Thibodaux -- sorry, Houma, Hammond, Thibodaux. I has a widespread we area.
We were having a lot of issues with housing, water, food supplies, gas, the whole
nine. I was asked to mobilize quickly. We came here. Okay. That costs money.
For us to put the money out on what was told to us as a hourly project, bring the
crews, don’t care what you have to do, get them here. I did. So I brought in 15 or
so subcontractors that had worked with me on storms in the past. Hurricane Laura,
Delta, Zeta last year, we were here in Louisiana. We worked for Cox prior to the Charter storm. Some of my contractors are here today. Who do you think funded that? We got [INAUDIBLE] --

**CHAIRMAN GREENE:** Well, that’s what I want Jeff to understand is that the people that are suffering here are a lot of people that I imagine are check to check or month to month. And so what is kind of inconvenient for y’all is probably life altering for them.

**MR. MCCOLLUM:** That’s exactly right.

**CHAIRMAN GREENE:** And so we don't know how to get your attention or to flex, but I want to start with can you please make this a priority?

**MR. BURDETT:** Yes, sir. We can absolutely make this a priority.

**CHAIRMAN GREENE:** So why don’t we circle back in three weeks when our next meeting is and we’ll see how the 16 million’s been chipped away at. What I’d like to know from you is how many receipts are there, itemized, and, you know, I’m going to ask you have they been analyzed and what’s the payment -- where are we in the payment process.

**MR. BURDETT:** Right. And again, it’s -- you know, we had 34,000 individual line items, so I mean, going through, I mean --

**CHAIRMAN GREENE:** I understand. If you’re a Fortune 100 company in 41 states, you probably have a process through economies of scale to deal with that. So if it’s saying, you know, it’s just too much work for us, well, then that’s a different matter. But y’all seem strong enough to be able to process that.

**MR. BURDETT:** Yes, sir. Message received.
CHAIRMAN GREENE: All right. Well, I look forward to seeing you the next month and we’ll look at it more itemized and so hopefully can help the people that helped everyone. Thank you. Do we need -- stay here for a second, in case the others want to see -- y’all can be excused if y’all are okay with that. Glen Reymann.

And for all those who’ve not been paid, I want to make sure you get the adequate contact information from Jeff about who to get these to, so that they can’t say that they haven’t received them. So state your name and --

MR. GLEN REYMANN: My name is Glen Reymann.

CHAIRMAN GREENE: Glen.

MR. RAUL RODRIGUEZ: Raul Rodriguez.

CHAIRMAN GREENE: Raul.

MR. JORDAN BREWER: Jordan Brewer.

CHAIRMAN GREENE: What was your name?

MR. BREWER: Jordan Brewer.

CHAIRMAN GREENE: Okay, Jordan. One or all want to speak?

MR. REYMANN: We are the contractors. Essentially down the line, you have Infinite that calls us. We’re the ones that come in, with the time, hours, effort, money. So we have to borrow. We have employees. We have to borrow to pay them, turn around take out lines of credit, all because money we’re already owed. It’s not that it wasn’t done. It’s already done. The money’s owed, but it’s not paid so we have to make the excuse why we have to borrow when we know what was done and we’re still not being paid for it. [INAUDIBLE].

CHAIRMAN GREENE: So was that money go through Infinite to y’all?
MR. REYmann: [Shakes head up and down.]

CHAIRMAN GREENE: So y’all are the people that I was just referring to that have people that -- month to month, check to check that need to be paid.

MR. RODRIGUEZ: And we have people that work for us that we have to pay them, too. In my case, I’m from Cuba, been here in the States for sixteen years. My company is based out of Miami, Florida. So when the storm happened, I have to drive all my trucks to here. Driving a bucket truck from Miami to Louisiana, it costs a lot of money, around $1,000 a truck. I bring 23 trucks, [INAUDIBLE], and employees and right now because I haven’t got paid, I have only 24 guys working for me. So I lost over half of my company because I haven’t been able to pay those guys because this case, Charter hasn’t paid Infinite for Infinite to be able to pay me.

CHAIRMAN GREENE: So but Infinite has your receipts?

MR. RODRIGUEZ: Yes.

CHAIRMAN GREENE: And --

MR. RODRIGUEZ: I work with Infinite. I grow my company -- I started with Infinite as a technician. I grew up with them, buy my first truck and I get up to 23 trucks. Last year, we were here in the state of Louisiana. We fix Lakes Charles. Every time we go to a storm, they -- everybody is happy with us. Everybody, you know, gave us food, help us out. Besides this storm here when did it in New Orleans. We came here. We got out of here with no money, with a lot of debts, losing my company, selling my trucks. Selling everything. Then I went to the tornado as well with Charter and Infinite. We got paid over there. It was only for two weeks. But we either do a big storm that is going to take four months for us to
be there or we can do a storm that takes two weeks for us to be there. And it’s not
-- it’s not fair for us to get -- to don’t get paid for something we did.

CHAIRMAN GREENE: Well, look, we’re incredibly grateful but y’all can’t eat
on thank yous. So I get that.

MR. RODRIGUEZ: Yeah.

CHAIRMAN GREENE: But yours is part of the 16 million, right? So --

MR. RODRIGUEZ: Definitely. I stayed here two months sleeping in a slaughter
house with all my guys, living in tents. Taking -- 112 people taking a shower on
one shower or with hoses because there was no place to rent. Hotels were
skyrocket. It was $17,000 a week for a hotel, so we have to rent a slaughter house.
Put all my guys to sleep there, they have to go maintenance, foods. I got videos of
my guys washing their clothes by hand in a boat. So we go through all of this in
here to try to make a living, to help the state of Louisiana and then Charter is not
going to pay us. It doesn’t make sense.

CHAIRMAN GREENE: Yes. So I would like -- we hear you and I think you
hear them. And so I would like for the homework to be process, reconcile, pay and
then let’s circle back next month and see has the 16 gone to zero, ideally, or you
know, how much progress have we made. Because I don’t think y’all want the
black eye for not paying people who do the work.

MR. BURDETT: Oh, of course not.

MR. RIEGER: Of course not.

MR. BURDETT: We certainly have the, you know, any legitimate --
MR. RODRIGUEZ: Referring to the tickets he was talking about, the 150 tickets. My company was the one doing the repair tickets based here in Baton Rouge, down south, and we are moving a bucket truck with three guys in a truck. It takes time to mobilize a truck from one place to another one. Many times that we went to those tickets, it was assigned to us as a company to go there and do the job, then when we get there you find out that the ticket’s already complete. You already waste one hour traveling there. You have to get there, you have to get in touch with the company, telling them, hey, this job is already complete. Infinite have to get in touch with Charter, hey, you sent me these jobs and it’s already complete, and then they see on their system, oh, yeah, this job was completed by BTR or by any other contractor. Well, what about all of that time that we take to go there. If they don’t pay me by hour when I come here on a storm, that I have to be more careful because of safety because there is powerlines on the floor, there is trash everywhere. It takes time to do a job. If I don’t get paid by hour, I just go somewhere else.

CHAIRMAN GREENE: I understand. So I really think that Louisiana ought to be an example of disaster response given all we have to go through. But I think this is a major part of disaster response if the people who are doing the work aren’t getting paid, they’re not going to really do the work next time. That’s going to be problematic.

MR. REYmann: There needs to be a third party that oversees it the whole time, the whole time. Because they’re doing -- Infinite is doing its due diligence telling us we need this documentation, this time, we need you here 7:00 in the morning, you need this time. You can’t finish until this time. And we’re submitting it --
CHAIRMAN GREENE: So we can look into -- according to our rules, if that’s something we can proclaim that needs to be necessary or that we can oversee and regulate?

MR. REYMANN: We are submitting what is required, what is asked, and then when it comes time where you’re like okay, we should get paid, it’s time to go. You’re not getting paid.

CHAIRMAN GREENE: It may be that we need to work with the legislature to do that but --

MR. REYMANN: We’re talking about week -- we’re on three months.

CHAIRMAN GREENE: I hear you. I hear you. I hear you.

MR. REYMANN: Now, more weeks.

MR. RODRIGUEZ: I know the -- if I go do a job -- sorry -- if I go do a job, within a week, you tell me no, I don’t want to pay you because you are overbilling me for whatever reason or that’s what you’re thinking, just let me know. Don’t wait that I did five weeks worth of work and then don’t pay.

CHAIRMAN GREENE: Right. No, I get it.

MR. RODRIGUEZ: Because now I’m taking all this time to reconcile all of that information when they were supposed to do that on a weekly basis.

CHAIRMAN GREENE: So next month, we’re going to hear from you about how progress we’ve made and we’re also going to hear what solutions there may be for a third party, whether that’s from us or the legislature, so. I think Commissioner Skrmetta has a question.

COMMISSIONER SKRMETTA: Yeah. Hey, Rob.
MR. RIEGER: Sir.

COMMISSIONER SKRMETTA: Nobody wants to see you again on this.

MR. RIEGER: Yes, sir.

COMMISSIONER SKRMETTA: No offense. And there’s no reason for you to be here on this, you know. This is not the great arbitrator, right? And you should know better than have this keep going month to month. You’ve made it across the state from Natchitoches to Baton Rouge and next time, we’ll be in Metairie. Don’t do it. Try to work this stuff out. It’s in your best interest. Second thing is: We cannot develop an adequate response to disaster if the guys who go out and do the work can’t rely on companies to pay them. And you’re going to end up holding the bag and you’re going to have guys calling you bigger names than they called Missing Link and Never Link because they’re just not going to come to you to fix stuff. And you’re going to be sitting out there holding the bag and the legislature is going to cut you to ribbons. So it’s in your best interest to not even show up next month by getting it done.

MR. RIEGER: We are continuing to work on it. You have the Commission’s pledge. We did it between last month --

COMMISSIONER SKRMETTA: I’m not going to --

MR. RIEGER: -- and this month and we’ll continue to do it.[INAUDIBLE] --

COMMISSIONER SKRMETTA: Yeah. I don’t want to minutia you on but --

MR. RIEGER: Sir?

COMMISSIONER SKRMETTA: -- you -- I don’t want to minutia you on this, but you know.
CHAIRMAN GREENE: Jeff, can you come back next month?

MR. BURDETT: [Shakes head up and down.]

MR. RODRIGUEZ: Last month, when they came here, when the lawyer came here, I wasn’t able to make it, here but I saw it on video. You know, they said that they were going to have to respond this month. Now, we’re going three more weeks ahead of time. Like every single week I go without getting paid is another truck I’m going to lose. I have to bid now for $20,000 to fix the truck. Right now. Another truck, I’m going to be down. That’s two more guys going home with no work. They’re probably going to work with somebody else, but it’s just insane the way we’re being treated.

CHAIRMAN GREENE: I agree.

MR. RODRIGUEZ: For something that we already complete.

CHAIRMAN GREENE: I agree.

COMMISSIONER SKRMETTA: They’re wrong and you’re right.

MR. REYMAN: The future problem is this: There’s going to be another storm, God forbid.

MR. RODRIGUEZ: I’m not coming.

MR. REYMAN: They’re going to call. We’re not coming.

COMMISSIONER SKRMETTA: I get it.

MR. REYMAN: We’re not one group.

COMMISSIONER SKRMETTA: Yeah, I know.

MR. REYMAN: There’s all of us that see it, so they know they’re not paying.

It’s not them that suffer. It’s the people of Louisiana.
MR. BREWER: There’s 80 crews between us right here. That’s over 200
[INAUDIBLE] --

CHAIRMAN GREENE: Yeah. I really think this is a big problem for the next
round.

MR. REYMANN: It’s huge.

MR. RODRIGUEZ: We were on the state of Louisiana for Cox. We have no
problem. Last year with Laura, we went with Suddenlink. We have a great relation
with those people. I still have communication with the managers of Suddenlink.
They call me hey, Raul, how you doing? And we never had a problem. Whenever
they have a discrepancy on billing, they came back to us and said, hey, did you guys
did this in here or no? But you don’t wait four months to then still be checking the
billing. No, I [INAUDIBLE] --

CHAIRMAN GREENE: Where do you live, Raul?

MR. RODRIGUEZ: I live in Miami.

CHAIRMAN GREENE: Where do you live?

MR. REYMANN: Orlando.

CHAIRMAN GREENE: Where do you live?

MR. BREWER: Tennessee.

CHAIRMAN GREENE: So all of y’all came to help us in our biggest time of
need. Where do you live?

MR. BURDETT: I live in Austin.
CHAIRMAN GREENE: So we got people from out of state shafting other people from out of state at Louisiana citizens’ expense, and that’s just not -- that’s not tolerable.

MR. RODRIGUEZ: I have guys that came from New Mexico to here, drove their truck all the way here. Guys that bring trucks from Puerto Rico and from all over the country just to do this job. I have -- I have a crew that drove from Washington State to come here to do this [INAUDIBLE].

CHAIRMAN GREENE: Our goal is to get y’all paid because we’re sure going to need y’all again, so let us keep punching it.

COMMISSIONER FRANCIS: You guys have a lawyer --

COMMISSIONER SKRMETTA: We want to regulate fiber and cable but we don’t. But we’re working with the legislature and dealing with stuff so we’re working on it.

COMMISSIONER FRANCIS: Do y’all have a lawyer to represent you on this?

MR. RODRIGUEZ: We are with Infinite.

COMMISSIONER FRANCIS: You do have, okay. I’m going -- I’ve had a business. I’ve had this problem before and it’s best if -- gets fixed a lot faster, just go lawyer to lawyer. There’s a bunch of lawyers on that back wall there, they’d like to hire out to help you.

MR. REYMAN: With no money, how we going to afford to pay for a lawyer.

MR. BREWER: [INAUDIBLE]

COMMISSIONER FRANCIS: Sic one of them on Rob, that’s the way to get it done. Okay.
MR. BREWER: [INAUDIBLE] and I can’t afford a lawyer.

COMMISSIONER FRANCIS: If you want to get your money, get you a lawyer and get on Rob. That’s the way to get paid.

MR. BREWER: I’m a sole proprietor at a $1.4 million [INAUDIBLE] --

MR. REYMANN: We came here [INAUDIBLE] --

SECRETARY FREY: One at a time. They can’t hear.

COMMISSIONER FRANCIS: All right. Well, that’s my advice. Thank you.

CHAIRMAN GREENE: So listen. I do think that, Jeff, you need to know this that we all realize that one way you don’t have to pay them is make them go to court, which they can’t afford. And we’re just asking you not to do that.

MR. BURDETT: I understand.

CHAIRMAN GREENE: Okay.

MR. RIEGER: Very clear.

CHAIRMAN GREENE: I mean, I think that we could get this done without lawyers, no offense to the lawyers, by just honoring what you said you were going to do once they’ve done what they said they were going to do. I don’t think you need a lawyer for that.

MR. BURDETT: We would like to get this resolved as well.

CHAIRMAN GREENE: Good, good.

MR. MCCOLLUM: Sorry. Back to your point. I know you just said it, but that’s the thing we’re all struggling really bad with, so as soon as we take this court, hire lawyers and get lawyers involved, it costs a lot of money, it locks up the money that we already don’t have. Charter has a whole floor of lawyers on payroll. Infinite
doesn’t. These guys don’t. They’re already struggling, selling off trucks, how are we going to afford lawyers when we can’t even get our bills paid. We just need to get paid and make this, you know, go away. We’ve been begging for our money, giving them documentation every which way that they’ve asked for, the different ways that they’re just trying to confuse the whole situation. If they had a problem with our hours and how we billed our hours, they should have had management onsite in our offices working with us every single day, counting our trucks, clocking our trucks in and out. They didn’t do any of that. Why? Because I was on the ground every single day as an owner with my crews guiding them to do the work, thought there was a trust factor there between two company owners or two companies, and when it came time for them to pay the guy that was doing the brunt of the work and financed this entire project, they gave me a big kick in the rear end. So it’s -- the lawyer thing, it’s why we came to you guys and begged for help because the lawyer thing is not an option for us at this point because they have the money, we don’t.

CHAIRMAN GREENE: Well, I --

MR. MCCOLLUM: And we wanted to take this public to make sure that this doesn’t happen again. In fact, the way they said it --

CHAIRMAN GREENE: It’s a good idea.

MR. MCCOLLUM: -- and I’ll end it, you know, I roll with about 90 percent of the guys that travel for storm, and I can promise you if we don’t get this resolved, there’s not an amount of money I can pay these guys to come back to Louisiana with me again and do a Charter storm again.
CHAIRMAN GREENE: That’s embarrassing. And so --

MR. MCCOLLUM: That’s very embarrassing.

COMMISSIONER SKRMETTA: Do you live in Houma?

MR. MCCOLLUM: No, I don’t, sir.

COMMISSIONER SKRMETTA: Where is the company operated?

MR. MCCOLLUM: We’re out of Florida.

COMMISSIONER SKRMETTA: Okay.

MR. MCCOLLUM: But we have an office in Kenner.

COMMISSIONER SKRMETTA: In Kenner?

MR. MCCOLLUM: We work for Cox cable. Zero -- I was paid hundred percent of the 23 million I invoiced Cox within two weeks of my final day working on storm. They were happy, thanked us, thanked me for being onsite.

MR. RODRIGUEZ: As a company owner, every time we go to a storm, he never left the site. Neither myself, I have a baby of nine months old.

COMMISSIONER SKRMETTA: You can help --

MR. RODRIGUEZ: I spend two and a half months here without seeing my baby, for being here -- he did with all of his monitors, inspection, all of our work trucks. Every week to make sure everyone was accounted for, everyone have the tools they needed to do the job. We have pictures for everything, doing the meetings, every single morning. We first start driving from Picayune, Mississippi to New Orleans, two hours in the morning. We wake up at 4:00 a.m. in the morning to get to the office and then when we finish working at 7:00, 8:00, or 9:00, drive back there to go sleep and then next day, the same thing.
COMMISSIONER SKRMETTA: You could help the Commission by speaking with the Executive Secretary over there in the blue suit. His name is Brandon Frey. Brandon is working with the legislature on expanding our jurisdiction over fiber, like cable, internet, and stuff, and then working with the legislature, particularly on storm issues and, you know, this type of information going to the legislature may help expand our jurisdiction to cover issues particular like this. And that would help deal with this type of issue.

MR. MCCOLLUM: I’ll do anything that I can to prevent this from happening.

COMMISSIONER SKRMETTA: So if you talk -- yeah, if you engage with Brandon on this, that could be a big help to the Commission.

CHAIRMAN GREENE: Look, please make us all proud next month and make sure y’all have Jeff’s contact. And I trust if there’s been a communication problem, that won’t be the problem moving forward.

MR. RIEGER: Just a couple of questions if I could, Mr. Chairman, Commissioners. Message delivered loud and clear. We got it. I want to make sure that everyone knows we have paid substantial money to Infinite. What they’ve done with that money is a question for these folks.

MR. RODRIGUEZ: They have paid to us a -- according to what they have received payment. And I don’t work for Infinite. I got my own company. I got my own workers, but the thing is that still a lot of money owed. Some way that Infinite owes money to us, that’s what they owe to Infinite. So they have paid to us and only to where he got paid.
MR. REYMANN: If it’s paid incremental as you’re doing the hours of the work, so if you’re at the end, in the last three, four weeks because you decided to not check your invoices early, just say just not going to pay you now. These people, for this period of time, have been have been paid so saying I paid 75 percent, how would you like 75 percent of the wire to go up? Because then all the people don’t have what they need.

CHAIRMAN GREENE: Touché.

MR. REYMANN: He’s talking about the beginning, that’s irrelevant to the remaining amount --

CHAIRMAN GREENE: You finished the job.

MR. REYMANN: -- that’s owed to everyone.

MR. MCCOLLUM: So just everybody’s aware, my labor rate just to get these guys here and pay them is well over 70 percent that they said they paid. And so to make that comment, he obviously has never ran a business. Charter is ignorant to the fact of it takes money to pay for the labor and the expenses to get these kind of projects done. When I look at the money that I shelled out, the lines of credit I had to get to finance to get people here, the building costs that I had to pay to get people to allow me to rent this week -- week over week or month over month, the dumpster charges to haul, you know, tens of thousands of [INAUDIBLE] wreck out cable, scraps, off, you know, it’s expenses well beyond the amount of money that they so graciously offered me for payments.

CHAIRMAN GREENE: Look, we --

MR. MCCOLLUM: It doesn’t make sense for him to even make that comment.
CHAIRMAN GREENE: We hear you. We hear you. And Jeff --

MR. RODRIGUEZ: [INAUDIBLE] was paying $6,000 a week for a slaughter house to have my guys sleeping in there. This is not a job that you get someone [INAUDIBLE] there to work, to pick up trash and nothing. They have to be prepared people. My guys climb poles, splice fiber --

CHAIRMAN GREENE: We get it.

MR. RODRIGUEZ: -- [INAUDIBLE]

CHAIRMAN GREENE: So Jeff, and no offense, Rob, I think there’s a little hide the ball, I wanted to deal with Jeff. Jeff, it’s embarrassing for Louisiana. We want this to be a place where it’s upfront and transparent to do business and we’re going to need them again. And they’re very good, and y’all are very good. So I really expect this to be resolved by next month. So thank y’all very much.

MR. RIEGER: We will do the best we can to get everything completely resolved.

CHAIRMAN GREENE: Rob, you said that last month.

MR. RIEGER: Yes, sir.

CHAIRMAN GREENE: I’m tired of words.

MR. RIEGER: And we made a significant effort.

CHAIRMAN GREENE: Well, let’s see more. Cross the finish line.

MR. RIEGER: We will get there.

CHAIRMAN GREENE: Well, I want to see that happen.

MR. RIEGER: Yes, sir.

CHAIRMAN GREENE: You don’t have a time specification on that because that could be three years. Three years doesn’t work. That’s a delay tactic.
MR. RIEGER: No, sir. No, sir. We had suggested to your Staff and other folks give us another 30 days and it’ll be done.

CHAIRMAN GREENE: You could come back and ask for more 30 days but just --

MR. RIEGER: I doubt it.

CHAIRMAN GREENE: Jeff, I’m trusting you. Okay?

MR. BURDETT: Yes, sir.

CHAIRMAN GREENE: Thank you.

MR. BURDETT: Message is received.

CHAIRMAN GREENE: Thank you very much. Y’all are excused. Thank y’all for coming, and thank you for the work that you do.

MR. RODRIGUEZ: Thank you so much.

MR. RIEGER: Thank you, Mr. Chairman.

CHAIRMAN GREENE: Thank you very much. I think we have one item to clarify. Kathryn, you want to --

MS. BOWMAN: We do but we also have two more -- three more items under Exhibit 17. So let’s knock those out real quick, and then we will do the one clarification.

CHAIRMAN GREENE: Yeah. Sounds good.

MS. BOWMAN: Okay. So also under Exhibit 17, there’s a discussion and possible vote to ratify interventions of the Commission and RTO related Federal Energy Regulatory proceedings. And interventions were filed on behalf of the Commission in the following FERC Dockets: ER22-495, ER22-496 on December
17th. There was also ER22-489, which was a dockless intervention on December 21st, and then the Commission plans to file or has already filed an intervention in ER22-736 on or before today. Staff recommends that the Commission ratify and/or authorize these interventions.

CHAIRMAN GREENE: Chair motions to accept Staff recommendation.

COMMISSIONER BOISSIERE: Second.


MS. BOWMAN: Next, there is an OMS vote. It’s a discussion and possible vote to ratify the votes taken by Vice Chairman Skrmetta acting as the Commission’s representative on the Board of Directors of the Organization of MISO States. And Staff recommends that the Commission ratify Vice Chairman Skrmetta’s email vote taken on January 5, 2022 as the Louisiana Public Service Commission’s representative to the OMS Board of Directors and Commissioner Skrmetta is abstaining from this vote.

COMMISSIONER FRANCIS: Motion to accept [INAUDIBLE].

CHAIRMAN GREENE: Motion by Commissioner Francis, second by the Chair. Note that Commissioner Skrmetta is abstaining. Any discussion or objection? [NONE HEARD] Hearing none, it’s passed.

COMMISSIONER SKRMETTA: Commissioner Skrmetta abstains.

CHAIRMAN GREENE: That was noted. Thank you.

COMMISSIONER SKRMETTA: I have to voice note it myself.

CHAIRMAN GREENE: Thank you.
MS. BOWMAN: So there is also one directive under Exhibit Number 17. It’s a
directive to Staff regarding the impact of inflation on jurisdictional utilities at the
request of Vice Chairman Skrmetta. And it is that I direct Staff to take whatever
action is necessary including the opening of a docket and the hiring of outside
assistants to study the impact inflation has on jurisdictional utilities. This study
should include what impact inflation has on rates in a utility’s ROE or a similar
return as well as research on whether the Commission should adopt an index
granting jurisdictional utilities the ability to automatically adjust rates based on
inflation.

CHAIRMAN GREENE: So let me get this straight. Is this -- if we approve this,
that gives them the right to automatically --

COMMISSIONER SKRMETTA: No.

CHAIRMAN GREENE: -- or just studies that as a possibility?

MS. BOWMAN: It opens a docket for Commission Staff to study it and report
back to you guys on what it could be, what it looks like, and how that would affect
it.

CHAIRMAN GREENE: Okay.

COMMISSIONER SKRMETTA: Yeah. The reason I did this was because we
started looking at the growth of inflation. We also looked at the differential
between the CPI and the Producers Price Index and also how that may even not
really gel on how utilities function. And this is for all investor owned -- excuse me
-- all regulated utilities. So it’s not just electric. It could be gas, could be
everything. So it’s something for us to look at and then come back and look at it
and see how the Commission sees how inflation functions, see how the indexes really work and then make a decision later on about how we go.

CHAIRMAN GREENE: All right.

MS. BOWMAN: And then we need to move back to Exhibit 14 just because of all of the people and the commotion, I just want to clarify what your motion was, Commissioner Greene. Your motion was to approve Baton Rouge Water Company’s request for interim rates, subject to posting of bond. That was seconded by Commissioner Francis with Commissioner Skrmetta abstaining -- excuse me -- opposing.

CHAIRMAN GREENE: Yes. And then we had -- and then we voted.

MS. BOWMAN: And then you guys voted, and it was voted to approve.

CHAIRMAN GREENE: Yes.

MS. BOWMAN: Good.

CHAIRMAN GREENE: All right. I motion to adjourn.

COMMISSIONER BOISSIERE: Second.

CHAIRMAN GREENE: Second by Commissioner Boissiere.

CHAIRMAN GREENE: See y’all in February.

(WHEREUPON THE MEETING WAS ADJOURNED)
I certify that the forgoing pages 1 through 211 are true and correct to the best of my knowledge of the Open Session of the Business and Executive Meeting held on January 25, 2022 in Baton Rouge, Louisiana.

Rough Draft prepared by:

Kathy Dykes, Court Reporter

Date

Kayla Fiorenza, Court Reporter

Date

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Kathy Dykes, Court Reporter

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