

**BEFORE THE
LOUISIANA PUBLIC SERVICE COMMISSION**

**LOUISIANA PUBLIC SERVICE COMMISSION
EX PARTE**

DOCKET NO. R-26172

**IN RE: DEVELOPMENT OF MARKET-BASED
MECHANISMS TO EVALUATE PROPOSALS TO
CONSTRUCT OR ACQUIRE GENERATING
CAPACITY TO MEETING NATIVE LOAD**

**COMMENTS OF WILLIAMS ENERGY
MARKETING & TRADING COMPANY**

Williams Energy Marketing & Trading Company (“Williams”) sincerely appreciates the opportunity to provide comments on the “development of market-based mechanisms to evaluate proposals to construct or acquire generating capacity” for native load customers. A mechanism that insures that the state’s power needs are met by generation that best serves the public interest is important to the continued economic development of the state. A significant part of Louisiana’s recent investments in economic development have been driven by merchant generation and cogeneration construction, which has located in the state due to its resources and capacity needs. The Commission and numerous other state officials have previously indicated an interest in the use of merchant generation located in Louisiana to serve native load. By setting up a fair and non-discriminatory process for the determination of the best manner to serve the capacity needs of the state, the Commission will provide a mechanism which gives it the opportunity to compare new investment from merchant generators against traditional rate-based investment, to determine which projects provide Louisiana consumers with the most reliable, cost-effective and environmentally responsible solution to its need for any new power generating capacity.

Williams currently controls 750 MW of generation in Louisiana and certainly is interested in participating in a fair and nondiscriminatory process that would allow its generation resources to be used to serve Louisiana native load. Further, Williams anticipates that it could have an interest in additional power generating or transmission capacity in Louisiana, based in part on its assessment of the state's posture towards market-based competition. Additionally, Williams' affiliates are purchasers of power in Louisiana and make up part of the native load of the state. Williams is also in the process of developing a natural gas storage facility in LaFourche Parish. As a result, Williams has a significant interest in the outcome of this proceeding.

Under the current approval process, which is outlined in General Order dated September 20, 1983, any Louisiana utility must file an application seeking approval for the addition of generation, whether that addition occurs by building capacity, repowering existing generation or entering into purchase power contracts. Some key provisions of that General Order are as follows:

No electric public utility subject to the jurisdiction of the Commission shall commence any on site construction activity or enter into any contract for construction or conversion of electric generating facilities or contract for the purchase of capacity or electric power, other than emergency or economy powered purchases, without first having applied to the Commission for a certification that the public convenience and necessity would be served through completion of such project or confection of such contract.¹

¹ Feasibility and engineering studies, site acquisition and related activities preliminary to a determination of the desirability or need for plant construction or conversion on purchase power contracts are exempted from this requirement.

Applications submitted pursuant to this order shall include the specific data utilized by the utility in justification of the generation project or purchased power agreement, an itemized projection of the total costs, the scheduled completion date with appropriate time schedules for the percentage of the total project to be completed by specific target dates, and, in cases of purchased power or capacity agreements, the proposed contract in its entirety.

The Commission shall schedule a public hearing promptly on each application and render its decision within 120 days of the filing date.

The above-referenced General Order was adopted in 1983, prior to the development of a competitive wholesale power market. As a result, it fails to include a process for fair and complete consideration of all of the options for power supply that currently exist. Williams hopes that this docket will be used to establish such a process and develop, not just a “market-based mechanism for evaluating proposals for generation to meet native load,” but an independently run bidding process that will encourage and consider all available sources of supply on a fair and nondiscriminatory basis. The process should also include a procedure to compare the repowering of existing facilities with new merchant facilities on an equitable basis. While the process must be completed on a timely basis, it may require more than the 120 day limitation imposed in the 1983 General Order.

The issue of the best way to determine the appropriate source of capacity supply has come to light in recent months due to conflicting messages from the regulated utilities on capacity needs. In Docket No. U-25533, the Commission is currently reviewing Entergy’s short-term power purchase contracts used to meet its native peak load requirements for Summer 2001. Entergy, in response to the Commission Staff’s questions regarding whether multiple, short-term purchased power contracts are an economical solution to Entergy’s capacity

shortfalls, claimed that purchased power is more economical than new construction, and offers more planning flexibility. Rebuttal Testimony of Kenneth Turner filed on September 28, 2001, Docket No. U-25533, pp. 6-9. **Entergy also stated that it was undertaking an analysis of all longer-term capacity options to help inform its future resource planning. Rebuttal Testimony of Kenneth Turner filed on September 28, 2001, Docket No. U-25533, at p. 7.**

However, in a meeting with financial analysts on October 22, 2001, less than one month later, Entergy Chairman Wayne Leonard stated the following:

“I think it is important to note that of that 15 turbines, we’re getting quite a bit of pressure. We’re 3000 megawatts short at the utility and we’re getting quite a bit of pressure coming from the regulators to eliminate those power purchase contracts and re-power of our existing units. That could heat up as much as half of those turbines right there, depends on how it turns out, so we’re really not talking about having a lot of turbines available to place any place.

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Now, the turbines that have not been placed are all 2003, 2004 turbines. We will be going to the Commission where we are particularly short, like Louisiana this year with a recommendation for how to address that shortfall capacity and like I said we have seven plants that can be repowered and those are far and away the cheapest capacity additions in this region and at the same time environmental benefits are massive by repowering those plants with sufficient turbines and heat recovery mechanism. But that recommendation - that proposal - will go to the Commission in the fourth quarter with a fairly quick decision we believe. So we are lined up really well between the turbine delivery schedule, the time frame to repower units and the fact that the contracts basically we sign just months ahead of when we need them.

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Jerry talked about that - but the regulators have talked about recoverability of the costs - in fact I guess they have encouraged us to do that - now the exact mechanism as to how we would do that I think is still up for discussion.”

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Within the last few weeks, during its Transmission Expansion Meeting held on December 5, 2001, Entergy indicated that there were 6,306 of MWs of generation under construction in Louisiana and 15,038 MWs under construction on a system wide basis. Additionally Entergy has reported that it has some 44 active or completed interconnection studies for Louisiana representing 25,477 MWs of generation and 91 studies on a system wide basis representing 57,379 MWs of generation. Mr. Leonard's statements, including his reference to Entergy's 3000 MW shortfall, and the construction of significant amounts of generation in Louisiana and on the Entergy system have brought to the forefront the need to update the current procedures in Louisiana for meeting capacity needs.

Williams supports a process in which the utility must first establish the need for additional capacity using procedures that would include the participation of interested parties. Once the need is established, and particularly in those instances in which the utility proposes to supply the capacity needs by building generation, repowering existing generation or purchasing from an affiliate, the Commission would retain an independent engineering/consulting firm to work with the utility to develop a request for proposal to supply the capacity. The request for proposal must supply adequate information to the potential bidders so that they are able to put forth their best offers. The independent engineering firm would develop a ranking of the proposals and a recommendation to the Commission through a process that would allow the participation of all parties to the proceeding. Such a process would insure that available options, including those made possible by merchant generation and the competitive wholesale market, receive fair consideration. The establishment of a fair process should bring with it the participation by a wide variety of suppliers, and therefore the

best selection of options for Louisiana citizens. This process would not necessarily preclude traditional, rate-based investment, but it would enable the Commission to compare the project economics, reliability and environmental impacts of various alternatives that are available to Louisiana consumers, in the context of the potential for any additional stranded cost if and when the state moves forward to more fully competitive power markets.

In addition to the direct effect on Louisiana’s power consumers, Williams believes that the Commission has the opportunity to dramatically influence economic development in Louisiana for decades to come by introducing a fair process by which Louisianans have the ability to have competing sources of wholesale generation as their suppliers. The continuance of the results of the Commission’s desire to see additional merchant suppliers locate and invest in Louisiana is predicated on a market — and non-discriminatory access to that market — for the output of these tremendous investments. Therefore, it is incumbent upon the Commission to ensure a level playing field for potential investors who are willing to accept the full risk of new investment, and to develop and implement a fair process which also enables the Commission to determine which of various alternatives offers the greatest comprehensive value to Louisiana consumers, including an assessment of the issues associated with continuing rate-based investment in generation resources.

Williams appreciates the progressive perspective reflected in the decision by the Commission to explore these issues at this time. Clearly any decision to approve new ratebase should be informed by a comprehensive analysis of all the reliability, environmental, and both long and short-term economic variables available from all potential suppliers, including those willing to accept the full risk of the capital investment required to provide additional capacity.

Williams stands ready to participate vigorously as the Commission considers new regulations and procedures which will incorporate this kind of objective assessment of alternatives.

Respectfully submitted:

**Katherine W. King (#7396)
J. Randy Young (#21958)
Uma Subramanian (#25264)
KEAN, MILLER, HAWTHORNE, D'ARMOND,
McCOWAN & JARMAN, L.L.P.
Post Office Box 3513
Baton Rouge, Louisiana 70821
Telephone: (225) 387-0999**

**ATTORNEYS FOR WILLIAMS ENERGY
MARKETING & TRADING COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served by U.S. mail, postage prepaid, on the official service list.

This 28th day of December 2001.
