Louisiana Public Service Commission	**)**	
Ex Parte:	**)**	
In Re: An Investigation into Whether	**)**	
Electric Industry Restructuring and	**)**	**Docket Nos. U-21453**
Competition in the Provision of Retail Electric	**)**	**U-20925(SC)** and **U-22092(SC)**
Service Are In The Public Interest	**)**	

PROPOSED COMPETITIVE TRANSITION PLAN

Prepared by

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I. INTRODUCTION AND SUMMARY

A. Background

This Commission has been investigating issues relating to electric restructuring and retail competition for several years. Specifically, Staff was directed to research and analyze the following areas: stranded costs and benefits, reliability, consumer protection, consumer education, universal service, tax implications, market structure, market power and environmental effects. During 1998, the Staff issued data requests to the jurisdictional utilities, received comments and conducted hearings on these topics. Based on this evidence and the arguments of the parties, along with Staff's independent analysis, the Staff submitted its Report and Recommendation in early 1999. The Commission subsequently accepted the Staff Report and issued an order on April 28, 1999 ("April 28 Procedural Order") directing further proceedings on a range of topics related to restructuring. The Commission further directed the Staff to develop and submit a competitive transition plan for its consideration, which could be implemented if the Commission finds that competitive restructuring of electric service is in the public interest.

Staff's 1999 Report set forth three principal recommendations. First, Staff concluded that retail competition did not appear to be in the public interest at that time. This is because competitive restructuring was not likely to lead to lower rates for most Louisiana consumers, based on available evidence. Moreover, a public interest finding also requires that no class of customers benefits at the expense of another class. Based on this finding, Staff urged a deferral of the threshold public interest decision and that "the Commission should not abandon its slow and cautious approach."

Staff's second recommendation was that the Commission continue its investigation of certain key topics in much more detail. This includes further analysis of the expected impacts of restructuring on Louisiana consumers and utility-specific stranded costs. Staff was instructed to analyze and prepare reports to the Commission on the following matters: (1) Consumer Education; (2) Consumer Protection and Licensing Requirements; (3) Affiliate Rules and Standards of Conduct; (4) Stranded Cost Estimates; (5) System Agreement and Regional Issues; (6) Regional Planning and Reliability; (7) Market Power; (8) Load Profiles; (9) Standard Offer Tariffs; (10) Rate Unbundling; (11) Functional Unbundling; (12) Independent System Operator; and (13) Transition Mechanisms; (April 28 Procedural Order).

Third, if the Commission ultimately determines that competitive restructuring and retail access are in the public interest, the Staff Report outlined the major elements of a restructuring plan. This plan emphasized that retail competition be accompanied by an efficient wholesale market platform, regulated or standard offer service for small customers for an extended period of time and a thorough set of consumer protections and regulatory safeguards.

Since the time of the Staff Report, almost two years ago, the nationwide momentum toward competitive restructuring at the retail level has slowed. Several states in the region (including Mississippi and Alabama) either have decided not to move forward with competitive restructuring plans or determined that doing so is not in the public interest at this time. The State of Arkansas has enacted legislation, which could introduce competition as early as January 2002. However, that state's Public Service Commission has recommended delaying the start date, possibly to as late as October 2005. In addition, although Oklahoma began the restructuring process, its Legislature failed to enact enabling legislation, and progress toward retail competition has virtually stopped.

States in the Mid-Atlantic and the Northeast, as well as California, have introduced retail electric competition during the 1998 to 2000 time frame. Restructuring in California so far has been disastrous, with extremely high (and unstable) prices and poor service reliability. In addition, at least two California utilities are seeking to increase their "capped" rates, allegedly to avoid bankruptcy. Other states have seen very little activity in the retail market (*i.e.*, few ratepayers choosing alternate suppliers) particularly for small customers. With the exception of Pennsylvania, less than 2 percent of customers in these states have selected competitive supply. (In Pennsylvania, nearly 10 percent of customers have selected competitive supply, but even that activity is largely confined to two utilities with extraordinarily high residential rates). This reflects the general lack of interest across the nation by small customers in retail choice and the limited opportunity for savings. Finally, some utilities in the Northeast states that have implemented retail access are seeking to increase rates above the capped levels to which they had previously agreed or to defer generation costs for future recovery from utility customers.

After accepting the Staff Report and Recommendations, the Commission assigned Staff the task of developing a competitive transition plan, which could be implemented should the Commission find that retail competition is in the public interest. During 2000, Staff (in conjunction with consultants and Special Counsel) developed such a plan building upon the proposed outline and concepts in Staff's 1999 Report.

A draft of the Staff transition plan was completed in September 2000, and submitted to various parties for comment. Staff held one or more meetings with each of the LPSC jurisdictional electric utilities (including the retail electric distribution cooperatives), the Louisiana Energy Users Group (LEUG), and Marathon Oil Company (MOC) to present the plan and answer questions. Several of these parties provided written comments regarding the Staff

plan, including proposed changes to the plan features. In other cases, comments were provided informally in meetings or conference calls.

This report summarizes and describes Staff's proposed transition plan. This current version of the plan has considered the comments from the parties received to date as well as the limited experience with retail competition in other states during the past two years. Staff's presentation of this plan, which was requested by the Commission, should not be interpreted as a specific endorsement of retail competition or a Staff finding that retail competition for electric service is in the public interest at this time. Should the Commission determine that retail access may be in the public interest for large customers, this plan is designed to provide the Commission with an implementation approach that protects the interests of residential and small commercial customers, while permitting access to those who desire it. In that regard, we believe that this plan will permit Louisiana to avoid some of the mistakes with restructuring that have afflicted other states.

B. The Basis for the Staff Plan

The threshold question, which must be addressed before a plan can be adopted, is whether retail competition is in the public interest. Staff's 1999 Report concluded that retail access would not be in the public interest unless it could provide realistic opportunities for savings for all groups of Louisiana customers and that no class of customers benefits at the expense of another class. Given the generally moderate level of rates in Louisiana, there was no convincing evidence at the time of Staff's Report that savings on a statewide basis could be realized. As part of these consolidated Dockets, in early December, 2000 the Staff submitted a Report concerning Unbundled Costs of Providing Service for the Louisiana Electric Utilities. That report analyzed class cost-of-service unbundling studies prepared by the electric utilities

subject to Commission jurisdiction. Those studies indicate that for all investor-owned utilities, customers with about 60% of energy sales are *unlikely* to benefit from competition. For CLECO, customers representing only 24% of energy sales could potentially benefit from retail access and SWEPCO ratepayers are unlikely to realize any benefits at all.

Developments in electric wholesale and retail markets since the preparation of the Staff Report have reinforced that view. In particular, the predicted benefits for small customers from retail access in most cases have failed to emerge, and several major utilities in certain retail access states are proposing to increase their standard offer rates (or are deferring costs for future recovery) as a direct result of restructuring.

On the other hand, a number of parties in Louisiana continue to support prompt retail access. The LEUG, which represents a large portion of retail loads in Louisiana, has aggressively urged the introduction of retail access at the earliest possible date. Louisiana investor-owned utilities are also generally supportive of competitive restructuring.

Taking into account those differing views, Staff has developed a plan which will provide relatively prompt retail access, on a *voluntary* basis, to the type of customers who believe they are most likely to benefit -- large industrial customers. No customer under this plan (not even a large industrial customer) would be forced to accept competitive service, and the non-access customers will continue to receive the same regulatory protections that they have now. The Commission and its Staff will continue to monitor developments in competitive markets in order to determine if and when retail access should be extended (again, on a voluntary basis) to smaller customers.

Based upon our review of other states which have introduced retail access, one of the greatest problems is the lack of regulatory flexibility. That is, the deregulation of generation

assets and electric service has been a one-time, irrevocable decision in other jurisdictions. Staff's proposed plan seeks to avoid this regulatory inflexibility by phasing in deregulation gradually over time and only if and when warranted by market developments. A graphic example of this loss of flexibility can be seen in California. Due to the perceived failure of markets in that state, there is presently considerable interest in reimposing regulation. However, this has been made very difficult by the divestiture (under California law) of the utility fossil-fired generating plants. The Staff plan provides for deregulation of generation assets only when not needed to serve regulated loads, as determined by the Commission.

Staff's plan described in this report is best understood in terms of its key objectives:

? **Allow customers access to the competitive market.**

The plan anticipates access to the competitive market for large industrial customers as soon as practicable, currently estimated to be, January 1, 2003. The Commission subsequently shall reassess the generation supply market to determine if and when it is in public interest to extend access for smaller customers.

? **Ensure that any transition to competition is orderly and avoids disruptions**.

Staff's plan contemplates a very gradual (and potentially limited) transition to competition. Eligible industrial customers must declare their intention to choose competitive service by a fixed deadline and do not have the right to return to regulated service once they choose competition. This will result in a controlled and orderly process, which will enable utilities to plan rationally for the needs of their native load customers. This should also avoid financial harm to utilities, prevent "gaming" of the system, and abrupt changes in regulated rates.

? **Allow all customers, at their option, to retain regulated, bundled service.**

This plan will force no customer to give up the present regulated service (which provides reasonable and stable rates) in favor of competitive service. That is, competitive service (as it becomes available) is an option, which the customer may select, not a requirement. Moreover, Staff expects that the cost of regulated service will be approximately the same compared to no competitive transition plan being adopted.

? **Ensure that the Commission retains regulatory authority, oversight and flexibility to protect retail customers.**

An essential element of this plan -- which avoids the most serious mistakes experienced by other states -- is that the Commission retains considerable authority and flexibility. This flexibility is maintained by deferring the decision on retail access for all but large industrial customers until better information is available from other states (as well as in Louisiana) indicating that small customers can benefit. Moreover, this plan only deregulates utility generation assets when there is a clear demonstration that the capacity is not needed to serve native load customers. In addition, any such deregulation of utility generating assets can occur only with specific Commission approval.

? **Ensure just and reasonable rates and reliable service.**

Regulation of bundled service rates is retained for all customers not eligible for or not choosing competitive service (i.e., initially all non-industrial customers and those industrial customers not choosing the competitive alternative). Since generation assets are not deregulated, the Commission may continue to regulate based on cost of service, including the use of incentive plans such as ELI's Formula Rate Plan (FRP). Utilities shall retain their current obligation to serve for native load customers and provide "default service" for customers selecting competitive service who later decide to return.

? **Fair treatment for utility investors.**

This plan is fair to utility investors. Utilities shall have the opportunity to earn a fair rate of return on regulated assets, as is the case today. With respect to load losses from competition, the utility shall have a reasonable opportunity for stranded cost recovery (if any stranded costs are determined by the Commission to exist). Generation shall be deregulated, to the extent warranted, with the utility (or its affiliate) allowed to earn unregulated profits on its deregulated assets. As long as retail access is voluntary, there is no special provision for transferring "stranded benefits" from utility shareholders to customers selecting competition.

? **Equitable treatment among customer groups**

It is vital that a competitive transition plan not be an exercise in cost shifting among customer groups (or across utilities). This means that if a customer selects competitive service, the customer must accept his fair share of stranded cost responsibility. Also, rate unbundling should take place on a revenue neutral basis to the extent practicable.

In concluding this summary, it is important to keep in mind what Staff's proposed transition plan does not do, which is what distinguishes this plan from those adopted in other states. The plan does not force any LPSC jurisdictional customer to move from cost of service regulated service to competitive service. Competition is a voluntary election. This plan makes no specific provision to change any particular rate plans (such as ELI's FRP), and any rates or rate changes previously approved by the Commission are unaffected. After the adoption of this plan, rate cases and/or earnings reviews can occur as before. While this plan contemplates stranded cost recovery (for any utility that can demonstrate the existence of net stranded costs), this plan does not specify or dictate the methods or assumptions, which must be used. (Due to its unusual nature, an exception is made for ELI's Vidalia purchased power contract, as discussed in

Section II.E). Similarly, while the plan requires rate unbundling, it does not specify a method for doing so. Both stranded costs (or benefits) and rate unbundling shall be addressed in utility-specific proceedings. Finally, unlike plans in other states, this plan does not freeze, cap or reduce existing utility rates. Since this plan does not eliminate regulated, bundled service, there is no need to implement Standard Offer Service tariffs.

II. DETAILED DESCRIPTION OF THE PLAN

This section provides a more detailed description of the transition plan recommended at this time by Staff. As the following discussion indicates, there are certain areas of the plan where details and specifics are not yet determined or where reasonable modifications are possible. Staff has determined that this plan will best protect Louisiana consumers and will maximize Commission flexibility if the Commission concludes that the introduction of retail access is appropriate.

It should be noted that in terms of presentation this plan does not discuss the structure of the market in the same detail as Staff's 1999 Report. The structure of the unregulated market will be governed to a substantial extent by the Regional Transmission Organization (RTO) plans of Louisiana's integrated utilities. Preliminary plans, including Entergy's proposed TRANSCO and the Southwest Power Pool RTO, were filed with the Federal Entergy Regulatory Commission (FERC) in October 2000, but many important details have not yet been determined. At the present time, Staff's transition plan assumes that all Louisiana investor-owned electric utilities will participate in a FERC-approved RTO. However, based on the current pace of development and experience with ISOs or RTOs elsewhere, it is likely to take a considerable amount of time for the RTOs to be fully functional and market design issues resolved. This expectation of an extended time frame for RTO and wholesale market development is a principal

reason for the Arkansas Public Service Commission's recommendation to delay retail access in that state, and is also why we recommend a cautious and flexible approach to implementing competition in Louisiana. That cautious approach is consistent with the recommendations contained in the Staff's 1999 Report.

A. Customer Choice Implementation

The plan permits large industrial customers ("Large Customers") to select competitive service as of January 1, 2003. In Staff's opinion, January 1, 2003 is the earliest feasible date for introducing competition given the many tasks that must first be completed by the Commission (e.g., utility-specific unbundling proceedings). Even a January 1, 2003 date is aggressive. Staff does not have a definitive recommendation at this time on the precise Large Customer size threshold, but based on comments received we suggest to the Commission a range of 2 mW to 5 mW as the minimum size. (The Commission may determine that a larger threshold is appropriate). The mW size threshold would be defined as average demand over a representative time period (e.g., the most recent three years). The size threshold would be based upon the load of the facility served by the utility. For example, a given facility may have several distinct metering points or accounts and these can be aggregated to meet the size threshold. However, the size threshold cannot be met by aggregating over several different facilities which happen to be commonly owned (e.g., a chain of restaurants or drug stores). While we believe that the access date of January 1, 2003 is feasible, the Commission retains the flexibility to modify this schedule (and other access dates) if it finds that it is in the public interest to do so.

The plan does not at this time identify a specific access date for small customers, as this will be subject to future Commission determination. (The term "small customers" in this report refers to all LPSC jurisdictional retail customers that do not meet the Large Customer definition).

Deferring the decision for small customers will provide an opportunity to review the progress of retail access in other jurisdictions as well as the development of a workably competitive wholesale market in Louisiana. If the Commission determines at a future date that small customers can benefit from retail access, a schedule for access can be established.

Given the voluntary nature of the Staff plan, one reasonably might ask why not permit all customers to select competitive service on January 1, 2003. Staff is concerned that allowing access prematurely might inadvertently harm small customers. In addition, retail access for small customers cannot take place absent large expenditures by utilities on "transition expenses." Such expenses would include load profiling, modifications to billing systems, customer education programs and various other corporate and "back office" costs. While Staff lacks formal estimates, these costs could total tens of millions of dollars and, we believe, should not be incurred until there is an affirmative determination that small customers will benefit and will participate in the competitive market in large numbers. Otherwise, these transition expenses would be largely wasted.

The plan contemplates that both initially and after small customers access is permitted, customers not selecting competitive service will continue to take bundled service on a cost of service basis, just a they do now. For all customers, the utility will provide distribution service as a regulated monopoly.

The method for the provision of transmission service at this time is not clear. For retail access customers, transmission will be a regulated monopoly service under FERC jurisdiction. In the case of bundled service customers, the local utility will provide transmission but the utility itself may be purchasing transmission service at wholesale (subject to FERC jurisdiction) from a TRANSCO or RTO.

B. The Timing of Access

In order to ensure an orderly process and so that regulated loads are reasonably predictable, Large Customers must make their retail access election within six months of the access date (i.e., June 30, 2003). Failure to make an election by that date means the customer must remain on regulated service pursuant to the then existent regulatory regime. New customers meeting the Large Customer size threshold who connect to the utility's system after the access date must make their selection within six months or the customer must remain on regulated service.

Certain Large Customers in Louisiana currently take service under special contracts or site specific contracts at discounted rates. The Staff plan permits these customer to terminate the contract as of the date of access (with reasonable notice) in order to take competitive service. (Of course, the customer terminating the contract would continue to be responsible for any customer-specific facilities charges or costs). Special contract customers with contracts expiring after the access date would have until December 31, 2003 or six months from the expiration date of the contact (whichever is later) to make their elections. If a customer does not select competitive service, it is eligible to take regulated service under the appropriate tariff. The customer does not have an automatic right to renew the special contract.

The discussion in this section provides the special contract customer with the termination right at the access date. The Commission may wish to consider making that right reciprocal, i.e., allowing the utility the right to terminate the contract, as well. In such a case, the customer would have up to six months to select competitive versus regulated service.

The discussion above dictates that the Large Customers would have a "one time only" option to select competitive service, within a window between the date of the plan and June 30,

2003. As mentioned above, the plan includes this window to ensure that access is orderly and does not disrupt utility supply planning. However, the Commission may choose to permit Large Customers not initially selecting competitive service to do so at a future date. For example, a logical second opportunity could be provided at the time (and if) small customer access is permitted.

C. <u>Returning to Utility Service for Generation Supply</u>

There are a variety of reasons why a customer may initially select competitive service and then return to the utility for generation supply. This could include supplier default, service quality problems or the failure of a retail market to develop. Staff's plan anticipates that all customers shall have access to generation supply (subject to the normal service termination rules) and that the utility will be the default (or "last resort") provider.

A Large Customer initially selecting competitive service may return to utility service but will be charged <u>the greater of</u> market price or regulated rates. It is anticipated that the utility will propose precisely how market price is to be measured (e.g., published index, actual cost of procurement, etc.). The market price measure also may include a reasonable administrative adder to be approved by the Commission. In addition, the returning customer must pay: the distribution charge, a transmission cost charge, the customer or account charge and the assigned stranded cost fee (if any). Periodically (e.g., once a year), the returning customer's monthly bills will be recomputed based on the applicable standard tariff, and if in the aggregate, the charges based on a standard tariff exceed the customer's bills based on market, the customer will be surcharged for the difference.

The use of the "higher of" pricing in the Staff plan is not intended to be a penalty. Rather, its purpose is to encourage customers to remain in the competitive market (and suppliers

to serve the market) once the customer initially selects competitive service. A second purpose is to ensure that small customers are not harmed by returning customers. Since markets are not necessarily transparent and efficient, it may not always be easy to identify the market price of supplying a given customer.

It should be mentioned that the intent of default service is to provide any and all returning customers with reliable service. However, since the utility does not plan for returning customer loads, and shortages can occur in markets, there can be no guarantee of reliability for these returning loads. That is, the utility's supply planning obligation is to provide reserves for its regulated load. Thus, the utility shall provide reliable service to returning loads on a "best efforts" basis, without acquiring reserves, unless the returning customer specifically contracts with the utility for reliable service.

In the event that retail access is allowed for small customers, those selecting competitive service also shall have a right to return to utility supply. However, there is an important distinction in our plan between these small customers and the Large Customers. During the first three years of small customer access, a small customer selecting competitive supply may return to regulated (i.e., cost of service) rates, provided the customer agrees to remain on regulated service for a minimum of 12 months (to avoid seasonal gaming). Staff believes this will not be unduly disruptive to the utility based on nationwide experience of very limited small customer shopping to date. During the first three years, migration rates for small customers to and from competitive service are likely to be very gradual and will likely have little adverse impact on utility planning. After this initial three years, the terms of small customer return to utility service will be the same as for Large Customers. The Commission, however, retains the discretion to extend this three-year "grace period" if it is in the public interest to do so.

D. Limited Deregulation of Generation

The gradual and phased approach to retail access in the Staff plan is matched by a limited approach to the deregulation of utility generation assets (i.e., the LPSC jurisdictional portion). The principle to be followed under the Staff plan is that generation shall be deregulated only when not needed to serve regulated loads.

After access begins, each utility shall assess its loss of load to competition and the extent to which that loss renders a portion of its generation assets surplus. The utility may apply to the Commission to deregulate surplus generation. The Commission may accept, reject or modify the utility proposal after conducting a formal review. For example, the Commission may prefer that the utility retain some of the surplus in order to "leave room" for load growth by remaining regulated customers, or simply to maintain adequate reserves for those customers. Thus, it does not necessarily follow that 25 percent loss of load means 25 percent of the utility's generation would be deregulated. This is a determination that would be made by the Commission at the time. (If loss of load to competition renders some portion of generating assets no longer "used and useful," or the continued maintenance of those assets as regulated imprudent, and the utility fails to seek deregulation of the surplus, cost recovery related to the surplus could be disallowed in a rate proceeding).

Staff expects that deregulation of (the LPSC jurisdictional portion of) a utility's generation assets will be made on a pro rata or "slice of system" basis. That is, if 10 percent of capacity is declared surplus, then 10 percent of each generation asset owned (or contacted for) by the utility is deregulated. However, given concerns over optimal dispatch, Staff would not rule out the possibility of oil/gas capacity instead being deregulated on a unit-by-unit basis rather than slice of system.

Staff believes that this gradual and limited approach to deregulation of generation assets maximizes Commission flexibility and control over the restructuring process. However, it greatly limits the ability to employ divestiture as either a market power remedy and/or as a method of directly quantifying stranded costs. It should be mentioned that to the extent that generation assets are retained to serve regulated load, it is difficult to use them to exercise market power. Hence, this approach also may reduce the need for market power mitigation.

E. **Stranded Costs/Benefits**

The Staff is presently in the process of investigating utility stranded costs and benefits for all four Louisiana investor-owned utilities. Preliminary results indicate SWEPCO, CLECO and EGSI have stranded benefits (i.e., the market value of generation assets exceed book value) while ELI has substantial stranded costs. Staff estimates that most of ELI's stranded costs (approximately $1.1 billion) are associated with its purchased power contact with Catalyst Old River Hydroelectric Limited Partnership ("Vidalia"). Staff is presently updating its 1998 stranded costs analyses for EGSI and ELI.

Staff's plan provides utilities an opportunity to recover net stranded costs which are reasonably verifiable, prudently-incurred and fully mitigated. Initial estimates are being established in the currently pending utility-specific proceedings. However, due to the inherent uncertainty, the Commission may require that a final determination be conducted at the time that retail access begins, or shortly thereafter. A final determination could be based upon either administrative or market-based methods, but there is no need to make a methodological determination at this time.

One of the more controversial issues which Staff has been required to address, is the appropriate treatment of stranded benefits. If utilities are permitted stranded cost recovery, then

consistency and fairness certainly require that utilities flow-through stranded benefits to customers in some reasonable fashion.

Staff's transition plan requires no special mechanism to address stranded benefits. This is because the plan retains regulated service -- on a cost of service basis -- and cost of service rates, by definition, reflect any stranded benefits. While it is true that customers selecting competitive service do not receive any explicit stranded benefit compensation, these customers are selecting competitive service voluntarily. Hence, since these customers have concluded that they will benefit from competitive service, they require no further compensation.

Stranded costs identified and approved by the Commission may be recovered through a series of non-bypassable competitive transition charges. Stranded costs would be allocated equitably to each class of customers as part of the utility-specific unbundling proceedings. Cost shifting across customer classes is to be avoided.

Staff is concerned that in the case of ELI the movement of certain industrial customers to self generation could lead to substantial cost shifting. For example, in Docket No. U-20925(B), Staff estimated that 1,000 mW of new self generation could shift up to $400 million of uneconomic Vidalia costs onto other customers lacking a realistic self generation option. To mitigate this problem, Staff recommends that <u>new</u> self generation should be subject to stranded cost recovery unless the self generation facility is either in operation or under construction (i.e., a substantial financial commitment) prior to the date of a Commission order approving a competitive transition plan.

Staff believes that since the Vidalia contract involves such a large amount of stranded costs that its method of recovery should be considered at this time. Historically and at the present time, the Vidalia contract has been recovered in the fuel clause and therefore assigned to

ELI customers on a kWh basis. This method of cost allocation should continue, subject to the non-bypassibility rule for self generation mentioned above.

To facilitate recovery and cost allocation, the Vidalia costs should be moved out of the fuel clause and into its own separate rider (subject to true up) beginning January 1, 2003 (or any other date chosen by the Commission to permit retail access for Large Customers). All customers -- regulated and retail access -- will pay the Vidalia rider based on kWh usage (or for new self generation customers, historic kWh usage). However, competitive service customers will receive a market based credit as part of the Vidalia rider they pay. For example, the current Vidalia contract rate is 12 cents per kWh. Assume that the recovery of Vidalia costs requires a rider of 0.3 cents per kWh for all customers. Further assume that the fair market value of the Vidalia power is 4 cents per kWh, or one-third the contract rate. Thus, competitive service customers in this example should pay 0.2 cents, not 0.3 cents (i.e., a market credit of one-third or 0.1 cents) to reflect the fact that they would not be receiving any of the Vidalia power.

As mentioned above, utilities with stranded cost are expected to pursue mitigation to the extent practicable. In Docket No. U-20925(SC), Staff recommended that the Commission consider a modification of ELI's current FRP which would use a portion of excess earnings (60 percent) to accelerate recovery of the Waterford 3 nuclear plant. This accelerated recovery would reduce the stranded cost problem while providing future savings to ELI customers taking regulated service. Staff continues to believe that this accelerated recovery is appropriate for ELI in the context of a competitive transition plan.

F. Transition Expenses

Based on experience from other states, the introduction of retail access is accompanied by significant utility expenditures on modifications to billing systems, organizational changes,

customer education programs, load profiling and other activities. As part of the stranded cost proceedings, LPSC-jurisdictional utilities were encouraged to provide transition cost estimates. However, to date, no estimates have been submitted. Staff recommends that utilities be required to submit estimates within six months of a Commission order approving a competitive transition plan.

Utility transition expenses should be recoverable from all retail customers on a non-bypassable basis, i.e., from those customers selecting competitive service and those continuing to take regulated service. To ensure proper recovery, transition expenses should be accumulated in a special account for that purpose and recovered on a non-bypassable basis from all customers. Based on discussion with the parties, Staff believes that these expenses are not likely to be significant in magnitude until retail access is made available to the small customers.

G. Rate Unbundling

Retail access requires that current rates and services be unbundled in order to separately identify and price services which will be subject to competition versus those which will remain regulated. At a minimum, this requires unbundled pricing for distribution, transmission and generation. If the utility is determined to have stranded costs, then the stranded cost component of generation must be separately identified. Unbundled rates should be established at least several months in advance of the retail access implementation date.

Staff recommends that utility-specific unbundling proceedings be docketed as soon as possible after the approval by this Commission of a competitive transition plan. Jurisdictional utilities shall be required to file unbundling studies and proposed tariffs using a 2000 test year for cost of service purposes. The objective should be to complete these dockets with final Commission orders by July 1, 2002 -- six months in advance of the proposed Large Customer

retail access date. (If the Commission delays the Large Customer retail access date, these Commission orders could similarly be delayed).

Staff's plan does not specify detailed criteria or a particular methodology to be used in unbundling rates. The parties may propose alternative methods as part of each utility-specific proceeding. However, Staff strongly believes that it is important that unbundling not be undertaken in a manner which produces cost shifting across customer classes and that the Commission should so find in approving a transition plan. Moreover, it is not the purpose of rate unbundling to either increase or decrease utility earnings. Hence, to the extent practicable, rate unbundling should be "revenue neutral."

III. CONCLUSION-PLAN BENEFITS

The threshold question in the consolidated Dockets is whether the restructuring of electric service to provide retail competition in generation supply is in the public interest. Staff's 1999 Report and Recommendation concluded that retail access on a statewide basis was not in the public interest at that time. Events nationwide since that 1999 report and Staff's own rate unbundling study have served to reinforce that initial finding. Retail access for small customers in those states which have restructured so far has been largely unsuccessful.

Staff has been assigned the task of developing a retail access transition plan, which the Commission could implement if it finds that retail electric service competition is in the public interest. The public interest question is a difficult one because it requires making uncertain assumptions concerning the development of markets and market prices over time. The plan presented in this report is a gradual one which fully recognizes this uncertainty. A key advantage of this plan is that by maintaining regulatory flexibility, it is not necessary to determine whether retail access is appropriate at this time for all or even most Louisiana

consumers. Retail access would be made available only on a voluntary basis to electric customers. This would occur initially for Large Customers and at a later date for small customers, if the Commission concludes that small customer benefits are likely. This approach allows each eligible customer to determine whether retail access is in his or her best interest, even if retail access is not necessarily in the public interest for Louisiana statewide.

Staff believes that the principal benefits available from this plan include the following:

? Based on positions taken by the LEUG, many large industrial customers believe they can benefit from prompt retail access. They will be permitted to obtain competitive service and enjoy those benefits under this plan.

? The Commission has the flexibility to allow retail access for the small customers at a future time when market evidence and experience in other states indicate that these customers are likely to benefit from competition. In the meantime, these customers would remain fully protected and unnecessary utility transition expenses will be avoided.

? Customers (both large and small) who prefer to have their generation needs met by regulated utility service may continue to do so. No one will be forced to take competitive service. The LPSC's regulatory framework -- which has produced hundreds of millions of dollars in rate reductions and refunds over the last several years -- will continue to be available for customers not choosing competitive service. Customers choosing regulated service avoid the risks and instabilities of the competitive market.

? At this time, the Staff believes that three of Louisiana's four investor-owned utilities have stranded benefits. Customers taking regulated service will receive those stranded benefits through the normal regulatory process as part of tariffed rates.

? The deferral of small customer access and phased deregulation of generation provide the Commission with maximum regulatory oversight and flexibility to protect customers, while allowing utilities the opportunity to earn a fair rate of return.

Staff's plan would provide these benefits even if it turns out to be true that retail access implemented on a full, statewide basis, is not in the public interest.