

June 24, 2022



FROM THE DESK OF
COMMISSIONER
BRENT BAILEY
CENTRAL DISTRICT OFFICE



The Central District is pleased to bring you the latest information concerning utility rates, project developments, Public Service Commission actions and other news you can use. I hope you will find this information to be a useful resource to learn about the Public Service Commission, consumer issues and the continuous work we are doing for the citizens in the Central District and across the state of Mississippi. Thank you again for allowing me to serve you in this capacity.

Brent Bailey

MPSC Enters into Major Settlement with Entergy Companies

From time to time, the Mississippi Public Service Commission (MPSC) disagrees with our regulated utilities, their corporate parent, and/or a corporate subsidiary. In most cases matters are settled through a mutual agreement or stipulation. However, in an effort to protect the public interest, the MPSC at times engages in a more structured legal challenge to protect the interests of Mississippi customers.

Over the years, the MPSC has filed litigation, challenges, or other legal disputes with System Energy Resources, Inc. (SERI). SERI owns 90% of the energy and capacity of Grand Gulf Nuclear Station (GGNS) in Port Gibson, MS and sells that energy and capacity through the Unit Power Sales Agreement (UPSA) in contractually allocated amounts to the regulated entities of Energy Mississippi, LLC (39.95%), Entergy Arkansas, LLC (24.19%), Entergy New Orleans, LLC (19.74%) and Entergy Louisiana, LLC (16.13%) [Cooperative Energy owns the other 10% of GGNS]

This week, the MPSC [moved](#) to settle its litigation and resolve other legal disputes with SERI, Entergy Corporation, Entergy Services and Entergy Mississippi, LLC filed across thirteen (13) dockets at the Federal Energy Regulatory Commission (FERC). Each docket concerns issues related to SERI's recovery of costs under the UPSA. Through the adoption of the [Partial Settlement Agreement and Offer of Settlement](#), the MPSC resolved all outstanding issues between it and SERI, Entergy Corporation, Entergy Services and Entergy Mississippi, LLC. A brief summary of each Docket follows:

- **Docket No. EL17-41, ROE Complaint I:** The MPSC and Arkansas PSC filed a complaint seeking to reduce SERI's rate of return on common equity used in the UPSA. A partial settlement was reached.
- **Docket No. EL18-142, ROE Complaint II:** The MPSC intervened in the Louisiana PSC's complaint seeking to reduce SERI's rate of return on equity (ROE), a cap on the equity ratio used by SERI, and a reduction in SERI's depreciation rates. The docket was consolidated with EL17-41.
- **Docket EL18-204, Amended Capital Structure Complaint:** The MPSC intervened in the Louisiana PSC's complaint challenging the equity ratio used in SERI's capital structure for ratemaking. Settlement talks failed and the docket was consolidated with EL17-41 and EL18-142. At hearing, an Administrative Law Judge (ALJ) found that SERI's ROE of 10.94% was unreasonable, found that ROE Complaint II be dismissed, and SERI's actual equity ratio was not just and reasonable. FERC has not yet issued a ruling on the ALJ's recommendations.



MPSC Commissioners host press conference Thursday to announce the securing of a \$300M settlement. See MPSC [Press Release](#).



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- **Docket EL18-152, Sale-Leaseback Renewal and FIN 48 Rate Base Complaint:** The MPSC intervened in the Louisiana PSC's complaint alleging violations of the UPSA and other accounting and ratemaking standards related to billing for the costs of the GGNS sale-leaseback renewal. Settlement efforts were unsuccessful. At hearing, an ALJ found that SERI's collection of costs associated with the sale-leaseback should be limited and that refunds be made, that certain liability ADIT exclusions from rate were unjust and unreasonable and that refunds be made, that refunds should be made to account for depreciation rate accounting errors, and SERI should adopt certain formula rate protocols. FERC has not yet issued a ruling on the ALJ's recommendations.
- **Docket ER18-1182, FIN 48 Excess ADIT Proceeding:** SERI filed an application to FERC to modify the UPSA to flow back excess ADIT to its customers. The MPSC joined the Louisiana PSC in a limited protest. Settlement efforts were unsuccessful. At hearing, an ALJ determined that nearly three times the claimed excess ADIT should be returned to customers. FERC has not yet issued a ruling on the ALJ's recommendations.
- **IRS Action on the Decommissioning Cost of Goods Sold Tax Position:** The Internal Revenue Service (IRS) issued a Notice of Proposed Adjustment (NOPA) addressing SERI's uncertain tax position central to dockets **EL18-152** and **ER18-1182**. SERI filed a motion requesting FERC accept the IRS's NOPA. The MPSC and others opposed the motion. FERC has not yet ruled on the motion.
- **Decommissioning ADIT UPSA Amendments:** SERI filed in **Docket No. ER21-117** an application to modify the UPSA to include in rate base ADIT created because of the IRS's NOPA. SERI then filed in **Docket No. ER21-129** an application to provide to customers a one-time credit in order to flow through the excess ADIT created as a result of the IRS's NOPA. SERI filed in **Docket No. ER21-748** an application to modify the UPSA to provide to customers a one-time credit, which was calculated assuming that ADIT corresponding to the portion of Decommissioning Cost of Goods Sold Tax Position ultimately allowed after the IRS's audit was in rate base during the period when that uncertain tax position was pending. The MPSC and other retail regulators of SERI's Operating Company customers protested all the afore mentioned filings. FERC later issued an order that accepted the filing in Docket No. ER21-748, and subject to refund; established **Docket No. EL21-46** to enable customers to recover additional rate reductions if additional rate decreases are determined to be warranted; consolidated these dockets with **Docket Nos. ER21-117, ER21-129, and EL21-24**; ordered hearing procedures for the consolidated dockets; and held the hearing would be pending the Commission's ruling or rulings on the initial decisions in Docket Nos. EL18-152 and ER18-1182.
- **Motion to Vacate ER18-1182 Initial Decision:** SERI filed a motion to vacate the initial decision issued in **Docket No. ER18-1182**. The MPSC and other retail regulators of SERI's Operating Company customers, along with FERC Trial Staff, opposed the motion. FERC has not yet addressed the motion
- **Docket EL20-72, Omnibus UPSA Rate Complaint:** The MPSC and other retail regulators of SERI's Operating Company customers filed a complaint under Federal Power Act, alleging nearly twenty claims that SERI had violated the UPSA and/or FERC accounting and ratemaking requirements; the UPSA is no longer reasonable absent some specified modifications; and FERC should establish a generic investigation into SERI's compliance with the UPSA. Hearing procedures are still ongoing.
- **Docket EL21-56, Grand Gulf Prudence Complaint:** The Louisiana PSC, Arkansas PSC, and Council for the City of New Orleans filed a complaint against SERI, Entergy Services, Entergy Operations, Inc., and Entergy Corporation.



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The MPSC intervened in the case. The complaint alleges SERI and the other respondents acted imprudently in managing the GGNS's operations between 2016 and 2020; and that the 2012 decision to uprate GGNS and/or management of its implementation was imprudent. SERI moved to dismiss the complaint. FERC has not yet issued an order addressing the complaint or SERI's motions.

- **Docket ER21-142, 2020 Test Year Formula Rate Protocols Challenge:** SERI filed an application to modify the UPSA to include Annual Formula Rate Protocols in the form recommended in the initial decision in Docket No. EL18-152. The Commission by letter order accepted the filing. In **Docket No. ER22-958**, SERI filed its Annual Informational Filing concerning the implementation of the protocols for the 2020 Test Year. SERI received a formal challenge to the filing by original respondents and the MPSC. FERC has not yet issued an order addressing the Formal Challenge or SERI's responsive motions.

Summary of Settlement Terms

In 2022, representatives from the MPSC, Entergy Mississippi and SERI engaged in settlement negotiations with the objective of reaching a global settlement to resolve all disputes between the MPSC, SERI, and other Entergy entities regarding the above-captioned dockets. A settlement in principle was reached in June 2022, the terms of which are detailed below:

\$235 million will be paid to Entergy Mississippi LLC which in turn will be returned to customers in the form of bill credits, mitigation of rate increases due to under-recovery of fuel costs and/or other means. This amount corresponds to Entergy Mississippi's 39.95% allocation of GGNS's energy and capacity under the (Unit Power Sales Agreement (UPSA) and a total potential exposure of \$588.25 million by SERI.

MPSC may recover additional sums under a "Most Favored Nations" provision should other regulatory entities agree to a black-box settlement that exceeds the total potential exposure of \$588.25 million.

SERI is going to use a return on common equity (ROE) of 9.65% in UPSA monthly billings to Settling Operating Company Buyers, beginning July 1, 2022. Further, none of the Settling Parties may recommend a change in the agreed-upon ROE during the period of four years from July 1, 2022, through June 30, 2026. Parties also agree that SERI is going to use a capital structure consisting of SERI's actual capital structure, but with a ceiling on the equity ratio at 52%, in UPSA monthly billings to Settling Operating Company Buyers, beginning July 1, 2022, and lasting for four years. These actions represent a savings of \$65 million for Entergy MS customers.

As it pertains to Rate Base Credit for Advance Collection of Lease Payments, when SERI makes each lease payment, the subaccount balance of the lease payment collections would be reduced to zero. SERI agreed to utilize this account treatment for lease payments collected from customers with an effective date of July 1, 2022, for UPSA billings.

Regarding the exclusion of Long-Term Incentive Plan Performance Units, parties also agree that beginning July 1, 2022, SERI shall remove long-term incentive plan (LTIP) performance unit awards for executive management employees from UPSA billings.

Additionally, Entergy Mississippi agreed to annual funding of \$150,000 for a consultant chosen by the MPSC to audit UPSA Implementation for the next four years.

To see all the details of the settlement, see the entire [Partial Settlement Agreement and Offer of Settlement](#) document.



Last Week at the MPSC

- ✎ **GC Pivotal, LLC d/b/a Global Capacity, GTT Communications, Inc., and GTT Americas, LLC** filed [Correspondence](#) that due to recent trading activity of the debt interests of some of **GTT Parent's** creditors, it is now expected that another interest holder will also hold a 10% or greater indirect voting and equity interest in **Reorganized GTT Parent** when it emerged from bankruptcy.
- ✎ **X2Comm, Inc. d/b/a DC Communications** filed its [Notice](#) of Discontinuance the provision of interexchange telecommunications services and Cancellation of Certificate of Public Convenience and Necessity to Provide Telecommunications Services in the State effective September 1, 2022.
- ✎ **Airus, Inc.** filed its [Revised tariff](#) including revisions to reduce the Toll Free Database query rate. The requested effective date for this filing is August 2, 2022.
- ✎ **The Commission** issued an [Order](#) approving **Entergy Mississippi, LLC's** annual redetermination of Total Benefits of Distributed Generation in regards to the Notice of Intent for Entergy Mississippi LLC To Make A Routine Change In Rates By Filing Proposed Net Energy Metering Rider Schedule Nem-1.
- ✎ **The Commission** issued an [Order](#) approving **CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Mississippi Gas** Notice of The Filing of Routine Changes in Its Small Commercial Redevelopment Rider Scr-1.

CENTRAL DISTRICT SNAPS



Richard Mroz,
former New
Jersey Utilities
Commissioner

Lynn Constantini of NARUC and
Phil Jones, former Washington State
Utility Commissioner and Alliance
for Transportation Electrification

This week, I participated in the EV Exchange Forum in Detroit, MI. I came away with a much deeper appreciation of what is needed to effectively merge the transportation and electricity utility sectors.



I started my week off in Charlotte, NC. I spoke to the participants of the 2022 Convening of the Southeast Climate and Energy Network (SCEN) about the functions of the MPSC, my role as a Commissioner, and best practices advocates should consider when providing testimony or other communications to PSC's on matters of interest.



Sculpture recognizing Detroit's 300th Anniversary

FROM THE DESK OF COMMISSIONER BRENT BAILEY CENTRAL DISTRICT OFFICE



On behalf of the MPSC Central District office, Davis Gates attended a panel discussion last Thursday on "The Future of Energy - Renewables is the New Black" hosted by the Department of Urban & Regional Planning (DURP) at Jackson State University.

Central District staff members attended the 87th Annual Meeting of the Delta Council last Friday followed by the catfish and awards luncheon in Cleveland. (Davis Gates with Frank Howell)



Central District staff joined members of the CenterPoint Energy foundation this week to present a \$20,000 check to the Jackson State University Department of Business and Administration in support of 1st generation and low-income students to acquire the digital skills and certifications needed to compete for good paying jobs in the economy, including positions in the utility industry.

OUTAGE ALERT

Flora and Bentonia



This is a notice of a scheduled Entergy Mississippi outage for Saturday, June 25, to safely incorporate reliability improvements for their customers. Entergy

Mississippi customers in the Flora and Bentonia areas will be impacted from 7:00 a.m. - 11:00 a.m.

*Entergy MS provides a tab for planned outages on their app and their website: <https://entergy.datacapable.com/planned/?opco=ms>



**The MPSC
Central District
is on the road
next week!**

Idaho Falls, ID: NARUC Nuclear Energy Partnership site visit to Idaho National Lab

Biloxi, MS: Mississippi Municipal League 2022 Annual Conference and Exhibition



Last week, our Consumer Complaint Specialists handled a total of **28** complaints in the Central District.

| | |
|--------------------|----|
| Electric Companies | 21 |
| Telecommunications | 5 |
| Natural Gas | 2 |

Last week, the Central District received a total of **135** complaints from consumers against potential telemarketers through our no call app, website and mail-ins.

We encourage consumers to file telemarketing complaints with the Federal Trade Commission at <http://www.donotcall.gov/> in addition to filing complaints with the Mississippi Public Service Commission.