

**BEFORE THE
LOUISIANA PUBLIC SERVICE COMMISSION**

**COMMENTS OF THE COMMISSION STAFF ON
CLECO POWER LLC'S 2007 LONG TERM REQUEST
FOR PROPOSALS FOR 2010 RESOURCES**

November 1, 2007

Introduction

On June 27, 2007, Cleco Power LLC (“Cleco” or “the Company”) issued an Informational Filing, Containing Draft 2007 Long-Term Request for Proposals (“RFP”) for Capacity and Energy Resources that would begin in 2010. Cleco’s filing has been designed to comply with the Louisiana Public Service Commission’s (“LPSC” or “the Commission”) Market-Based Mechanism General Order (“MBM Order”), issued February 16, 2004. The MBM Order requires jurisdictional electric utilities to competitively procure resources that are required to satisfy resource needs greater than 35 MW in size, and whose contract term extends beyond one year in length.

Cleco’s RFP states that it is seeking to “replace or supplement certain of its existing power supply resources”¹, which Cleco has determined based on analyses that it conducted in its 2007 Integrated Resource Planning (“IRP”) Process.² Cleco’s IRP primarily evaluated supply-side resources and determined that its needs could be met reliably and economically with a resource portfolio of approximately 600 MW of intermediate and/or peaking capacity. Of this amount, 300 MW would be required in 2010, and another 300 MW would be required to satisfy load growth expected to occur over the 2010 to 2020 time period. Cleco has specified that up to 350 MW may be satisfied by peaking resources.

Cleco has retained Ms. Elizabeth Benson to serve as the independent monitor (“IM”) to oversee Cleco’s compliance with certain requirements of the Commission’s MBM order.

¹ Cleco’s June 27, 2007 Informational Filing, page 1.

² An abridged copy of Cleco’s 2007 IRP can be found on its 2007 Long-Term RFP website at <http://www.cleco.com/site111.php>

Cleco's Informational Filing at page 2 discusses the MBM Order's requirements concerning the role of the IM, and states:

Specifically, the LPSC defines the IM's oversight functions as follows:

- (a) The IM will review and track the utility's conduct of the RFP to ascertain that no undue preference is given to affiliates and their bids, self build or self supply projects. This will include, to the extent necessary, reviewing the draft RFP and the utility evaluation of bids, monitoring communications (and communications protocols) with market participants; monitoring adherence to codes of conduct; and monitoring contract negotiations.*
- (b) The IM shall report to the Staff at appropriate intervals and facilitate regular communication between Staff and the utility on the RFP process. The IM will immediately report any irregularities, problem or concerns with the RFP process to the utility and Staff. The IM shall also submit a final RFP evaluation report to Staff and the Commission, including any recommendations for improving the process.*

The IM's proposed scope of work is attached to Cleco's Informational Filing as Attachment A-1, and is posted to Cleco's 2007 RFP website. Staff, Ms. Benson and Cleco have coordinated closely thus far in the 2007 RFP process, and based on that coordination, Cleco has made numerous modifications to its preliminary draft RFP.

On Thursday, July 26, 2007, the LPSC Staff conducted a Technical and Bidder's Conference in Baton Rouge that was open to all interested parties. Cleco made two presentations at the conference including one that summarized the purpose and requirements of Cleco's 2007 RFP, and the other that provided potential bidders with instructions about how to make electronic bid submissions. Both presentations can be found on Cleco's 2007 RFP website. Prior to and during the preparation of Cleco's Draft Informational Filing, Staff participated in several meetings and conference calls with the IM and Cleco, and posed numerous questions to Cleco. Other than the technical conference, all communications between potential bidders and Cleco were expected to be conducted by means of the procedures that were specified in the RFP Informational Filing. All questions were to be provided to Cleco in writing using a form provided on Cleco's RFP website. Twenty-five questions were submitted to Cleco, including one by Staff. The IM has reviewed all questions and has kept Staff informed of any particular issues of concern. Additionally, EnerNOC, one of the interested parties, submitted written comments, which have also been posted to the RFP website.

Staff now submits these comments based on our review of Cleco's 2007 RFP Informational Filing, and on our review of the questions and comments raised by various interested parties.

Cleco's Demonstration of Need for Capacity

Currently there is no IRP Requirement in Louisiana, although recently, the LPSC opened a docket, Docket R-30021, to develop a specific rule that would define an IRP process for Louisiana. Even though no IRP requirement exists, Cleco has relied on an IRP process to determine its resource needs and to identify the most appropriate type of resources for its system. Neither the Commission nor Staff have been involved in the development or participated in any approval process associated with Cleco's IRP process, however, Staff has reviewed the Cleco's 2007 IRP Document Abridged Version that was posted to Cleco's website.

One obstacle confronting Cleco that is discussed in its Informational Filing is its inability to reliably import firm energy due to transmission constraints within its region. This constraint led Cleco to rely on a larger target reserve margin, 15%, than it would otherwise be required to maintain, as the Southwest Power Pool only requires a 12% reserve margin target. The combination of this target reserve margin, Cleco's existing portfolio of generation resources and Cleco's load forecast ultimately determine the amount of capacity that Cleco will need to add to its system over time. Further analysis conducted as part of Cleco's IRP led to the determination of the type of resources that would mitigate risk and minimize cost to Cleco's customers. Concerning its load forecast, Cleco's IRP projects that on average over the 10 year planning period (2010 to 2020), that its forecast demand will grow at a rate of 1.37% per year. During this time, Cleco's load plus reserve requirement will grow from 2,221 MW to 2,545 MW, an increase of approximately 324 MW over the period. In late 2009, Cleco will bring on-line the Rodemacher 3 petcoke unit, which will provide an additional 600 of capacity to the Company. Due to the expiration of contracts for firm purchases, even with the addition of the Rodemacher 3 unit, Cleco will be short of capacity in 2010 by approximately 300 MW. Based on the initial need of 300 MW in 2010 and considering that Cleco's load will grow by 324 MW by 2020, Cleco will have to satisfy a total requirement of approximately 620 MW of capacity by 2020.

Based on a comparison of Cleco's 2004 and 2007 abridged IRP documents, Cleco's load forecasts in both IRPs appear to be similar. In the prior IRP, Cleco projected a growth rate of 1.2%, while in the 2007 IRP, Cleco projects a growth rate of 1.37%. There is, however, one issue

that Staff noticed while reviewing the two IRPs and requests additional clarification. On page 5 of Cleco's current RFP Informational filing, it states that over the last 10 years, Cleco's system peak has increased at an average annual rate of 3.7%. If, in fact, Cleco's actual load increased by 3.7% over the past 10 years on an average annual basis, why would both the 2004 and 2007 IRPs forecast load to increase by only 1.2% and 1.37%, respectively?

Concerning the target reserve margin, the last IRP used a different requirement compared to the most recent IRP. In the last IRP, Cleco decided that its reserve margin would be 20% through 2015, and then switch to 15% for the remainder of the study period. In the most recent IRP, Cleco decided to use 15% for the entire study period. Staff requests that Cleco provide an explanation for the different reserve margin requirement that it used in each IRP. Typically, 15% would not be considered unreasonable, however, given Cleco's concern about import limitations, we would like to understand what led Cleco to select the lower reserve margin target for this IRP. While we raise this as an issue, we are not overly concerned about it for two reasons. First, the Southwest Power Pool only requires its members to plan for a 12% reserve margin target, and second, the use of a 15% reserve margin is quite typical within the utility industry.

The fact that Staff raises a question concerning Cleco's reserve margin target does not imply that we have a problem with Cleco's 2007 Long Term RFP. The question, if there really is cause for concern, is not whether Cleco should conduct an RFP, but rather, whether it plans to acquire enough capacity in the RFP. Since a 15% reserve margin is fairly typical in the industry, Staff is not overly concerned about this matter, although, we would still request Cleco to provide an explanation for the change to a lower reserve margin.

Cleco's Decision to Obtain Peaking and Intermediate Resources

Cleco's Informational Filing explains that based on evaluations conducted in the 2007 IRP, it determined that 600 MW of intermediate/peaking resources should be acquired in this RFP. Staff believes that this is reasonable given the fact that Cleco is currently building Rodemacher 3, a 600 MW baseload coal unit, which will add a substantial amount of baseload capacity to a system the size of Cleco.

However, another concern Staff has is whether Cleco has given adequate consideration to options other than supply-side resources, especially since Cleco states that it will consider adding up

to 350 MW of peaking resources. For example, it is possible that some portion of this 350 MW requirement could be satisfied with a demand side management program that potentially could be more cost effective than building new resources. In its 2007 IRP, Cleco explained that it did evaluate DSM resources, as it hired a consultant to quantify the market potential for demand side management in its territory. On page 4 of the IRP document, Cleco stated that its initial results showed the potential to offset demand, but in very small quantities. On page 15 of the IRP document, Cleco explained that the DSM evaluation is still an on-going process and that the Consultant it hired will continue to conduct additional detailed analysis so that, "Cleco can determine which programs it may wish to pursue and at what level of investment."

Staff is pleased that Cleco has begun the process of conducting DSM evaluations and would like to know whether any demand side management programs could economically and reliably replace some of the peaking resources that Cleco might want to add. For example, Staff is aware that one of the interested parties in this proceeding would like Cleco to consider bids containing demand response capacity. EnerNOC submitted comments, which Cleco posted to its RFP website on August 29, 2007, explaining that a demand response program would be a reliable, cost-effective, and environmentally sensitive alternative to purchasing peaking power. EnerNOC further stated that it has developed over 886 MW of demand response programs throughout the United States, and that its technology is a reliable and cost-effective means of reducing peak electricity consumption. Staff agrees that if cost-effective, reliable and environmentally beneficial demand response programs exist, they should then be permitted to bid along with supply-side alternatives.

In addition to submitting comments, EnerNOC also submitted a question (Question 18 on Cleco's RFP website) asking whether Cleco would consider bids that offer dispatchable demand response programs as an alternative to satisfy some portion of Cleco's peaking capacity requirement. Cleco did respond that a bidder could offer a demand response bid and Cleco promises to evaluate it. However, Cleco makes a point of stating that type of bid would be evaluated using the same criteria as Cleco would use to evaluate other bids. EnerNOC's ultimate request is that the final RFP filing should explicitly contain provisions for the consideration of demand response resources. Staff believes this is reasonable and would like Cleco to formally include a discussion explaining that it will consider demand response bids and bids containing other types of demand side management resources in this RFP. Staff would also like Cleco to clarify what it means by stating that it will not evaluate

demand response programs differently than other generation resources. On the surface this appears reasonable, as demand response programs should not be selected unless they appear to be cost effective compared to other generation resources; however, Cleco's comments should be clarified in the RFP document. Additionally, Staff believes that Cleco should explain to bidders in the Informational Filing that in order for it to consider selecting any demand side management resource as a winning bid, the bidder must provide clear evidence that the demand side management program would be as reliable as a peaking generating unit resource.

Features of Cleco's Informational Filing

Cleco worked closely with the Staff and the IM to develop its Informational Filing, and during this process, several rounds of drafts were circulated among the group. Nearly all of Staff's comments were incorporated into the Informational Filing, but in the instances in which Staff's comments were not, detailed and satisfactory discussions were conducted explaining why they were not.

The first three sections of the Informational Filing discuss general features of the RFP. Those sections explain who the players are, introduce the IM and the role of the IM, discuss Cleco's need for capacity, explain Cleco's RFP Code of Conduct, and summarize the RFP process. Staff notes that Cleco developed the Code of Conduct to ensure that its affiliates and its self-build/self-supply proposals do not receive any preferential treatment versus the non-affiliate bids that it receives. Section 1.3 of the Informational Filing explains that all Cleco Power and Cleco Corporation employees involved in the RFP will receive formal Code of Conduct training. Staff is aware that this Code of Conduct Training has already been conducted, and that the IM was primarily responsible for providing the training to Cleco employees.

Section 3 contains a discussion of self-build options that Cleco proposes to evaluate against bids submitted by non-affiliated parties. This section states that Cleco Power's 2007 IRP identified the Acadiana load pocket area as a good location to site new resources. Cleco explains this is due to its location, the fact that the existing Teche Power Station is in this region, and that it provides good access to water, transmission, and fuel sources. In fact, the self-build option that Cleco proposes is to re-power the existing Teche Units 1, 2 and 3 to combined cycle resources. Those resources would constitute intermediate duty units, and Cleco proposes simple-cycle combustion turbine units that it would also build at Teche Power Station, as additional self-build options. Building up to 300 MW of combustion turbine units at Teche would give Cleco flexibility to allow some of that to be used as

black start capacity.

Section 4 contains instructions to bidders explaining the requirements for submitting bids, and the two-phase bid process that Cleco plans to conduct. This section explains that in the first phase of the bidding process, bidders will be required to submit indicative proposals. It also explains that for the first time in this RFP bid process, it will require bidders to make electronic bid submissions. In the second phase, Cleco explains that bidders that make the short-list will be required to submit binding proposals. Bidders will also be expected to pay a bidder's fee, which is allowed by the Commission's MBM Order. A fee of \$5,000 will be assessed for each bid based on a specific generating resource, and incremental fees of \$1,500 will be assessed for each additional bid from the same generating resource. No other fees will be charged to the bidders at any time during the RFP process.

Also, in Section 4, Cleco provides details concerning the method that it will use to evaluate bids. Cleco will not only evaluate each bid individually, but it will also make up portfolios containing combinations of bids, in an attempt to find a set of resources that will provide maximum value to the Company. Bidders should be aware that whenever a portfolio does not provide the desired amount of capacity that Cleco is seeking, such that it will be able to maintain a 15% reserve margin, then a cost will be added to the portfolio to account for an assumed market capacity purchase. This is discussed on page 29 of the Informational Filing, under the heading Capacity Shortfall. Staff is aware that Cleco has used this approach in other RFP proceedings, and believes that it is a reasonable approach in conducting economic evaluations. However, we plan to monitor this closely when Cleco evaluates all of the bids, especially since not all of the details and costs are discussed in the Informational Filing.

Another issue that we plan to monitor closely is the treatment of imputed debt that Cleco plans to include in the evaluation process. Cleco intends to impute a cost of debt because it believes that rating agencies treat PPAs as debt on the balance sheet, which may ultimately raise the Company's cost of capital.³ While Staff has some concern about Cleco's desire to impute a cost of debt, Staff is aware that this has been raised in RFP processes by utilities in other states, as well as, other utilities in Louisiana. Staff is pleased that Cleco's Informational Filing stated it will not include imputed costs during the first round of evaluations, and will only include imputed costs when evaluating bids that are on the short-list. Staff is also pleased by the

³ Cleco states that it will follow the Standard and Poor's methodology for debt imputation, which is explained in a document that Cleco posted to its website.

response concerning imputed debt that Cleco made to one of the bidder's questions, Question 22. In that response, Cleco stated, "The LPSC Staff, the Independent Monitor, and Cleco Power collaboratively will determine the appropriate impact of the debt imputation on final bid selection." Staff requests that Cleco include this statement in its Informational Filing.

Section 4 also discusses the final bid selection process. Cleco explains that it will use a Net Present Value analysis to evaluate bids, and will evaluate bids across a range of planning assumptions. Staff believes that this is important to ensure that winning bids perform well across different operating conditions. Cleco also states that it will evaluate short-listed bids using non-price factors including credit issues, fuel diversity, fuel supply, unit commitment and dispatching, transmission and operational. On page 31 of the Informational Filing, Cleco states, "The application of the non-price factors will be applied in consultation with and with the oversight of the IM and LPSC Staff." Staff encourages Cleco to engage in discussions with Staff at the appropriate time regarding non-price factors. Final bid negotiations will take place after Cleco selects winning bidders.

Section 5 explains the regulatory approval process required before negotiated bids could be finalized. Section 6 explains that Cleco is under no obligation to accept any bid whatsoever. This sort of clause is fairly typical of an RFP process, and Staff has seen similar terms in RFP documents produced by other utilities. In this section, Cleco explains that it will not be under any obligation to disclose its reasons for rejecting bids, except as required in the Commission's MBM Order. Based on the discussion in this section of the Informational Filing, it must be clear that each bidder will be responsible for all costs and expenses that it incurs in submitting bids to Cleco. The final section of the Informational Filing contains a Glossary of Terms.

Review of Questions Submitted to Cleco

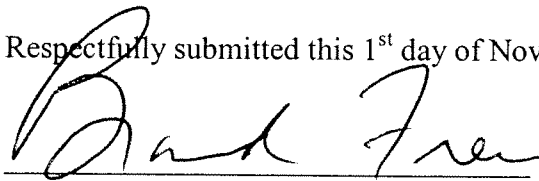
In total, twenty-five questions were submitted to Cleco. Staff only discusses those that are of concern to us, as many of the questions only requested clarifications of the RFP. Also, some of the questions have already been discussed above in Staff's comments, and will therefore not be repeated here. All of the questions listed on Cleco's website were submitted anonymously except for the one submitted by Staff.

Question 17 asked what would impede Cleco from using an on-line auction to allow bidders to

compete on a real-time basis. The same question also asked whether Cleco, the LPSC and the other stakeholders would work to modify the RFP process to use an online auction process. Staff does not think that it would be appropriate to consider these issues as part of Cleco's RFP process, as they are currently being evaluated fully in Docket No. R-26172.

Staff also asked one question, which stemmed from its concern that bidders might be adversely impacted if they were restricted to bid resources to Cleco for a maximum of 20 years, while Cleco's self-build proposals were allowed to bid for the operating life of the proposed resources. We asked Cleco if it would be willing to accept bids for periods greater than 20 years and Cleco responded positively that it would. We would request that Cleco include a statement to this effect in the Informational Filing.

Respectfully submitted this 1st day of November 2007.



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