



JUDICIAL REVIEW CITATION

BEAUREGARD ELECTRIC COOPERATIVE, INC., ET AL (Plaintiff)

NUMBER C-683388 26

19TH JUDICIAL DISTRICT COURT

VS

PARISH OF EAST BATON ROUGE

LOUISIANA PUBLIC SERVICE COMMISSION (Defendant)

STATE OF LOUISIANA

TO: LOUISIANA PUBLIC SERVICE COMMISSION THROUGH ITS EXECUTIVE SECRETARY BRANDON M. FREY 602 NORTH FIFTH STREET 12TH FLOOR, GALVEZ BUILDING BATON ROUGE, LA 70802

2019 JUN -3 AM 9:20 LA PUBLIC SERVICE COMMISSION

You are hereby notified that a petition for judicial review has been filed by the plaintiff in the above numbered and entitled manner, a duly certified copy of which petition is attached to be herewith served, and you are hereby cited to:

- (a) Answer said petition; and (b) file a certified copy of the record of the proceedings, including the transcript of all testimony taken in the matter, together with findings, conclusions and decisions of your office. The address of the Clerk of Court's Office is 300 North Boulevard, Baton Rouge, Louisiana.

Witness the Honorable Judges of our said Court, at Baton Rouge, MAY 29, 2019.



Randy M. Monte

Deputy Clerk of Court for Doug Welborn, Clerk of Court

Requesting Attorney: MARIONNEAUX, KYLE C 225 7697473

SERVICE INFORMATION:

Received on the ___ day of ___, 20___ and on the ___ day of ___, 20___, served on the above named party as follows:

PERSONAL SERVICE: On the party herein named at _____

DOMICILIARY SERVICE: On the within named _____, by leaving the same at his domicile in this parish in the hands of _____, a person of suitable age and discretion residing in the said domicile at _____

SECRETARY OF STATE: By tendering same to the within named, by handing same to _____

DUE AND DILIGENT: After diligent search and inquiry, was unable to find the within named _____ or his domicile, or anyone legally authorized to represent him.

RETURNED: Parish of East Baton Rouge, this ___ day of ___, 20___.

SERVICE: \$ _____ MILEAGES: \$ _____ TOTAL: \$ _____

Deputy Sheriff

RECEIVED MAY 29 2019 E.B.R. SHERIFF'S OFFICE

BEAUREGARD ELECTRIC
COOPERATIVE, INC., CLAIBORNE
ELECTRIC COOPERATIVE, INC.,
DIXIE ELECTRIC MEMBERSHIP
CORPORATION, JEFFERSON DAVIS
ELECTRIC COOPERATIVE, INC.,
NORTHEAST LOUISIANA POWER
COOPERATIVE, INC., SOUTH
LOUISIANA ELECTRIC
COOPERATIVE ASSOCIATION, AND
WASHINGTON-ST. TAMMANY
ELECTRIC COOPERATIVE, INC.

SUIT NO. 683388 SEC. "26"
19TH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

VERSUS

LOUISIANA PUBLIC SERVICE
COMMISSION

FILED: _____ DEPUTY CLERK

**VERIFIED PETITION FOR JUDICIAL REVIEW AND APPEAL OF LOUISIANA
PUBLIC SERVICE COMMISSION ORDER NO. R-35066, DECLARATORY
JUDGMENT, TEMPORARY RESTRAINING ORDER, AND PRELIMINARY AND
PERMANENT INJUNCTIVE RELIEF**

NOW INTO COURT, through undersigned counsel, come the following electric utility cooperative corporations, all located in the State of Louisiana (collectively hereinafter referred to as the "Corporate Cooperatives"): (i) Beaugard Electric Cooperative, Inc., (ii) Claiborne Electric Cooperative, Inc., (iii) Dixie Electric Membership Corporation, (iv) Jefferson Davis Electric Cooperative, Inc., (v) Northeast Louisiana Power Cooperative, Inc., (vi) South Louisiana Electric Cooperative Association, and (vii) Washington-St. Tammany Electric Cooperative, Inc., and The Corporate Cooperatives collectively file this petition of judicial review and appeal, requests for injunctive relief, and request for declaratory judgment with respect to LPSC Order No. R-35066, In re: *Rules and Regulations Governing Electric Cooperatives subject to the jurisdiction of the Louisiana Public Service Commission* (hereinafter referred to as "Order R-35066") issued by the Louisiana Public Service Commission on April 11, 2019. In support thereof, the Corporate Cooperatives respectfully represent to the Court the following:

PARTIES

1.

Petitioners, the Corporate Cooperatives, are all Louisiana electric utilities organized under the Electric Cooperative Law, La. R.S. 12:401 *et seq.*, and as such are corporations domiciled in the following Parishes in the State of Louisiana, providing electric service to the general public:



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Beauregard Electric Cooperative, Inc. (hereinafter referred to as "BECI") domiciled in Beauregard Parish, was originally incorporated in March 1939 and then converted to an electric cooperative under Louisiana law in January 1941, and serves Allen, Beauregard, Calcasieu, Evangeline, Jefferson Davis, Rapides, and Vernon parishes;

Claiborne Electric Cooperative, Inc. (hereinafter referred to as "Claiborne") domiciled in Claiborne Parish, was originally incorporated in September 1938 and then converted to an electric cooperative under Louisiana law in January 1941, and serves Bienville, Claiborne, Lincoln, Ouachita, Union, and Webster, parishes;

Dixie Electric Membership Corporation (hereinafter referred to as "DEMCO") was originally incorporated in August 1938 and then converted to an electric cooperative under Louisiana law in March 1941, and serves the capital region of Louisiana, including the parishes of Ascension, East Baton Rouge, East Feliciana, Livingston, St. Helena, Tangipahoa, and West Feliciana;

Jefferson Davis Electric Cooperative, Inc. (hereinafter referred to as a "JDEC") domiciled in Jefferson Davis Parish, was originally incorporated as an electric cooperative under Louisiana law in September 1941, and serves Allen, Calcasieu, Cameron, Jefferson Davis, and Vermilion parishes;

Northeast Louisiana Power Cooperative, Inc. (hereinafter referred to as "Northeast") domiciled in Franklin Parish, was originally incorporated in January 1939 and then converted to an electric cooperative under Louisiana law in February 1941, and serves East Carroll, West Carroll, Franklin, Madison, Morehouse, Richland, and Tensas parishes;

South Louisiana Electric Cooperative Association (hereinafter referred to as "SLECA") domiciled in Terrebonne Parish, was originally incorporated in May 1938 and then converted to an electric cooperative under Louisiana law in February 1941, and serves Assumption, Lafourche, St. Martin, St. Mary, and Terrebonne parishes;

Washington-St. Tammany Electric Cooperative, Inc. (hereinafter referred to as "WST") domiciled in Washington Parish, was originally incorporated in February 1938 and then converted to an electric cooperative under Louisiana law in February 1941, and St. Tammany, Tangipahoa, and Washington parishes; and

2.

Made defendant herein is the Louisiana Public Service Commission (hereinafter referred to as the "LPSC" or the "Commission"), which is domiciled in the Parish of East Baton Rouge, State of Louisiana.

JURISDICTION AND VENUE

3.

This Court has jurisdiction over this matter and venue is proper in this Court pursuant to Article IV, § 21(E) of the Louisiana Constitution, which provides that any action of the Commission may be appealed to the district court of the Commission's domicile. The Commission is domiciled in East Baton Rouge Parish.

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CONSTITUTIONAL AUTHORITY OF THE COMMISSION

4.

The Commission is a constitutionally-created commission in the executive branch of government that has authority to “regulate all common carriers and public utilities and have such other regulatory authority as provided by law.” La. Const. Art. 4, §21(B). The Constitution provides that the Commission “shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.” La. Const. Art. 4, §21(B).

5.

The Commission has plenary authority to *regulate* public utilities. *Cajun Electric v. La. Pub. Serv. Comm.*, 544 So.2d 362 (La. 1989). But, importantly, “the Legislature has plenary authority to enact any legislation not prohibited by the constitution.” *Hayden v. Louisiana Pub. Serv. Comm’n*, 553 So.2d 435 (La. 1989). The Louisiana Supreme Court has held consistently that the LPSC does not have “unfettered discretion” to control all matters relating to public utilities. *Id.* at 439. The authority to “regulate . . . public utilities” and to “adopt and enforce reasonable rules” granted to the Commission by Article IV, Section 21 of the Louisiana Constitution is limited to regulating rates and terms of services of public utilities. *Id.* Although the Louisiana Constitution grants the Commission plenary authority over the *regulation* of all common carriers and public utilities, “the Commission must nonetheless operate within its bounds.” *Louisiana Power & Light Co. v. Louisiana Pub. Serv. Comm’n*, 609 So.2d 797, 801 (La. 1992).

CONSTITUTIONAL AUTHORITY OF THE LEGISLATURE

6.

The Louisiana Legislature is broadly vested with the “legislative power of the state...” La. Const. Art. 3, §1. In accordance with this authority, the Louisiana Legislature has enacted and amended from time to time Title 12 of the Louisiana Revised Statutes, which sets forth statutes providing for the formation and governance of numerous business entities and juridical persons, including for-profit corporations, non-profit corporations, limited liability companies, unincorporated associations, numerous profession-based corporations, and “Special Corporations,” which include electric cooperatives, as provided for in the Electric Cooperative Law, La. R.S. 12:401 *et seq.* As noted above, “[t]he Legislature has plenary authority to enact any legislation not prohibited by the constitution.” *Hayden v. Louisiana Pub. Serv. Comm’n*, 553 So.2d 435, 439 (La. 1989). “The

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legislature's lack of power to alter the [Commission's] constitutional jurisdiction does not prevent the legislature from enacting substantive provisions affecting motor carriers" or other public utilities. *Herman Bros., Inc. v. Louisiana Pub. Serv. Comm'n*, 564 So.2d 294, 297 (La. 1990). The Electric Cooperative Law is one example of the Legislature's authority to enact substantive provisions regarding the formation and governance of the Corporate Cooperatives.

CONSTITUTIONAL CONFLICT

7.

When a Commission's order is in direct conflict with the Louisiana Revised Statutes, such a conflict must be addressed by the courts. *Louisiana Power & Light Co. v. Louisiana Pub. Serv. Comm'n*, 609 So.2d 797, 801 (La. 1992). The Commission "is not entitled to deference in its interpretation of statutes and judicial decisions" and the court "is the ultimate arbiter of the meaning of the laws of this state." *Washington-St. Tammany Elec. Co-op., Inc. v. Louisiana Pub. Serv. Comm'n*, 671 So.2d 908, 912 (La. 1996). Constitutional interpretation is something that fits squarely within the jurisdiction, expertise, and authority of this Court.

OVERVIEW OF RELIEF SOUGHT

8.

This Petition for Judicial Review and Appeal, Injunctive Relief, and Declaratory Judgment arises out of the Commission's erroneous and unconstitutional adoption and issuance of Order No. R-35066. As discussed more fully herein, Order R-35066, which unlawfully mandates internal corporate governance and standards for general membership voting of the Corporate Cooperatives, vastly exceeds the Commission's constitutional authority. The Commission's constitutional and regulatory jurisdiction, as it relates to electric utilities, is to regulate the rates and terms of the same. The Commission has no jurisdiction, and indeed violates state law, if it attempts to dictate to a privately-owned business — such as the Corporate Cooperatives or common carriers — what shall constitute a Board quorum, term limits for Board members, and other corporate governance matters that the Louisiana Legislature has rightly vested in the Corporate Cooperatives' respective members. Order R-35066 deprives the Corporate Cooperatives' members and their duly elected Board members of their clear legal right to determine important matters such as the members' voting rights, methods of voting, quorum requirements, and other related matters — rights specifically granted to them by the Louisiana Legislature with enactment of the Electric Cooperative Law, La. R.S. § 12:401, *et seq.* Additionally, Order R-35066 was issued in violation

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of the Corporate Cooperatives' right to procedural due process, as the majority of the rules adopted by the Commission were never filed into Commission's rulemaking record/docket prior to adoption by the Commission, such that the Corporate Cooperatives were deprived procedural notice of the proposed rule and thus not given a reasonable opportunity to submit comments, data, or other information bearing on the new rules.

THE ELECTRIC COOPERATIVE LAW

9.

The electric cooperative system in Louisiana had its start as part of the New Deal as a direct result of the passage of the federal Rural Electrification Act (REA) in 1936, which sought to bring electricity to rural America.¹

10.

Driven largely by passage of the REA and related federal policies, thirteen electric cooperatives began operation in Louisiana between 1937 and 1940.²

11.

The Electric Cooperative Law, La. R.S. 12:401, *et seq.*, was passed by the Louisiana Legislature in 1940 to recognize electric cooperatives as private corporations and to establish requirements for their formation and corporate governance. The Electric Cooperative Law has functioned effectively for almost 80 years, including before and after ratification of the Louisiana Constitution of 1974.

12.

Title 12 of the Louisiana Revised Statutes, entitled "Corporations and Associations," in addition to setting forth the corporate governance requirements for electric cooperatives, sets forth the requirements for the formation, membership, and governance of a variety of Louisiana business entities, including corporations, partnerships, and limited liability companies and electric cooperatives. In essence, Title 12 of the Louisiana Revised Statutes is where the Legislature has established the rules and requirements for corporate governance and formation of Louisiana private businesses.

¹ Gary A. Donaldson, *A History of Louisiana's Rural Electric Cooperatives 1937-1983*, A Dissertation. Kentucky Press.

² *Id.*



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13.

The Legislature has required that electric cooperatives be legally organized pursuant to La. R.S. 12:401 *et seq.*

14.

Under the Electric Cooperative Law, the Corporate Cooperatives may, *inter alia*, "adopt, amend and repeal by-laws." La. R.S. 12:403.

15.

Specifically, the Corporate Cooperatives' "bylaws may be adopted, amended, or repealed by the members or the board of directors. However, only the members may amend the bylaws when the amendment concerns the dissolution of the cooperative or the sale, lease, or other disposition or encumbrance of all or any substantial portion of property belonging to the cooperative. The board of directors shall not adopt any bylaws in conflict with the provisions of R.S. 12:414, 418, or 421." La. R.S. 12:407(B).

16.

Moreover, "in the event voting by mail is authorized in the bylaws, the board of directors is authorized to prescribe conditions necessary for voting by mail, including the percentage of members required to constitute a quorum. However, only the members may prescribe conditions in the bylaws for voting by mail or the constituting of a quorum when the provisions of the bylaws relate to the dissolution of the cooperative or the sale, lease, merger, or other disposition or encumbrance of all or any substantial portion of property belonging to the cooperative." La. R.S. 12:407(C).

17.

Furthermore, the "bylaws shall set forth the rights and duties of members and directors and may contain other provisions for the regulation and management of the affairs of the cooperative not inconsistent with this Part or with its articles of incorporation. Nothing herein or in this Part shall limit the rights of members provided for in R.S. 12:417 or any rights otherwise granted in the bylaws and articles of incorporation which may authorize voting by mail or proxy." La. R.S. 12:407(D).

18.

When dealing with notice requirements for the Corporate Cooperative meetings, the Electric Cooperative Law provides that, "except as hereinafter otherwise provided, written or

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printed notice stating the time and place of each meeting of members and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given to each member, either personally or by mail, not less than ten nor more than twenty-five days before the date of the meeting.” La. R.S. 12:408(E).

19.

As to the legal quorum required at a Corporate Cooperative meeting, “[u]nless otherwise required in the articles of incorporation or in the bylaws, five percent of all members, present in person, shall constitute a quorum for the transaction of business at all meetings of the members. For purposes of this Section, if voting by mail is authorized in the bylaws, members voting by mail shall be considered present in person. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice.” La. R.S. 12:408(F).

20.

With regard to the legal standard for Corporate Cooperative voting, the Electric Cooperative Law further provides that “[e]ach member shall be entitled to one vote on each matter submitted to a vote at a meeting. Voting shall be in person, but, if the bylaws so provide, may also be by proxy or by mail, or both. If the bylaws provide for voting by proxy or by mail, they shall also prescribe the conditions under which proxy or mail voting shall be exercised. In any event, only members may act as proxies and no member may act as proxy for more than three members at any meeting of the members. La. R.S. 12:408(G).

21.

The Legislature has provided that the business and affairs of the Corporate Cooperatives shall be managed by a board of directors. “The bylaws shall prescribe the number of directors, their qualifications, other than those provided for in this Part, and the manner of holding meetings of the board of directors and of the election of successors to directors who shall resign, die, or otherwise be incapable of acting. The bylaws may also provide for the removal of directors from office and for the election of their successors.” La. R.S. 12:409.

FACTUAL ALLEGATIONS

22.

The Corporate Cooperatives are private corporations created pursuant to the Electric Cooperative Law, La. R.S. 12:401, *et seq.* The Corporate Cooperatives are owned by the members

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that they serve. In accordance with the Electric Cooperative Law, members of each of the Corporate Cooperatives have lawfully and willingly, by a direct democratic election process, given their respective boards of directors the authority to make and adopt internal corporate and governance policies that are consistent with the law, their own articles of incorporation, and their own bylaws as the boards deem advisable for the management of the business and affairs of each Corporate Cooperative.

23.

On April 11, 2019, in direct contravention of the Electric Cooperative Law, La. R.S. 12:401 *et seq.*, the Commission issued Order R-35066, with an immediate effective date. Order R-35066 had been voted on and approved in advance of its issuance at the Commission's March 20, 2019 open meeting, typically referred to as a "Business and Executive Session" (hereinafter referred to as a "B&E").

24.

By way of background, at the September 19, 2018 B&E, Commission Staff was directed to conduct an audit of electric cooperatives to determine best practices in the areas of operations and finances. Commission Staff was also directed to issue a Request for Proposal (hereinafter referred to as an "RFP") to hire a consultant to assist with this audit. The Commission never issued an RFP.

25.

On or around October 2, 2018, in response to the September 19, 2018 B&E directive, Commission Staff propounded discovery to the Corporate Cooperatives with a requested ten (10) day response period. Among the various requests for documentation, Commission Staff specifically requested, and received, a current copy of each Corporate Cooperative's bylaws. Attached hereto as Exhibit "A" *in globo* are copies of the pertinent excerpts of the bylaws of each Corporate Cooperative as provided to the Commission. As stated in more detail below, the Corporate Cooperatives request that, pursuant to La. R.S. 45:1193, a complete copy of the record, including discovery utilized in R-35066, and in the untitled Commission proceeding giving rise to R-35066, be filed with the clerk of court within fifteen days after this petition is served upon the Commission.

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26.

At the Commission's October 26, 2018 B&E, Commission Staff reported on the status of the Commission Staff's internal review of the Corporate Cooperatives. Commission Staff was directed to initiate a rulemaking stemming from and in conjunction with the information derived from the September 19, 2018 B&E directive.

27.

On November 16, 2018, despite never issuing an RFP and already having received the bylaws of each Corporate Cooperative, the Commission provided notice in the Commission's Official Bulletin No. 1180 dated November 16, 2018, of its rulemaking docket, LPSC Docket No. R-35066, In re: *Rules and Regulations Governing Electric Cooperatives subject to the jurisdiction of the Louisiana Public Service Commission* (hereinafter referred to as "R-35066"). Simultaneous with this notice, Commission Staff filed "*Staff's Initial Recommendation*" into the docket of R-35066, which outlined corporate and board governance mandates for the Corporate Cooperatives.

28.

On January 30, 2019, the Corporate Cooperatives formally intervened and were granted full intervenor status in R-35066.

29.

On February 15, 2019, Commission Staff filed into the official record of R-35066, *Staff's Final Proposed Recommendation*, which outlined the following intrusions into the Corporate Cooperatives' internal affairs:

1. Co-ops shall no longer provide medical/health or life insurance to co-op directors. Director's liability or similar insurance is exempt from this prohibition. However, the co-ops may continue providing health insurance to its directors until July 1, 2019.
2. All co-op director's per diems for attendance at board meetings, or other functions that require the attendance of a co-op director shall be "capped" at \$375 per day.
3. Effective with the next election cycle for each directorship, directors shall be term limited to four (4) consecutive 3 year terms, for a total of 12 years.
4. The maximum threshold for a quorum of members for the purposes of electing directors shall be 5% of the total members, irrespective of whether the meeting is in person or via mail ballot. Beginning in the next election cycle, a co-op that has failed to achieve quorum for director voting in consecutive years, or in three (3) of the last five (5) years, shall conduct future director voting via mail ballot.
5. Co-ops, in association with the Commission, and any state and local cooperative associations, shall use best efforts to provide director training at locations throughout the state of Louisiana.

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6. Co-ops that are not currently doing so, shall file annual reports on outside contract expenses as required by the Commission's February 28, 1990 General Order.
7. Given the unique regulatory situation of Panola-Harrison, Panola-Harrison is excluded from the best practices adopted in this proceeding. However, Panola-Harrison shall still maintain compliance with LPSC General Order dated February 28, 1990 on annual reports on outside contract expenses.

Staff's Final Proposed Recommendation, pp. 24-25.

30.

As mentioned in paragraph 4, *supra*, the mandates ultimately issued by the Commission in Order R-35066 were never filed into the record/docket of R-35066 and were in stark contrast to *Staff's Final Recommendation*.

31.

From an obvious comparison of "*Staff's Final Proposed Recommendation*" and Order R-35066, the Commission adopted new and previously unseen rules to regulate the Corporate Cooperatives' internal governance and business affairs that were totally different from anything previously proposed by Commission Staff or filed in the record/docket of R-35066.

32.

As stated above, on April 11, 2019, with an immediate effective date, the Commission issued Order R-35066, which allows for an unprecedented and unsupported intrusion into corporate and board governance of a private corporation by mandating, *inter alia*, (i) voting quorums, (ii) term limits on board service, (iii) board of director insurance limits, and (iv) standards of general membership voting, specifically, Order R-35066 states as follows:

- 1) Prior to any general membership meeting of any rural electric cooperative, an insert shall be placed in mailed bills and in addition, such information shall be published in the official legal journals for notice within the cooperatives' territories for at least thirty days in advance of that respective general membership meeting. The information shall contain: The current taxable benefits paid to each individually named director, including but not limited to, insurance benefits, per diem, and mileage reimbursements.
- 2) The following standards are to be established, as it relates to all board members of all rural electric cooperatives, until such time that these standards are modified by a "non-quorum" vote of their respective general memberships, during their respective annual meetings, regarding the following items numbered 1 through 4.
 - a. (1) Prohibition of Quorum for membership vote - Until modified by a vote of their respective general memberships at an annual meeting, there shall be no quorum requirement of any kind to establish a threshold for obtaining a vote by the members of any rural electric cooperative. This provision shall apply to items numbered 2, 3, and 4 below.
 - b. (2) Term Limit - Each rural electric cooperative board of director[s] shall be limited to a service period of not more than eighteen years (18).

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Consisting of a possible six (6) three (3) year terms, subject to their re-election commencing with the next term.

- c. (3) Insurance - If desired, but not required, each rural electric cooperative board of director may be allowed to participate in any alike insurance program made available to any employee of the rural electric cooperative.
 - d. (4) Standards for general membership voting - Each rural electric cooperative shall establish a method of voting that is reviewable by the Louisiana Public Service Commission. The methods for conducting a general membership vote shall be limited to a mail-in ballot, or, a machine cast ballot made available at a central location that is advertised in the previous monthly billing mechanism. Any ballot to modify paragraphs 1., 2., or 3., shall be reviewed by the Louisiana Public Service Commission Staff thirty (30) days prior to the general membership election and the ballot language is subject to correction by Commission [S]taff to conform to this Motion and subsequent order. The results of any rural electric cooperative general membership election shall be certified by a Certified Public Accountant firm selected by the [C]ommission.
- 3) Panola-Harrison Electric Cooperative, Inc. and Ashley-Chicot Electric Cooperative are excluded from the standards listed above.
 - 4) After Order No. R-35066 is considered a final Order of the Commission, Docket No. R-35066 is dismissed.
 - 5) This Order is effective immediately.

See Exhibit "B," Order R-35066.

33.

Order R-35066 is in direct conflict with the Louisiana Revised Statutes and thus, the conflict between the respective Constitutional powers of the Legislature and the Louisiana Public Service Commission must be addressed. *Louisiana Power & Light Co. v. Louisiana Pub. Serv. Comm'n*, 609 So.2d 797, 801 (La. 1992).

34.

Order R-35066 is "effective immediately". See Exhibit "B," Order R-35066.

35.

Given the continual and ongoing nature of issues related to board elections and governance of an electric public utility, coupled with the immediate effectiveness of Order R-35066, it is the intent of the Commission to enforce Order R-35066 before there can be a hearing on the merits of this appeal and preliminary injunction. Accordingly, time is of the essence in this matter.

COUNT I: INJUNCTIVE RELIEF

36.

The Corporate Cooperatives adopt, reallege, and incorporate the preceding allegations of this petition as if copied herein *in extenso*.

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37.

Article 3601 of the Louisiana Code of Civil Procedure provides that an injunction shall be issued in cases where irreparable injury, loss, or damage may otherwise result to the plaintiffs. La. C.C.P. art. 3601(A).

38.

During the pendency of an action for an injunction, the court may issue a temporary restraining order, a preliminary injunction, or both. La. Code Civ. P. art. 3601(C).

39.

Further:

A. A temporary restraining order shall be granted without notice when:

(1) It clearly appears from specific facts shown by a verified petition or by supporting affidavit that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or his attorney can be heard in opposition, and

(2) The applicant's attorney certifies to the court in writing the efforts which have been made to give the notice or the reasons supporting his claim that notice should not be required.

B. The verification or the affidavit may be made by the plaintiff, or by his counsel, or by his agent.

La. C.C.P. art. 3603.

40.

An irreparable injury is a "loss that cannot be adequately compensated in money damages or measured by a pecuniary standard." *Dale v. Louisiana Sec'y of State*, 971 So.2d 1136, 1141 (La. App. 1 Cir. 10/11/07), (citing *Glaucque v. Clean Harbors Plaquemine, L.L.C.*, 938 So.2d 135, 140 (La. App. 1 Cir. 6/9/06), *writs denied*, 948 So.2d 150, 151 (La. 1/12/07).

41.

However, a showing of irreparable injury, loss or damage is not necessary where the deprivation of a constitutional right is involved or the action sought to be restrained is illegal. *Dale*, 971 So.2d at 1141; *Star Enter. v. State Through Dept. of Revenue & Taxation*, 676 So.2d 827, 834 (La. App. 1 Cir. 6/28/96). Further, "injunctive relief may be granted when the applicant is being threatened by some injury for which he has no legal remedy." *S. Cent. Bell Tel. Co. v. Louisiana Pub. Serv. Comm'n*, 555 So.2d 1370, 1374 (La. 1990). As provided herein, the

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Corporate Cooperatives have been deprived of their constitutional right to procedural due process such that they need not show loss or damage in order to receive the injunctive relief requested.

42.

Notwithstanding the foregoing, the actions of the Commission have caused irreparable harm to the Corporate Cooperatives because there is no adequate remedy at law for the Corporate Cooperatives to recover money damages stemming from the enforcement of Order R-35066 if such an Order is ultimately found by the Court to be unconstitutional or otherwise defective. Board elections will have occurred between now and the ultimate determination of whether the Commission has authority to micromanage and invade board governance of the Corporate Cooperatives. In the interim, Order R-35066 requires the Corporate Cooperatives' board of directors to be elected without any quorum, which is in violation of the respective bylaws of the Corporate Cooperatives. Additionally, the cost of implementing Order R-35066 cannot be recovered if the order is ultimately found to be unconstitutional given that the Commission is impervious to a money judgment in this instance. The Corporate Cooperatives would be left with no financial remedy or recourse.

43.

Additionally, Order R-35066 requires the Corporate Cooperatives to act in contravention of their own validly-adopted bylaws and the relevant Louisiana Revised Statutes.

TEMPORARY RESTRAINING ORDER

44.

Given the immediacy of the annual meetings of the following Corporate Cooperatives, a Temporary Restraining Order is being requested so as to preserve the status quo and protect these Corporate Cooperatives until a trial on the merits can be held on the request for the issuance of a preliminary injunction and permanent injunction.

Corporate Cooperative	Date of Annual Meeting
Northeast	June 1, 2019
Claiborne	June 22, 2019
JDEC	July 8, 2019

See Exhibit "C" *in globo* – Supporting Affidavits

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45.

The above Corporate Cooperatives are entitled to the entry of a Temporary Restraining Order and then a preliminary and permanent injunction prohibiting the Commission from enforcing or otherwise giving effect to Order R-35066.

46.

In addition, the remaining Corporate Cooperatives are entitled to the entry of a preliminary injunction prohibiting the Commission from enforcing or otherwise giving effect to Order R-35066, as the Order was adopted in contravention of the Corporate Cooperatives' constitutional right to procedural due process.

COUNT II: JUDICIAL REVIEW AND APPEAL OF ORDER R-35066

47.

The Corporate Cooperatives adopt, reallege, and incorporate the preceding allegations of this petition as if copied herein *in extenso*.

48.

Appeal and judicial review of orders of the Commission is authorized by La. Const. Art. 4, § 21(E) and La. R.S. 45:1192.

Error 1: The Commission acted outside of its constitutional authority such that the Order R-35066 is an error of law and is unconstitutional.

49.

The Public Service Commission is not entitled to deference in its interpretation of statutes and judicial decisions. *Washington-St. Tammany Elec. Co-op., Inc. v. Louisiana Pub. Serv. Comm'n*, 671 So.2d 908, 912 (La. 4/8/96). Thus, because the question of whether the Commission has jurisdiction to control the corporate governance of public utilities is purely a question of law, this Court should first conduct a *de novo* review to determine whether the Commission is vested with the jurisdiction that it claims to have over the corporate governance of privately-owned utilities, such as the Corporate Cooperatives. If the Court determines based on its *de novo* review that the Commission lacks its claimed jurisdiction, then the Court should immediately vacate the Order without any further analysis.

50.

If, and only if, the Court determines that the Commission has jurisdiction to control the corporate governance of privately-owned utilities, the Court should then evaluate whether the Commission properly exercised this jurisdiction by applying the following standard of review. A

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Commission's order should not be reversed "unless it is based on an error of law or lacks a reasonable evidentiary basis." *Herman Bros., Inc. v. Louisiana Pub. Serv. Comm'n*, 564 So.2d 294, 297 (La. 1990). An order of the Commission may be overturned when "it is arbitrary and capricious, a clear abuse of authority, or not reasonably based upon the factual evidence presented." *Entergy Louisiana, LLC v. Louisiana Pub. Serv. Comm'n*, 990 So.2d 716, 723 (La. 7/1/08), (citing *Entergy Gulf States, Inc. v. Louisiana Public Service Comm'n*, 2000-0336, p. 4 (La. 8/31/00), 766 So.2d 521, 525; *Entergy Gulf States, Inc. v. Louisiana Public Service Comm'n*, 1998-1235, p. 6 (La. 4/16/99), 730 So.2d 890, 897; *Entergy Louisiana, Inc. v. Louisiana Public Service Comm'n*, 1998-0475, p. 4 (La. 9/9/98), 717 So.2d 217, 218; see also *Global Tel*Link, Inc. v. Louisiana Pub. Serv. Comm'n*, 707 So.2d 28, 33 (La. 1/21/98).

51.

"The Louisiana Supreme Court found in *Gulf States Utilities Co. v. La. Public Serv. Com'n*, 92-1185 (La. 3/17/94), 633 So.2d 1258, that La. Const. art. IV, § 21(B) affords the LPSC expansive, independent, and plenary regulatory powers over public utilities. That broad regulatory power comprises the right to exercise all necessary power and authority over public utilities for the objective of setting and regulating rates charged or to be charged, and service furnished by, those public utilities. *Id.*" *Henry v. Greater Ouachita Water Co.*, 207 So.3d 1127, 1130 (La. App. 2 Cir. 10/12/16).

52.

Despite the Commission's constitutional and statutory jurisdiction, "the Commission must nonetheless operate within its bounds." *Louisiana Power & Light Co. v. Louisiana Pub. Serv. Comm'n*, 609 So.2d 797, 801 (La. 1992). The Louisiana Supreme Court, when analyzing the Commission's authority, "has never interpreted the LPSC's control over its rules, regulations and procedures as unbridled." *Hayden v. Louisiana Pub. Serv. Comm'n*, 553 So.2d 435, 439 (La. 1989).

53.

Moreover, it is a well-settled premise that constitutional scrutiny favors statutes and statutes are presumed to be valid, and the constitutionality of a statute should be upheld whenever possible. *Hayden v. Louisiana Pub. Serv. Comm'n*, 553 So.2d 435, 438 (La. 1989).

54.

Utility board governance and corporate governance does not fall within the Commission's purview and special expertise. The Commission's regulatory authority over rates and services

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does not carry with it, explicitly or by necessary implication, the power to (i) make management and corporate decisions, (ii) mandate internal governance structures, (iii) ignore the procedural due process rights of the Corporate Cooperatives, and/or (iv) force the Corporate Cooperatives to disregard well-established rules of law set out in the Electric Cooperative Law, La. R.S. 12:401 *et seq.* and bylaws validly adopted pursuant thereto. Additionally, the Commission is not empowered to substitute its judgment for that of the members of the Corporate Cooperatives, nor can it ignore the will of the members.

55.

The Corporate Cooperatives are governed by validly-adopted bylaws. Compliance with Order R-35066 forces the Corporate Cooperatives to unlawfully disregard long-standing, member adopted bylaws.

56.

The directors of each Corporate Cooperative board have a duty to their respective member/owners to comply with the bylaws adopted by the respective Corporate Cooperatives in accordance with the Louisiana Revised Statutes. This duty was bestowed on the various Corporate Cooperative boards by the very members/owners who elected them to serve on their respective boards of directors.

57.

As aptly noted in the concurring opinion by Louisiana Supreme Court Justice Cole, the Louisiana Public Service Commission is not in and of itself a fourth branch of government – “Cole, J. concurs additionally to note the absurdity of the Commission’s plenary authority argument, the continued pursuit of which exhibits constitutional illusions of being a fourth branch of government.” *Herman Bros., Inc. v. Louisiana Pub. Serv. Comm’n*, 564 So.2d 294, 298 (La. 1990).

Error II: The Commission violated the Corporate Cooperatives’ constitutional right to procedural due process

58.

Article 4, § 21(B) of the Louisiana Constitution provides that the LPSC “...shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties...” The Louisiana Supreme Court has explained that, “[a]lthough the Commission cannot constitutionally be subjected to legislatively-created restrictions in the exercise of its rule-making power, it does not follow that the Commission has unfettered discretion in the selection of the

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content of its rules or the manner of their adoption. By express mandate of La. Const. art. 4, s 21(B), the power of the Commission extends to the adoption and enforcement of "reasonable" rules, regulations, and procedures." *Louisiana Consumers' League, Inc. v. Louisiana Pub. Serv. Comm'n*, 351 So.2d 128, 131-32 (La. 1977).

59.

"Not only the rule itself but the procedures employed by the Commission, including the method by which a rule is adopted, amended, or repealed, must be reasonable. To be considered reasonable, the procedure by which a rule change is effected must provide for notice of the proposed rule change and a reasonable opportunity for interested persons to submit data or views addressed to that issue. Should the procedure fail to comport with the standard of reasonableness mandated by the constitution, any rule change would be invalid and of no effect." *Louisiana Consumers' League, Inc. v. Louisiana Pub. Serv. Comm'n*, 351 So. 2d 128, 132 (La. 1977) (emphasis added).

60.

In determining the reasonableness of the procedure employed, courts consider the following factors:

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Hayden v. Louisiana Pub. Serv. Comm'n, 553 So. 2d 435, 441 (La. 1989) (citing *Mathews v. Eldridge*, 424 U.S. 319, 335, 96 S.Ct. 893, 903, 47 L.Ed.2d 18, 33 (1975)).

61.

The procedure employed by the Commission in adopting the Order failed to comport with even minimal standards of reasonableness mandated by the Louisiana Constitution. Specifically, the corporations were not provided with any notice whatsoever of the rule changes provided in Sections 1, the introductory paragraph to 2, 2(a)(1), or 2(d)(4) of Order R-35066.

62.

The Order issued by the Commission substantially and erroneously alters the procedures for internal governance adopted by the Corporate Cooperatives' private members and their elected Boards of Directors.

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63.

Furthermore, Order R-35066, particularly Sections 1 and 2(d)(4), results in substantial financial obligations on the part of the Corporate Cooperatives, thus depriving the Corporate Cooperatives and their private members of their property interests.

64.

Because the ultimate rules adopted at the March 20, 2019 B&E varied substantially from *Staff's Final Proposed Recommendation*, the Corporate Cooperatives' members lacked any form of notice or opportunity to comment, present data, or offer any input whatsoever regarding the far-reaching impact of Order R-35066.

65.

Moreover, Order R-35066 is unreasonable to the extent it seeks to mandate corporate and board governance requirements only against a particular sect of the Commission's regulated entities (i.e. the Corporate Cooperatives).

66.

Therefore, the Commission's procedure for proposing and adopting the rules provided in Order R-35066 is unconstitutionally unreasonable such that it deprives the Corporate Cooperatives of their right to procedural due process. Accordingly, Order R-35066 is invalid and of no effect.

Error III: Order R-35066 is arbitrary, capricious, a clear abuse of power, and not reasonably based on the factual evidence presented.

67.

An order of the LPSC may be overturned where it is shown to be arbitrary, capricious, or not reasonably based upon the factual evidence presented. See *Voicestream GSM I Operating Co., LLC v. Louisiana Pub. Serv. Comm'n*, 943 So.2d 349, 358 (La. 11/29/06).

68.

Neither the *Staff's Initial Recommendation* nor *Staff's Final Proposed Recommendation* provide a factual basis for the rules ultimately adopted in Order R-35066.

69.

Because the Corporate Cooperatives were not given sufficient and/or adequate notice of the rules ultimately adopted by the Commission at the March 20, 2019 B&E, the Corporate Cooperatives were unable to provide comments, facts, and/or data regarding the practical and economic effects of the rules.

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70.

Because there was no factual evidence or substantive discussion presented by Commission Staff at the March 20, 2019 B&E to support the adoption of the Order R-35066, the Commission's adoption of Order R-35066, which substantially affects the Corporate Cooperatives' corporate governance, business affairs, and voting mechanisms, must be vacated.

71.

Additionally, the language of Order R-35066 is unclear, vague, ambiguous, and unreasonable such that the Corporate Cooperatives cannot be reasonable expected to comply.

72.

Order R-35066 is also arbitrary and capricious to the extent that it gives the Commission unbridled authority to accept or reject the Corporate Cooperatives' methods of general membership voting, the information provided in its ballots, and the language included in the ballots, all in clear violation of the Electric Cooperative Law. *See* Order R-35066 § 2(d)(4).

COUNT III: DECLARATORY JUDGMENT

73

The Corporate Cooperatives further seek a declaratory judgment pursuant to Article 1871 of the Louisiana Code of Civil Procedure. Specifically, the Corporate Cooperatives request that the Court issue an order declaring that Order R-35066, which mandates internal governance and board management, is invalid in that it exceeds the Commission's constitutional and statutory authority and thus, should be vacated. In support of its request for declaratory judgment, the Corporate Cooperatives incorporate the allegations of fact and points of law set forth in Paragraphs 3 through 52 of this Petition.

74.

For the reasons set forth herein, the Corporate Cooperatives request, and are entitled to, an Order of this Court setting aside and vacating Order R-35066 given that the Commission has exceeded its authority by the issuance thereof.

75.

Pursuant to La. R.S. 45:1193, the Corporate Cooperatives are further entitled to obtain an Order of the Court directing the Secretary of the Commission to cause a certified transcript of all of the proceedings, including but not limited to, discovery submitted to the Commission by the Corporate Cooperatives in the untitled Commission proceeding giving rise to the subject

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rulemaking proceeding, in LPSC Docket No. R-35066 filed with the clerk of court within fifteen (15) days after this petition is served upon the Commission.

76.

Petitioners further requests that this matter be given precedence over all other civil cases pending on the docket of the 19th Judicial District Court for the Parish of East Baton Rouge, Louisiana, and that it be heard and determined as expeditiously as possible, all in accordance with La. R.S. 45:1192.

77.

Notice is hereby given by undersigned counsel for the Corporate Cooperatives to this Court, pursuant to Rule 9.14 of the Local Rules of Court for the Nineteenth Judicial District Court, that this proceeding is an appeal from, and a request for judicial review of, an Order of the Louisiana Public Service Commission.

WHEREFORE, considering the foregoing, the Corporate Cooperatives, Beauregard Electric Cooperative, Inc., Claiborne Electric Cooperative, Inc., Dixie Electric Membership Corporation, Jefferson Davis Electric Cooperative, Inc., Northeast Louisiana Power Cooperative, Inc., South Louisiana Electric Cooperative Association, and Washington-St. Tammany Electric Cooperative, Inc., pray that after all due proceedings, judgment be rendered in their favor and against the Louisiana Public Service Commission, and the following relief be granted:

- A) That, pursuant to La. R.S. 45:1193, the Secretary of the Louisiana Public Service Commission be ordered to cause a certified transcript of all proceedings and discovery, including but not limited to data responses of the Cooperatives, held by the Commission in Docket No. R-35066 and in the untitled Commission proceeding giving rise to Docket No. R-35066, to be filed with the Clerk of Court within fifteen days after this petition is served upon the Commission;
- B) With regard to (1) Claiborne Electric Cooperative, Inc., (2) Jefferson Davis Electric Cooperative, Inc., and (3) Northeast Louisiana Power Cooperative, Inc., that a temporary restraining order be issued suspending the effect of Order R-35066 and prohibiting the enforcement of the order, with such restraining order remaining in effect until such time as a full hearing on a preliminary injunction may be held;
- C) That a rule to show cause be held, after which a preliminary injunction be issued in the same form and substance as the temporary restraining order, suspending the effect of Order R-35066, and prohibiting the enforcement of the order in accordance therewith, and to remain in effect until such time as a full trial on the merits is held;
- D) That after a trial on the merits, the court issue a judgment declaring Order R-35066, void, setting it aside and vacating it;
- E) That a permanent injunction be issued in the same form as the temporary restraining order and the preliminary injunction, prohibiting the enforcement of Order R-35066;
- F) That a declaratory judgment be issued declaring that Order R-35066, which purports to regulate the Corporate Cooperatives' internal corporate governance and

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management structure, is invalid in that it exceeds the Commission's constitutional and statutory authority and is a violation of the Corporate Cooperatives' procedural due process; and

- G) That costs be awarded, and all other relief available under the law and the facts of this case be granted, to Petitioners.

Respectfully submitted,

MARIONNEAUX KANTROW, LLC



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Kara B. Kantrow (Bar Roll No. 31042)
J. H. "Hunter" Odom, III (Bar Roll No. 38459)
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Counsel for Beauregard Electric Cooperative, Inc., Claiborne Electric Cooperative, Inc., Jefferson Davis Electric Cooperative, Inc., Northeast Louisiana Power Cooperative, Inc., South Louisiana Electric Cooperative Association, and Washington-St. Tammany Electric Cooperative, Inc.

and

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and




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Email: Tommy.Gildersleeve@TaylorPorter.com
Email: Ashley.Meredith@TaylorPorter.com
Counsel for Dixie Electric Membership Corporation

and

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Counsel for Northeast Louisiana Power Cooperative, Inc.

and

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Charles M. Hughes, Jr. (Bar Roll No. 14382)

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Telephone: (985) 624-5010

Facsimile: (985) 624-5306

Email: cmhjr@talleyanthony.com

Counsel for Washington-St. Tammany Electric Cooperative, Inc.

PLEASE SERVE:

Louisiana Public Service Commission

Through its Executive Secretary:

Mr. Brandon Frey

Galvez Building, 12th Floor

602 North Fifth Street

Baton Rouge, LA 70802

Randy M. Monte



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LOUISIANA POWER COOPERATIVE,
INC., SOUTH LOUISIANA ELECTRIC
COOPERATIVE ASSOCIATION, AND
WASHINGTON-ST. TAMMANY
ELECTRIC COOPERATIVE, INC.

SUIT NO. SEC. " _ "

19TH JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

VERSUS

LOUISIANA PUBLIC SERVICE
COMMISSION

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STATE OF LOUISIANA
PARISH OF EAST BATON ROUGE

BEFORE ME, the undersigned authority, personally came and appeared,

Kevin Turner

who after being by me duly sworn, did depose and say that he read the above and foregoing
Verified Petition for Judicial Review and Appeal of Louisiana Public Service Commission Order
No. R-35066, Declaratory Judgment, Temporary Restraining Order, Preliminary and Permanent
Injunctive Relief and that all of the factual allegations contained therein are true and correct to the
best of his knowledge, information and belief.

Kevin Turner

Kevin Turner, General Manager of
Beauregard Electric Cooperative, Inc.

Sworn to and subscribed before
me this 20th day of May, 2019.

Kara B. Kantrow

Kara B. Kantrow
NOTARY PUBLIC, La Bar #31042

Randy M. Monte



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INC., SOUTH LOUISIANA ELECTRIC
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WASHINGTON-ST. TAMMANY
ELECTRIC COOPERATIVE, INC.

SUIT NO. SEC. "___"

19TH JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

VERSUS

LOUISIANA PUBLIC SERVICE
COMMISSION

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VERIFICATION

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PARISH OF EAST BATON ROUGE

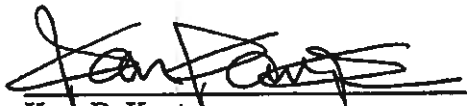
BEFORE ME, the undersigned authority, personally came and appeared,

Mark Brown

who after being by me duly sworn, did depose and say that he read the above and foregoing Verified Petition for Judicial Review and Appeal of Louisiana Public Service Commission Order No. R-35066, Declaratory Judgment, Temporary Restraining Order, Preliminary and Permanent Injunctive Relief and that all of the factual allegations contained therein are true and correct to the best of his knowledge, information and belief.


Mark Brown, General Manager/CEO of
Claiborne Electric Cooperative, Inc.

Sworn to and subscribed before
me this 20th day of May, 2019.


Kara B. Kantrow
NOTARY PUBLIC, La Bar #31042



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CORPORATION, JEFFERSON DAVIS
ELECTRIC COOPERATIVE, INC.,
NORTHEAST LOUISIANA POWER
COOPERATIVE, INC., SOUTH
LOUISIANA ELECTRIC COOPERATIVE
ASSOCIATION, AND WASHINGTON-ST.
TAMMANY ELECTRIC COOPERATIVE,
INC.

SUIT NO. SEC. "___"

19TH JUDICIAL DISTRICT COURT

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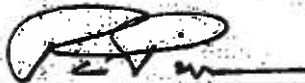
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STATE OF LOUISIANA
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BEFORE ME, the undersigned authority, personally came and appeared,

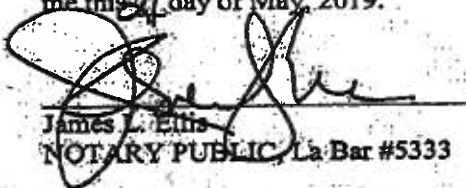
Randall C. Pierce

who after being by me duly sworn, did depose and say that he read the above and foregoing
Verified Petition for Judicial Review and Appeal of Louisiana Public Service Commission Order
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Injunctive Relief and that all of the factual allegations contained therein are true and correct to the
best of his knowledge, information and belief.



Randall C. Pierce
Chief Executive Officer and General Manager
Dixie Electric-Membership Corporation

Sworn to and subscribed before
me this 21st day of May, 2019.

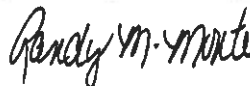


James L. Ellis
NOTARY PUBLIC, La Bar #5333

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SUIT NO. SEC. "___"
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STATE OF LOUISIANA

VERSUS

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COMMISSION

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STATE OF LOUISIANA
PARISH OF EAST BATON ROUGE

BEFORE ME, the undersigned authority, personally came and appeared,

Michael Heinen

who after being by me duly sworn, did depose and say that he read the above and foregoing
Verified Petition for Judicial Review and Appeal of Louisiana Public Service Commission Order
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Injunctive Relief and that all of the factual allegations contained therein are true and correct to the
best of his knowledge, information and belief.


Michael Heinen, General Manager of
Jefferson Davis Electric Cooperative, Inc.

Sworn to and subscribed before
me this 20th day of May, 2019.


Kara B. Kantrow
NOTARY PUBLIC, La Bar #31042



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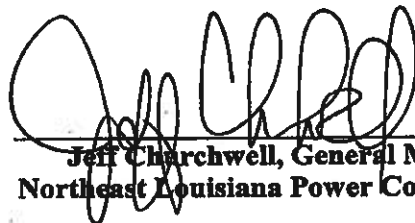
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STATE OF LOUISIANA
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BEFORE ME, the undersigned authority, personally came and appeared,


Jeff Churchwell

who after being by me duly sworn, did depose and say that he read the above and foregoing
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Injunctive Relief and that all of the factual allegations contained therein are true and correct to the
best of his knowledge, information and belief.



Jeff Churchwell, General Manager of
Northeast Louisiana Power Cooperative, Inc.

Sworn to and subscribed before
me this 20th day of May, 2019.



Kara B. Kantrow
NOTARY PUBLIC, La Bar #31042



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PARISH OF EAST BATON ROUGE

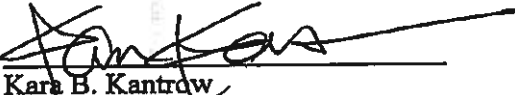
BEFORE ME, the undersigned authority, personally came and appeared,

Joseph Ticheli

who after being by me duly sworn, did depose and say that he read the above and foregoing Verified Petition for Judicial Review and Appeal of Louisiana Public Service Commission Order No. R-35066, Declaratory Judgment, Temporary Restraining Order, Preliminary and Permanent Injunctive Relief and that all of the factual allegations contained therein are true and correct to the best of his knowledge, information and belief.


Joseph Ticheli, General Manager of
South Louisiana Electric Cooperative Association

Sworn to and subscribed before
me this 20th day of May, 2019.


Kara B. Kantrow
NOTARY PUBLIC, La Bar #31042



Certified True and
Correct Copy
CertID: 2019052900453



East Baton Rouge Parish
Deputy Clerk of Court

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BEAUREGARD ELECTRIC
COOPERATIVE, INC., CLAIBORNE
ELECTRIC COOPERATIVE, INC.,
JEFFERSON DAVIS ELECTRIC
COOPERATIVE, INC., NORTHEAST
LOUISIANA POWER COOPERATIVE,
INC., SOUTH LOUISIANA ELECTRIC
COOPERATIVE ASSOCIATION, AND
WASHINGTON-ST. TAMMANY
ELECTRIC COOPERATIVE, INC.

SUIT NO. SEC. " ___"

19TH JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

VERSUS

LOUISIANA PUBLIC SERVICE
COMMISSION

FILED: _____ DEPUTY CLERK

VERIFICATION

STATE OF LOUISIANA
PARISH OF EAST BATON ROUGE


BEFORE ME, the undersigned authority, personally came and appeared,

Charles Hill

who after being by me duly sworn, did depose and say that he read the above and foregoing
Verified Petition for Judicial Review and Appeal of Louisiana Public Service Commission Order
No. R-35066, Declaratory Judgment, Temporary Restraining Order, Preliminary and Permanent
Injunctive Relief and that all of the factual allegations contained therein are true and correct to the
best of his knowledge, information and belief.


Charles Hill, General Manager/CEO of
Washington-St. Tammany Electric Cooperative, Inc.

Sworn to and subscribed before
me this 20th day of May, 2019.


Kara B. Kantrow
NOTARY PUBLIC, La Bar #31042



Certified True and
Correct Copy
CertID: 2019052900454



East Baton Rouge Parish
Deputy Clerk of Court

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BEAUREGARD ELECTRIC
COOPERATIVE, INC., CLAIBORNE
ELECTRIC COOPERATIVE, INC.,
DIXIE ELECTRIC MEMBERSHIP
CORPORATION, JEFFERSON DAVIS
ELECTRIC COOPERATIVE, INC.,
NORTHEAST LOUISIANA POWER
COOPERATIVE, INC., SOUTH
LOUISIANA ELECTRIC
COOPERATIVE ASSOCIATION, AND
WASHINGTON-ST. TAMMANY
ELECTRIC COOPERATIVE, INC.

SUIT NO. SEC. "___"
19TH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

VERSUS

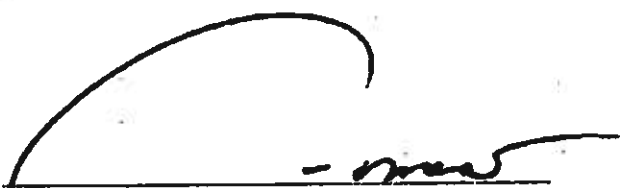
LOUISIANA PUBLIC SERVICE
COMMISSION

RULE TO SHOW CAUSE

Considering the pending request of plaintiffs Beauregard Electric Cooperative, Inc., Claiborne Electric Cooperative, Inc., Dixie Electric Membership Corporation, Jefferson Davis Electric Cooperative, Inc., Northeast Louisiana Power Cooperative, Inc., South Louisiana Electric Cooperative Association, and Washington-St. Tammany Electric Cooperative, Inc., (hereinafter collectively "Plaintiffs") for preliminary injunction made in the Verified Petition for Judicial Review and Appeal of Louisiana Public Service Commission Order No. R-35066, Declaratory Judgment, Temporary Restraining Order, Preliminary and Permanent Injunctive Relief,

The Louisiana Public Service Commission is hereby ordered to show cause, if it can, on the 10 day of June, 2019, at 9:30 a.m., in Room Number 9D of the 19th Judicial District Courthouse, why Plaintiffs' request for preliminary injunction should not be granted.

Thus done and signed on this 28 day of May, 2019, in Baton Rouge, Louisiana.



Judge, 19th Judicial District Court
JUDGE RICHARD "CHIP" MOORE, III

PLEASE SERVE:

Louisiana Public Service Commission
Through its Executive Secretary
Brandon M. Frey
602 North Fifth Street
12th Floor, Galvez Building
Baton Rouge, Louisiana 70802-5312



Certified True and
Correct Copy
CertID: 2019052900441



East Baton Rouge Parish
Deputy Clerk of Court

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BEAUREGARD ELECTRIC
COOPERATIVE, INC., CLAIBORNE
ELECTRIC COOPERATIVE, INC.,
DIXIE ELECTRIC MEMBERSHIP
CORPORATION, JEFFERSON DAVIS
ELECTRIC COOPERATIVE, INC.,
NORTHEAST LOUISIANA POWER
COOPERATIVE, INC., SOUTH
LOUISIANA ELECTRIC
COOPERATIVE ASSOCIATION, AND
WASHINGTON-ST. TAMMANY
ELECTRIC COOPERATIVE, INC.

SUIT NO. SEC. " _ "

19TH JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

VERSUS

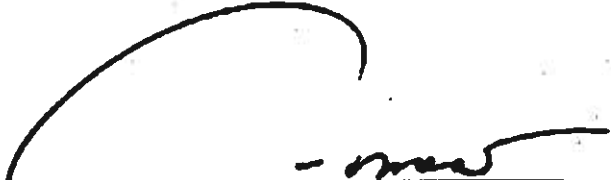
LOUISIANA PUBLIC SERVICE
COMMISSION

ORDER FOR ISSUANCE OF TEMPORARY RESTRAINING ORDER

Considering the request for request of plaintiffs Claiborne Electric Cooperative, Inc., Jefferson Davis Electric Cooperative, Inc., and Northeast Louisiana Power Cooperative, Inc. for temporary restraining order made in the Verified Petition for Judicial Review and Appeal of Louisiana Public Service Commission Order No. R-35066, Declaratory Judgment, Temporary Restraining Order, and Preliminary and Permanent Injunctive Relief, and the verifications and affidavits attached thereto,

A Temporary Restraining Order is hereby issued restraining the Louisiana Public Service Commission from enforcing its Order No. R-35066, to expire on the 10 day of June, 2019, at 9:30 a .m. This Order may be extended pursuant to La. C.C.P. art. 3604, until a hearing can held on the plaintiffs' request for preliminary injunction.

Thus done and signed on this 28 day of May, 2019, at 4:21 P.m., in Baton Rouge, Louisiana.



Judge, 19th Judicial District Court
JUDGE RICHARD "CHIP" MOORE, III

PLEASE SERVE:

**Louisiana Public Service Commission
Through its Executive Secretary
Brandon M. Frey
602 North Fifth Street
12th Floor, Galvez Building
Baton Rouge, Louisiana 70802-5312**



Certified True and
Correct Copy
CertID: 2019052900445

Randy M. Monte

East Baton Rouge Parish
Deputy Clerk of Court

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