

**IN THE MATTER OF
THE SETTLEMENT OF CERTAIN LITIGATION
BETWEEN THE CITY OF ALEXANDRIA
AND CLECO CORPORATION,
AND THE DISTRIBUTION OF CERTAIN
PROCEEDS ARISING THEREFROM**

**ORDER OF ADMINISTRATIVE LAW JUDGE CERTIFYING
TO THE ALEXANDRIA CITY COUNCIL THE ISSUES FOR
APPEAL**

Pursuant to Ordinance No. 178-2016 of the City Council of the City of Alexandria, Louisiana adopted on November 29, 2016 ("Ordinance No. 178-2016"), the undersigned was appointed as Administrative Law Judge and Special Referee (the "ALJ") to perform the duties and tasks specified therein.

Pursuant to such authority, particularly Section IV(6)(E) of Ordinance No. 178-2016, the undersigned ALJ convened a hearing at 9:00 o'clock A.M. on April 26, 2017, to hear opening statements from interested persons, including the City of Alexandria, relative to the issues contemplated by Ordinance No. 178-2016. At the conclusion of that initial hearing, and in order to provide additional time for any interested persons to present an opening statement, the hearing was left open, and reconvened at 9:00 o'clock A.M. on Thursday, May 4, 2017.

Based upon the opening statements presented on the dates noted in the preceding paragraph, and in order to comply with the directives and requirements of Ordinance No. 178-2016, the undersigned ALJ hereby certifies to the City Council of the City of Alexandria, Louisiana, the following issues for appeal in this matter (with any capitalized terms having the meaning ascribed to such term in Ordinance No. 178-2016, which ordinance is incorporated herein for all purposes), to-wit:

- (1) The City settled the Cleco Litigation based on a fixed-value settlement, in which the market-best proposal through an RFP process was established as a baseline and Cleco was required to provide a wholesale energy agreement (the WEES) at a predetermined value less than that market-best alternative, plus cash in the amount of \$9.5 million. This effective settlement sum of value to return to citizens was agreed to have a total cash and forward value of \$50 million.
- (2) The August 2015 milestone payment to the City from the Cleco Litigation settlement in the amount of \$6.5 million and an additional payment for costs and fees

in the amount of \$3 million exist in a restricted fund balance within the AUS.

- (3) Those funds are available for public purposes of the City or the AUS, as deemed appropriate and including for payment of cash rebates.
- (4) There should be proper offset of value achieved by beneficiaries of the principal aspect of the settlement mechanism, the below-market wholesale power agreement.
- (5) A prior City resolution requires that, if a rebate is declared, it will only be due to ratepayers who bought power from the City Utility during a period from roughly 1995-2005.
- (6) The rates applied, and fuel cost passed on to Alexandria ratepayers, as detailed in that litigation known as the Franklin Litigation, were applied correctly and/or in favor of the ratepayer and not to the detriment of the ratepayer, resulting in no loss to the ratepayer as a result of City fault.
- (7) There has been no substantive advancement of the claims in the Franklin Litigation. No class has been certified. Thus, the only Franklin plaintiffs, as revealed in the pleadings are as follows: Armested Franklin, Diane Tatum, Julius C. Sweazie, Estella Deal, Henry E. Ceasor, Linda R. Strong, Curley Holden, Geraldette Johnson, Daniel Dodson, Alice Samuel, Stephanie Jenkins, Linda Gaston, Phyllis McKenzie, Vernon K. Miller, Mercedes Williams, Shawanda Piper, Pearl Madison, Teresa Smith-Hampton, Elizabeth Smith, Ruby Boney, Minerva Moore, Jeanette Reed, Gladys Batiste, Anna Jones, Joe K. Speed, Roe Mary Raymond, Mary Gurdry, Katherin Guidry, Emmie Stanley, LaShonda Johnson, Joyce Willis, Freddie Price, Willie R. Thomas, Regina Camp, Lillie R. Beed, Fannie Reed, Annie Weston, Debra Drayton, Alice Jackson, Shterroca Shotlow, Debra Well-Dodd, Joe Garmon, Debra Duncan, Sue Vallery, Elgie Dean Slaughter, Shantelle Slaughter, Kathy Slaughter, Connie M. Slaughter, Bertha M. Gorman, Curtis McDaniel, Kwanza Lewis, Ethel

Hanes, Mary Bolque, Bridgette Williams and Helen Williams (the "Franklin Plaintiffs")

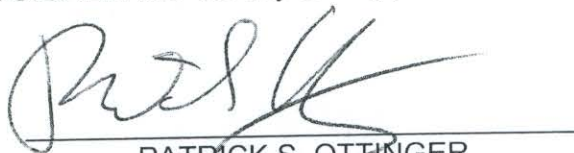
- (8) The Franklin Litigation has not resulted in added value to the Franklin Plaintiffs or the City, and so the suit's plaintiffs are not entitled to damages for value received by the City, because to do so would cause a double recovery to the Franklin Plaintiffs; thus, subjecting the City to future claims for prohibited donations and lack of equal protection from other ratepayers.
- (9) The Franklin Litigation did not result in added value to the Franklin Plaintiffs or the City. No class has been certified. Thus, the Franklin Plaintiffs' attorneys are not entitled to attorney fees and there is no statutory basis for the payment of such fees in any case, thereby constituting a prohibited donation.
- (10) These findings do not prohibit rebates to ratepayers that may include the Franklin Plaintiffs; and the Franklin Plaintiffs may traverse and challenge the legislative findings in Ordinance No. 178-2016, and certified herein, by utilizing the processes in Ordinance No. 178-2016 and thereafter review of these matters in accord with the Order of the Court, in Suit No. 228,034 "G" (Franklin Litigation), dated September 13, 2016, dismissing that case, without prejudice, for determinations by the ratemaking authority on the matters presented in the Franklin Litigation.
- (11) The accuracy and methodology of the City's final determination of "corporate v. ratepayer" losses as claimed by the Cleco-City Litigation.
- (12) Any determination of the offset methodology as indicated in the following section and the Application of Realized Settlement Savings.
- (13) The final Payout Decision and Plan of Action.
- (14) The finding by the Council that the Franklin Litigation may be dismissed.

This Order shall be presented to the City Council as being in compliance with Section IV(6)(E) of Ordinance No. 178-2016. Pursuant to that provision of Ordinance No. 178-2016, the City Council may by ordinance modify this certification of issues for appeal for good cause shown. In order to provide sufficient time for the ALJ to take such further or additional actions as are specified or contemplated by Ordinance No. 178-2016, the City Council shall have a period of thirty (30) days from this date within which to take such action in reference to this Order as it might deem appropriate or just. Unless modified by the City Council as permitted by Ordinance No. 178-2016, the foregoing issues shall be considered by the undersigned ALJ at the hearing to be scheduled and conducted at the time and date, and in the manner, to be specified by a subsequent order of the undersigned ALJ in compliance with Section IV(6)(F) of Ordinance No. 178-2016.

The Clerk of the City Council is hereby directed to provide a copy of this order to counsel for the City of Alexandria and for the Franklin Plaintiffs by certified mail, return receipt requested.

The Clerk of the City Council is further directed to cause this order to be published in the official journal of the City of Alexandria and Rapides Parish, Louisiana, on two occasions within the thirty (30) day period of time specified above.

ORDER SIGNED this 4th day of May, 2017.



PATRICK S. OTTINGER
ADMINISTRATIVE LAW JUDGE AND SPECIAL REFEREE