

**BEFORE THE PUBLIC SERVICE COMMISSION**  
**OF**  
**THE STATE OF MISSISSIPPI**

ENTERGY MISSISSIPPI, LLC  
EC-123-0082-00  
2018-UA-204

IN RE: PROPOSED MODERNIZATION OF THE  
GENERATING FACILITIES OF ENTERGY  
MISSISSIPPI, INC. WITH THE  
ACQUISITION OF THE CHOCTAW  
GENERATING STATION IN CHOCTAW  
COUNTY, MISSISSIPPI

**ORDER**

THIS CAUSE came before the Mississippi Public Service Commission (“MPSC” or “Commission”) on the Petition for a Certificate of Public Convenience and Necessity (“Petition”) filed by Entergy Mississippi, Inc.<sup>1</sup> (“Entergy Mississippi,” “EML,” or “Company”) on October 12, 2018, pursuant to the Mississippi Public Utilities Act of 1956, Section 77-3-1, *et seq.*, of the Mississippi Code of 1972, as amended, (“Act”) and the MPSC Rules of Practice and Procedure (the “Procedural Rules”) for a certificate of public convenience and necessity (“Certificate” or “CCN”) seeking authorization from the Commission for the Company to acquire, own, operate, improve and maintain the Choctaw Generating Station (“Choctaw Facility” or “Facility”), an electric generating facility in Choctaw County, Mississippi. The Commission, having considered the Petition and all evidence submitted, including all

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<sup>1</sup> On December 1, 2018, and pursuant to the Commission’s Order in Docket No. 2018-UA-39, Entergy Mississippi, Inc. (“EMI”) completed its internal restructuring to change utility operations to a limited liability company. Accordingly, as of that date, and pursuant to the Commission’s Order in that docket, Entergy Mississippi, LLC (“EML”), as opposed to EMI, became the public utility providing electric generation, transmission, and distribution service to retail and wholesale customers in Mississippi.

testimony and documents filed with the Commission, and being fully advised in the premises, and upon the recommendation of the Mississippi Public Utilities Staff (the "Staff"), finds as follows:

PROCEDURAL HISTORY

1. The Petition was filed on October 12, 2018. In support of the Petition, Entergy Mississippi filed as Attachments the pre-filed Direct Testimonies of Mary M. Decuir, Rene L. Broussard<sup>2</sup>, Phong D. Nguyen, and Allen A. Heard. The Petition requested that the Commission grant Entergy Mississippi a Certificate of Public Convenience and Necessity to acquire the Facility from NRG Wholesale Generation, LP ("NRG Wholesale") and thereafter own, operate, improve and maintain the Choctaw Facility.

2. Requests to intervene were filed by the Office of the Attorney General of Mississippi and Brent Bailey, and those requests were granted on November 14, 2018 and February 8, 2019, respectively. On July 29, 2019, the Commission issued a Scheduling Order in this proceeding. On August 12, 2019, the Commission issued an Amended Scheduling Order in this proceeding establishing procedures for the timely resolution of this matter, including establishing discovery deadlines, deadlines for the filing of testimony, and setting this matter for hearing at the Commission's October 2019 Open Meeting. Each party had a full opportunity to file testimony and engage in discovery in the period established by the various Scheduling Orders issued in this proceeding.

3. Notice of the matter was given as required by law by publication in both *The*

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<sup>2</sup> Following the retirement of Mr. Broussard, Matthew J. Bulpitt adopted the testimony and corresponding exhibits of Mr. Broussard as his own testimony in this proceeding.

*Clarion-Ledger*, being a newspaper of general circulation published in Jackson, Mississippi, on October 19, 2018, and the *Choctaw Plaindealer*, being a newspaper of general circulation published in Choctaw County, Mississippi, on October 17, 2018. Notice was also mailed to each “interested person” as defined in Procedural Rule 2.115 and to each public utility that may be affected by an order resulting from the Petition and hearing, said notice having been in strict compliance with the law and having been, in the judgment of the Commission, such reasonable notice to all persons interested therein as is necessary under the law and under the rules and regulations of the Commission.

4. The Staff engaged the services of Bates White, LLC (“Bates White”), an economic consulting firm, to review and assist the Staff in its investigation of the Company’s Petition to acquire the Choctaw Facility. Bates White, in turn, contracted with Consolidated Asset Management Services, LLC (“CAMS”) to provide an independent technical assessment of the Choctaw Facility and the Company’s due diligence efforts. The Company responded to data requests propounded by the Staff. Bates White and CAMS personnel conducted a site visit at the Choctaw Facility on July 11, 2019, and Entergy Mississippi provided additional responsive documentation to Bates White and CAMS in the weeks following that meeting.

5. On September 9, 2019, Bates White filed its direct testimony and exhibits in this proceeding.

6. On September 23, 2019, Entergy Mississippi filed its rebuttal testimony in this proceeding.

7. Based upon the Staff's review, Entergy Mississippi and the Staff entered into a Joint Stipulation on September 30, 2019. That Joint Stipulation hereby is incorporated by reference into this Order.

#### FINDINGS AND CONCLUSIONS

8. The Choctaw Facility is an approximately 810 MW<sup>3</sup> natural gas-fired, combined-cycle gas turbine ("CCGT") generating plant located near the town of French Camp, Mississippi, in Choctaw County, on approximately 200 acres of land. It consists of three General Electric Frame 7FB.04 combustion turbine generators, three Alstom heat recovery steam generators with selective catalytic reduction systems for emissions control, one General Electric D-11 condensing steam turbine generator, three evaporative coolers, one GEA air-cooled condenser, and other typical auxiliary equipment. The Facility is equipped with automatic generation control.

9. The Choctaw Facility was initially developed and constructed by Reliant Energy Wholesale group, a subsidiary of Reliant Energy, Inc. Reliant Energy Choctaw County LLC obtained a certificate from the Commission to construct the Choctaw Facility in Docket No. 2000-UA-984 on March 7, 2001. The Choctaw Facility went into commercial operation in July 2003. In December 2010, Reliant Energy became GenOn Energy, Inc. ("GenOn"). The current owner of the Choctaw Facility is NRG Wholesale, which is a subsidiary of GenOn.

10. The Choctaw Facility acquisition opportunity arose out of an unsolicited invitation that Credit Suisse Securities LLC ("Credit Suisse"), on behalf of GenOn, extended to

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<sup>3</sup> This reference reflects a summer rating.

Entergy Services, LLC (“Entergy Services,” or “ESL”)<sup>4</sup> to participate in a two-phase competitive bidding process for offers to buy the Choctaw Facility and related assets. In November 2017, Entergy Services, on behalf of Entergy Mississippi, submitted a preliminary non-binding offer during the first phase of the solicitation. Following that offer, Entergy Mississippi was invited to participate in the second phase of the solicitation process. After some initial due diligence on the Facility and the commencement of commercial negotiations, Entergy Mississippi made a second preliminary, non-binding offer in March 2018. This offer reaffirmed the November non-binding offer and contained additional stated conditions protecting Entergy Mississippi’s customers from risks associated with the following: the gas transportation rights to the Facility; Midcontinent Independent System Operator, Inc. (“MISO”) Network Resource Interconnection Service (“NRIS”) rights; and GenOn’s Long Term Service Agreement (“LTSA”) with General Electric International, Inc. (“GEI”) for facility maintenance.

11. The Choctaw Facility is physically located on the border of the EML and Tennessee Valley Authority (“TVA”) transmission systems near French Camp, Mississippi. The Choctaw Facility has 500kV transmission lines interconnected with both systems and existing interconnection agreements with EML and TVA. NRG Wholesale operated the Choctaw Facility to deliver energy to TVA, so the Facility was part of the TVA Balancing Authority (“BA”). The Choctaw Facility was removed from the TVA BA and added to the MISO BA on September 1, 2019, and as of that date is eligible to participate in MISO’s energy

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<sup>4</sup> ESL (formerly Entergy Services, Inc.) is an affiliate of the Entergy Operating Companies that provides engineering, planning, accounting, legal, technical, regulatory, and other administrative support services to each of

and capacity markets. Further, the Transmission Service Request from the Choctaw Facility to Local Resource Zone ("LRZ") 9 was relinquished, meaning the Choctaw Facility is now considered a resource located in the same LRZ 10 as EML's load.

12. Ms. Decuir testified in her pre-filed Direct Testimony that the acquisition of the Choctaw Facility presents Entergy Mississippi with a unique opportunity to acquire a modern facility at an attractive and known cost and that the Choctaw Facility acquisition will help provide needed capacity and energy to EML's customers at an acquisition price of \$314 million. The acquisition cost is less than the cost of constructing a new, comparably-sized CCGT for approximately \$1 billion. EML's 2018 Integrated Resource Plan ("IRP") filed with the Commission in June 2018, shows an immediate need for capacity that can be met by the Choctaw Facility, allowing EML to continue providing reliable service. The Company has provided testimony that the Choctaw Facility is expected to result in lower costs to EML's customers than the addition of a new CCGT, and that the addition of capacity in 2019 also mitigates customer exposure to higher near-term capacity prices in the event of (1) changes to generation availability, (2) reduced import capability, and (3) load growth in LRZ 10, where EML is located. Pursuant to Joint Stipulation, the Commission finds that the Choctaw Facility will help the Company meet its long-term resource needs.

13. As set forth above, the Choctaw Facility acquisition opportunity arose out of an unsolicited invitation that Credit Suisse, on behalf of GenOn, extended to Entergy Services to participate in a two-phase competitive bidding process for offers to buy the Choctaw Facility and related assets. Mr. Nguyen describes in his Direct Testimony the economic evaluation of

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the Entergy Operating Companies. The Entergy Operating Companies are Entergy Mississippi, Entergy Texas,

the Choctaw Facility to inform Entergy Mississippi's offer strategy. The economic evaluation compared the potential purchase of the Choctaw Facility to the cost of a new-build 920 MW G Frame 2 x 1 CCGT resource, a proxy for the 2023 CCGT included in Entergy Mississippi's 2018 IRP. This analysis provided information that supported Entergy Mississippi's offered purchase price, which was at a cost that is expected to result in overall lower supply costs for Entergy Mississippi's customers than the new-build CCGT. Bates White testified that the acquisition cost of Choctaw Facility is reasonable. Consistent with the Joint Stipulation, the Commission finds that Entergy Mississippi's total investment to acquire and improve the Choctaw Facility, including the acquisition adjustment and transaction and other costs, estimated to be \$401.4 million is reasonable and should be allowed to be recovered through the Company's rates.

14. Entergy Mississippi's acquisition of the Choctaw Facility is expected to produce net benefits for customers. The proposed acquisition price of \$314 million will result in a lower cost to EML customers, on a net-present-value basis, than the Company building a new CCGT for nearly one billion dollars. Additionally, as Mr. Nguyen explained in his Direct Testimony, it is reasonable to expect that the acquisition of the Choctaw Facility by EML will result in approximately \$100 million in net benefits for Entergy Mississippi's customers as compared to EML not acquiring the Choctaw Facility or another generation resource under reference assumptions. Bates Whites testified that the \$314 million purchase price of the Choctaw Facility is significantly below the cost of a new CCGT, consistent with facility's age and performance characteristics. Bates Whites further testified that Entergy Mississippi's

analysis provides reasonable confidence that the Choctaw acquisition, as presented in the Petition, is likely to produce some amount of positive net benefit for EML's customers. Consistent with the Joint Stipulation, the Commission finds the Choctaw Facility is a prudent, long-term acquisition that will further modernize Entergy Mississippi's generation portfolio, reduce reliance on aging gas-fired steam units, provide generation in close proximity to load, and yield fuel cost savings for customers.

15. The terms under which Entergy Mississippi will purchase the assets of the Choctaw Facility from NRG Wholesale are set forth in the Asset Purchase Agreement ("APA"). The purchase price for Entergy Mississippi to acquire the Choctaw Facility is \$314 million. Closing must occur by August 21, 2020 (subject to limited exceptions) or either party may terminate the transaction. Pursuant to the APA, after regulatory approvals have been obtained, all other closing conditions have been satisfied or waived, and the transaction has closed, Entergy Mississippi will be the sole owner of the Choctaw Facility.

16. ESL, on behalf of EML, conducted a comprehensive due diligence investigation of the Choctaw Facility prior to Entergy Mississippi executing the APA. The due diligence included comprehensive reviews of engineering, operations, environmental, transmission, fuel supply, plant safety, human resources, employment and benefits, accounting, legal, tax, risk management, credit, real property, personal property, and intellectual property and information technology issues. As part of the due diligence, independent power plant engineers were engaged to carry out detailed performance testing of the Choctaw Facility, a comprehensive condition assessment of the transmission switchyard and ancillary transmission infrastructure, a review of the site's North American Electric Reliability Corporation compliance program, and



an environmental assessment of the plant site. The pre-filed Direct Testimony of Mr. Broussard discussed the due diligence efforts.

17. Bates Whites testified that Entergy Mississippi performed extensive due diligence for the transaction and that the Company's Due Diligence Report was thorough and well developed. Furthermore, the independent technical review report of maintenance schedules and inspection reports prepared by CAMS generally concluded that the Choctaw Facility is in good condition, with appropriate procedures in place to ensure proper operations and maintenance. Consistent with the Joint Stipulation, the Commission finds that Entergy Mississippi performed extensive and thorough due diligence on the Choctaw facility with respect to the proposed acquisition. The Commission further finds that the independent technical review of maintenance schedules and inspection reports generally concluded that the Choctaw Facility is in good condition, with appropriate procedures in place to ensure proper operations and maintenance. As a result of this due diligence, the Company identified a mechanical issue that was subsequently corrected by the current owner of the Choctaw Facility, NRG Wholesale, which is a subsidiary of GenOn, and the original equipment manufacturer, GEII, and has a very low likelihood of reoccurring. Entergy Mississippi's LTSA coverage from GEII for the maintenance of the Choctaw Facility, discussed below, will protect customers from costs in the unlikely event the mechanical issue were to reoccur.

18. Entergy Mississippi has entered into a LTSA with GEII under which GEII would provide major maintenance, parts and service for the combustion and steam turbines at the Choctaw Facility. The LTSA is an attractive alternative to Entergy Mississippi providing its own long-term maintenance services on the Choctaw Facility's combustion and steam

turbines and permits Entergy Mississippi to obtain the benefits of GEII's extensive experience, expertise, and advice with respect to CCGT technology. The Staff's consultant also concluded that pricing and services in the LTSA are typical and that the purchase of capital spares was necessary to support facility performance. Consistent with the Joint Stipulation, the Commission finds that the LTSA is an economically attractive alternative to Entergy Mississippi providing its own long-term maintenance services on the Choctaw Facility's combustion and steam turbines, and allows Entergy Mississippi to obtain the benefits of GEII's extensive experience, expertise, and advice with respect to CCGT technology. The Commission further finds that the Company's use of an LTSA for major maintenance, parts and service for the combustion and steam turbines at the Choctaw Facility is reasonable and consistent with good utility practice.

19. Entergy Mississippi's total investment to acquire and improve the Choctaw Facility is estimated to be \$401.4 million. The total acquisition cost consists of the following:

- Purchase Price: \$314 million, including a \$36.5 million acquisition adjustment<sup>5</sup>.
- Plant Upgrades: \$56.6 million, for planned, post-acquisition capital improvement projects to support the overall performance and reliability of the Choctaw Facility.
- Transaction & Contingency: \$9.8 million, comprised of:
  - contingencies of \$5.8 million; and
  - estimated transaction costs of \$4.0 million.
- Capital Spares: \$21.0 million.

20. Pursuant to the Joint Stipulation, the Commission finds that the projected plant upgrades totaling \$56.6 million identified by the Company to made after acquisition of the

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<sup>5</sup> Assuming a transaction closing of October 31, 2019.

Choctaw Facility are appropriate and the cost estimate appears reasonable. The Commission finds that the Company should provide to the Staff the semi-annual reports described in the Joint Stipulation. The Commission further finds that the purchase of the capital spares, in the amount of \$21 million, in connection with the acquisition of the Choctaw Facility is reasonable and appropriate.

(a) The Commission finds that Entergy Mississippi's total investment to acquire and improve the Choctaw Facility, including the acquisition adjustment and transaction and other costs, estimated to be \$401.4 million is reasonable. The Commission further finds that, to the extent that actual costs of the planned upgrades, transaction costs and use of contingency funds are prudently incurred, such costs shall be allowed to be recovered through the Company's rates. Mr. Heard testified in his pre-filed Direct and Rebuttal Testimony that Entergy Mississippi's total investment to acquire and upgrade the Choctaw Facility, which is estimated to be \$401.4 million, produced an estimated first year non-fuel revenue requirement for the Choctaw Facility of \$72.3 million, excluding estimated ad valorem taxes. This revenue requirement includes only the additional capital that is planned to be added to the Choctaw Facility within 12 months after closing. In the Joint Stipulation, the Staff and Company agreed to an interim depreciation rate of 4.545% to be applied to the Choctaw Facility at this time. When applying this lower depreciation rate, the first-year revenue requirement lowered to approximately \$64 million. The Commission finds that an interim annual depreciation rate of 4.545% is a proper rate of depreciation for the Choctaw Facility at this time. In the Joint Stipulation, the Staff and the Company stipulated that the Company will either confirm the interim rate or may propose a different depreciation rate for the Choctaw Facility in the future

based upon its next properly conducted depreciation study which is scheduled to be filed in 2022 and approved after a public hearing by the Commission.

21. Mr. Heard estimates that a typical residential customer using 1,000 kWh per month would see an increase in rates of approximately \$5.34 per month through Rider Schedule FRP-7, which after recognizing fuel and capacity savings and ad valorem taxes would be a net increase of approximately \$1.03 per month, or approximately 1%. When you remove the temporary effects of the percentage of base rate rider schedules (*i.e.*, Schedules MISO, MSE, PMR and UPC), a residential customer using 1,000 kWh per month would see a net increase in rates of approximately \$0.11 per month.

22. The transaction received Federal Energy Regulatory Commission ("FERC") approval, pursuant to Section 203 of the Federal Power Act, on September 19, 2019. The transaction was reported to the U.S. Department of Justice and the Federal Trade Commission to satisfy the requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976. Both agencies cleared the transaction in December 2018. On September 19, 2018, the United States Bankruptcy Court for the Southern District of Texas approved the APA. This approval was required under the APA as GenOn had previously filed a voluntary petition for reorganization under Chapter 11 of the United States Bankruptcy Code. The Commission finds that subject to the receipt of necessary regulatory approvals, including satisfaction or waiver of all closing conditions and receipt of final corporate governance approvals, Entergy Mississippi is ready, willing, and able to acquire, own, operate, improve and maintain the Choctaw Facility, and further finds that, the public convenience and necessity require and will require the

issuance by this Commission of a Certificate of Public Convenience and Necessity authorizing such acquisition, ownership, operation, improvement and maintenance of the Choctaw Facility.

(b) Contemporaneous to the filing of the Petition in this proceeding, Entergy Mississippi filed a Notice of Intent in Docket No. 2018-UN-205 proposing revisions to the Company's Formula Rate Plan ("FRP") to allow Interim Capacity Rate Adjustments to recover the non-fuel costs of additional capacity acquired by the Company ("Annual Capacity Costs<sup>6</sup>"), such as the non-fuel annual ownership costs of the Choctaw Facility. In the past, the Commission allowed Entergy Mississippi to recover the annual ownership costs of the Attala and Hinds generating facilities, which were purchased at favorable prices from other entities by EML, through the Company's Power Management Rider ("PMR") after the Company completed those acquisitions. The Interim Capacity Rate Adjustments are intended to recover through the FRP the same types of costs recovered by EML through the PMR with respect to Attala and Hinds. Consistent with the Joint Stipulation, the Commission finds that the circumstances of this particular transaction are such that the Company should be allowed to recover the costs associated with this acquisition through Interim Capacity Rate Adjustments to the Formula Rate Plan in a manner to be determined by mutual agreement of the parties in Docket No. 2018-UN-205. The Commission further finds that the Staff and Company shall work in good faith to implement revisions to the Company's Formula Rate Plan to allow the

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<sup>6</sup> For clarity, Annual Capacity Costs refers to the sum of the annual operating and maintenance expenses, depreciation expense, taxes other than income (excluding property or ad-valorem taxes recovered through Schedule ATA-3), return on investment (applied to the Company's plant investment, less any associated accumulated depreciation, accumulated amortization and accumulated deferred income taxes), and income taxes and shall include the portion of the Annual Capacity Costs that corresponds with the period of time between the transaction closing date and the effective date of the Interim Capacity Rate Adjustments.

Company to begin to recover the Annual Capacity Costs<sup>7</sup> of the Choctaw Facility upon transaction closing and its in-service date. The Commission finds that the Staff and the Company should use reasonable best efforts to present such revisions to the Commission for consideration by December 2019 or as soon as practical thereafter. To the extent that the transaction closing and in-service date for Choctaw occurs prior to such FRP revisions being approved by the Commission and implemented by EML, the Commission finds that the Staff and the Company should work together in good faith to develop a method to allow the Company to recover all of its costs incurred upon and after the in-service date, including the costs incurred before the effective date of the Interim Capacity Rate Adjustments.

#### JURISDICTION AND SUFFICIENCY OF THE FILING

23. The Commission finds that the Petition, all pleadings, testimony, data, documentation, and exhibits in this Docket filed by Entergy Mississippi comply with all of the statutory filing requirements and the requirements of the Commission's Procedural Rules. The Commission further finds that the September 30, 2019 Stipulation complies with the Commission's Procedural Rules and Mississippi law and that there is substantial evidence to support each and every agreement and stipulation contained in the Joint Stipulation and the conclusions contained therein.

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<sup>7</sup> For clarity, Annual Capacity Costs refers to the sum of the annual operating and maintenance expenses, depreciation expense, taxes other than income (excluding property or ad-valorem taxes recovered through Schedule ATA-3), return on investment (applied to the Company's plant investment, less any associated accumulated depreciation, accumulated amortization and accumulated deferred income taxes), and income taxes and shall include the portion of the Annual Capacity Costs that corresponds with the period of time between the transaction closing Date and the effective date of the Interim Capacity Rate Adjustments.

24. The Company is an electric public utility as defined in Miss. Code Ann. § 77-3-3(d)(i). The Commission has jurisdiction of this matter by virtue of its subject and the authority conferred upon the Commission by the laws of the State of Mississippi.

25. The Commission has ascertained that all labor, materials, property, and services to be rendered for the above-described improvements will be supplied at competitive and reasonable prices.

26. There are presently on file with this Commission the financial statements of the Company that indicate the Company is financially able to complete the acquisition and improvements described and set out in the Company's Petition and herein.

27. The Company attached to, addressed in, or incorporated by reference into the Petition all of the information required by the Act and the Commission's rules, including Appendix A, Schedule 3 of the Procedural Rules.

IT IS THEREFORE ORDERED by the Commission that:

1. The Commission hereby accepts, approves, and adopts as its own the Joint Stipulation and provisions thereof.

2. The Commission hereby does grant unto the Company a certificate that the public convenience and necessity require and will require that the Company acquire, own, operate, improve, and maintain, in accordance with the terms of the Asset Purchase Agreement, the Choctaw Facility and other related equipment, property, improvements, and facilities in Choctaw County, all within the State of Mississippi and as particularly described herein, and described, set out, and applied for in the Petition.

3. The Commission hereby approves Entergy Mississippi's total investment to

acquire and improve the Choctaw Facility, including the acquisition adjustment and transaction and other costs, estimated to be \$401.4 million.

4. The Commission hereby orders Entergy Mississippi to provide semi-annual updates to the Staff addressing: the planned plant upgrades identified in the Company's Direct Testimony, including an explanation of material variance between the estimated and actual costs of the upgrades performed; identification of any major additional upgrade, repair or remediation in excess of \$1 million not specified in the Company's filing, with associated costs, and an explanation of the need for such expenditure; and, operating data by unit for each of the prior 12 months, including run hours, forced outage hours, availability factor, net capacity factor, and net heat rate. Such semi-annual reports shall continue for five years, or until the upgrades identified in the Company's filing are complete, whichever is longer. The Commission further orders that, if the Staff believes the use of consultants is necessary or helpful in its review of EML's reports, it is reasonable for the Staff to use such consultants and EML shall be required to pay for the cost of such consultants and to recover said costs in its rates.

5. The Commission hereby orders an annual depreciation rate of 4.545% as the rate of depreciation for the Choctaw Facility at this time. The Commission further orders that the Company will either confirm the interim rate or may propose a different depreciation rate for the Choctaw Facility in the future based upon its next properly conducted depreciation study which is scheduled to be filed in 2022 and approved after a public hearing by the Commission.

6. The Commission hereby orders that Entergy Mississippi shall be allowed to recover the costs associated with this acquisition through Interim Capacity Rate Adjustments to the Formula Rate Plan in a manner to be determined by mutual agreement of the parties in



Docket No. 2018-UN-205. The Commission further orders that the Staff and Company shall work in good faith to implement revisions to the Company's Formula Rate Plan to allow the Company to begin to recover the Annual Capacity Costs of the Choctaw Facility upon transaction closing and its in-service date, and shall use reasonable best efforts to present such revisions to Commission for consideration by December 2019 or as soon as practical thereafter. To the extent that the transaction closing and in-service date for Choctaw occurs prior to such FRP revisions being approved by the Commission and implemented by EML, the Commission further orders that the Staff and the Company shall work together in good faith to develop a method to allow the Company to recover all of its prudently incurred costs upon and after the transaction closing and in-service date, including the costs prudently incurred before the effective date of the Interim Capacity Rate Adjustments.

7. The Commission hereby orders that EML schedule and conduct a meeting or meetings with any taxing authority, including, but not limited to, the Choctaw County Board of Supervisors, that may be affected by this Order within thirty (30) days of the entry of this Order. The purpose of said meeting(s) is to communicate to said elected officials the estimated effect, as best as known, of the transaction that is the subject of this Docket is expected to have on tax revenue to be paid to said taxing authorities in Choctaw County.

8. The Commission hereby orders that EML file a compliance filing within thirty-five (35) days of the entry of this Order to advise the Commission that said meeting(s) took place, who attended, where and when the meeting(s) took place, and what document or documents EML provided to those in attendance. EML shall update said officials with additional information relative to this topic anytime information from the Mississippi

Department of Revenue is obtained, and shall advise the Commission via compliance filing of its efforts to do so.

9. This Order shall be in full force and effect from and after the date of its Entry and shall be deemed issued on the day it is served on the parties herein by the Executive Secretary of the Commission who shall note the service date in the file of this Docket.

**COMMISSION VOTE**

Chairman Brandon Presley voted	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Vice Chairman Cecil Brown voted	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Commissioner Samuel F. Britton voted	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

SO ORDERED, this the 15<sup>th</sup> day of October 2019.



MISSISSIPPI PUBLIC SERVICE COMMISSION

BRANDON PRESLEY, CHAIRMAN

CECIL BROWN, VICE-CHAIRMAN

SAMUEL F. BRITTON, COMMISSIONER

FILED

SEP 30 2019

MISS. PUBLIC SERVICE  
COMMISSION

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE  
STATE OF MISSISSIPPI

ENTERGY MISSISSIPPI, LLC  
EC123008200  
2018-UA-204

IN RE: PROPOSED MODERNIZATION OF THE  
GENERATING FACILITIES OF ENTERGY  
MISSISSIPPI, INC. WITH THE  
ACQUISITION OF THE CHOCTAW  
GENERATING STATION IN CHOCTAW  
COUNTY, MISSISSIPPI

**JOINT STIPULATION**

This Joint Stipulation is entered into by and between the Mississippi Public Utilities Staff (the “Public Utilities Staff” or the “Staff”) and Entergy Mississippi, LLC (“Entergy Mississippi”, “EML”, or the “Company”) pursuant to the Mississippi Public Utilities Act of 1956, Section 77-3-1, *et seq.*, of the Mississippi Code of 1972, as amended, (the Act”) and the Mississippi Public Service Commission’s (“MPSC” or the “Commission”) Public Utilities Rules of Practice and Procedure (the “Procedural Rules”).

**BACKGROUND**

1. On October 12, 2018, Entergy Mississippi filed its Petition for a Certificate of Public Convenience and Necessity (“Certificate” or “CCN”) seeking authorization from the Commission for the Company to acquire, own, operate, improve and maintain the Choctaw Generating Station (“Choctaw Facility” or “Facility”), an electric generating facility in Choctaw County, Mississippi.

2. The Company is proposing to acquire the Choctaw Facility, an 810 MW combined cycle gas turbine (“CCGT”) located near French Camp, Mississippi, at an acquisition price of \$314

million.<sup>1</sup> Entergy Mississippi has provided testimony that the acquisition of the Choctaw Facility presents Entergy Mississippi with a unique opportunity to acquire a modern facility at an attractive and known cost and that the Choctaw Facility acquisition will help provide needed capacity and energy to EML's customers at a cost that is less than EML constructing a new, comparably-sized CCGT for approximately \$1 billion. EML's 2018 Integrated Resource Plan shows an immediate need for capacity that can be met by the Choctaw Facility, allowing EML to continue providing reliable service. The Company has provided testimony that the Choctaw Facility is expected to result in lower costs to EML's customers than the addition of a new CCGT, and that the addition of capacity in 2019 also mitigates customer exposure to higher near-term capacity prices in the event of (1) changes to generation availability, (2) reduced import capability, and (3) load growth in Local Resource Zone 10, where EML is located.

3. Contemporaneous to the filing of the Petition in this proceeding, Entergy Mississippi filed a Notice of Intent in Docket No. 2018-UN-205 proposing revisions to the Company's Formula Rate Plan to allow Interim Capacity Rate Adjustments to recover the non-fuel costs of additional capacity acquired by the Company ("Annual Capacity Costs"), such as the non-fuel annual ownership costs of the Choctaw Facility. In the past, the Commission has allowed Entergy Mississippi to recover the annual ownership costs of the Attala and Hinds generating facilities, which were purchased at favorable prices from other entities by EML, through the Company's Power Management Rider ("PMR") after the Company completed those acquisitions. The Interim Capacity Rate Adjustments are intended to recover through the FRP the same types of costs recovered by EML through the PMR with respect to Attala and Hinds.

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<sup>1</sup> The total investment in the plant, including transaction and other costs, is estimated to be \$401.4 million, as described in the Direct Testimony of Rene Broussard, which is ATTACHMENT B to the Company's Petition.

4. The Staff has engaged the services of Bates White, LLC (“Bates White”), an economic consulting firm, to review and assist the Staff in its investigation of the Company’s Petition to acquire the Choctaw Facility. Bates White, in turn, contracted with Consolidated Asset Management Services, LLC (“CAMS”) to provide an independent technical assessment of the Choctaw Facility and the Company’s due diligence efforts. The Company responded to data requests propounded by the Staff. Bates White and CAMS personnel conducted a site visit at the Choctaw Facility on July 11, 2019, and Entergy Mississippi provided additional responsive documentation to Bates White and CAMS in the weeks following that meeting.

5. On September 6, 2019, Bates White filed its direct testimony and exhibits in this proceeding. Bates Whites testified that Entergy Mississippi performed extensive due diligence for the transaction and that the Company’s Due Diligence Report was thorough and well developed. Furthermore, the independent technical review report of maintenance schedules and inspection reports prepared by CAMS generally concluded that the Choctaw Facility is in good condition, with appropriate procedures in place to ensure proper operations and maintenance.

6. The Public Utilities Staff, along with Bates White, have had the benefit of data and information supplied by the Company and of thorough discovery pertaining to the Company’s Petition. Based upon the Public Utilities Staff’s review, Entergy Mississippi and the Public Utilities Staff have entered into this Joint Stipulation.

STIPULATION

7. It is hereby stipulated and agreed between the Staff and Entergy Mississippi as follows:

(a) The Staff and Company stipulate and agree that the Commission has jurisdiction over the parties and subject matter of this proceeding.

(b) The Staff and Company stipulate and agree that the Choctaw Facility will help the Company meet its long-term resource needs. The Staff and Company further agree that the Choctaw Facility is a prudent, long-term acquisition that will further modernize Entergy Mississippi's generation portfolio, provide generation in close proximity to load, and yield fuel cost savings for customers.

(c) The Staff and Company stipulate and agree that Entergy Mississippi performed extensive and thorough due diligence on the Choctaw facility with respect to the proposed acquisition. The Staff and Company further stipulate and agree that the independent technical review of maintenance schedules and inspection reports generally concluded that the Choctaw Facility is in good condition, with appropriate procedures in place to ensure proper operations and maintenance. As a result of this due diligence, the Company identified a mechanical issue that was subsequently corrected by the current owner of the Choctaw Facility, NRG Wholesale, which is a subsidiary of GenOn Energy, Inc., and the original equipment manufacturer, General Electric International, Inc. ("GEII"), and that issue has a very low likelihood of reoccurring. Entergy Mississippi's Long-Term Service Agreement ("LTSA") coverage from GEII for the maintenance of the Choctaw Facility, discussed below, will protect customers from costs in the unlikely event the mechanical issue were to reoccur.

(d) Entergy Mississippi has entered into a LTSA with GEII under which GEII will provide major maintenance, parts and service for the combustion and steam turbines at the Choctaw Facility. The Staff and the Company stipulate and agree that the LTSA is an economically attractive alternative to Entergy Mississippi providing its own long-term maintenance services on the Choctaw Facility's combustion and steam turbines, and allows Entergy Mississippi to obtain the benefits of GEII's extensive experience, expertise, and advice

with respect to CCGT technology. The Staff and Entergy Mississippi stipulate and agree that the Company's use of an LTSA for major maintenance, parts and service for the combustion and steam turbines at the Choctaw Facility is reasonable and consistent with good utility practice.

(e) Entergy Mississippi's due diligence identified plant upgrades totaling \$56.6 million to be made after acquisition of the Choctaw Facility in order to support the overall performance and reliability of the plant. The Staff and Entergy Mississippi stipulate and agree that the plant upgrades identified by the Company are appropriate and the cost estimate appears reasonable. The Staff and the Company further stipulate and agree that Entergy Mississippi shall provide semi-annual updates to the Staff addressing: the upgrades identified in the Company's Direct Testimony, including an explanation of material variances between the estimated and actual costs of the upgrades performed; identification of any major additional upgrade, repair or remediation in excess of \$1 million not specified in the Company's filing, with associated costs, and an explanation of the need for such expenditure; and, operating data by unit for each of the prior 12 months, including run hours, forced outage hours, availability factor, net capacity factor, and net heat rate. Such semi-annual reports shall continue for five years, or until the upgrades identified in the Company's filing are complete, whichever is longer. The Staff and the Company stipulate and agree that, if the Staff believes the use of consultants is necessary or helpful in its review of EML's reports, the Commission should allow the use of such consultants and require EML to pay for the cost of such consultants and allow EML to recover said costs in rates.

(f) Entergy Mississippi also intends to purchase capital spares, in the amount of \$21 million, to facilitate future planned major maintenance. The Staff and Entergy Mississippi stipulate and agree that the purchase of the capital spares in connection with the acquisition of the Choctaw Facility is reasonable and appropriate.

(g) The Staff and Company stipulate and agree that Entergy Mississippi's total investment to acquire and improve the Choctaw Facility, including the acquisition adjustment and transaction and other costs, estimated to be \$401.4 million, is reasonable and should be approved by the Commission and, to the extent that actual costs of the planned upgrade, transaction costs, and any use of contingency funds, are prudently incurred, allowed to be recovered through the Company's rates. The total acquisition cost of \$401.4 million consists of the following: (1) purchase price of \$314 million, including an acquisition adjustment estimated to be \$36.5 million, (2) plant upgrades of \$56.6 million, (3) transaction costs of \$4 million, (4) contingency of \$5.8 million, and (5) capital spares of \$21 million.

(h) The Staff and the Company stipulate and agree that the Commission should approve the Company's Petition and should grant to the Company a certificate that the public convenience and necessity requires and will require the acquisition, ownership, operation, improvement, and maintenance of the Choctaw Facility.

(i) The Staff and Company stipulate and agree that the circumstances of this particular transaction are such that the Company should be allowed to recover the costs associated with this acquisition through Interim Capacity Rate Adjustments to the Formula Rate Plan in a manner to be determined by mutual agreement of the parties in Docket No. 2018-UN-205. The Staff and Company stipulate and agree to work in good faith to implement revisions to the Company's Formula Rate Plan to allow the Company to begin to recover the Annual Capacity Costs<sup>1</sup> of the Choctaw Facility upon transaction closing and its in-service date. The Staff and the Company

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<sup>1</sup> For clarity, Annual Capacity Costs refers to the sum of the annual operating and maintenance expenses, depreciation expense, taxes other than income (excluding property or ad-valorem taxes recovered through Schedule ATA-3), return on investment (applied to the Company's plant investment, less any associated accumulated depreciation, accumulated amortization and accumulated deferred income taxes), and income taxes and shall include the portion of the Annual Capacity Costs that corresponds with the period of time between the transaction closing date and the effective date of the Interim Capacity Rate Adjustments.



stipulate and agree that they will use reasonable best efforts to present such revisions to the Commission for consideration by December 2019 or as soon as practical thereafter. To the extent that the transaction closing and in-service date for Choctaw occurs prior to such FRP revisions being approved by the Commission and implemented by EML, the Staff and the Company stipulate and agree to work together in good faith to develop a method to allow the Company to recover all of its costs incurred upon and after the in-service date, including the costs incurred before the effective date of the Interim Capacity Rate Adjustments.

(j) The Staff and the Company stipulate and agree that the Commission should approve an interim annual depreciation rate of 4.545% as the rate of depreciation for the Choctaw Facility at this time. The Staff and the Company further stipulate and agree that the Company will either confirm the interim rate or may propose a different depreciation rate for the Choctaw Facility in the future based upon its next properly conducted depreciation study which is scheduled to be filed in 2022 and approved after a public hearing by the Commission.

(k) The Staff and Company agree that the stipulations contained herein are just and reasonable and consistent with applicable law and the rules of this Commission.

#### OTHER PROVISIONS

8. The agreements herein between Entergy Mississippi and the Public Utilities Staff shall be without prejudice to all of Entergy Mississippi's and the Public Utilities Staff's rights and responsibilities under Mississippi and/or other applicable law in this and future filings at the Commission.

9. It is agreed that the Staff and the Company shall not be considered as necessarily agreeing with or conceding the applicability of any principle, or any method of ratemaking or cost of service determination, or design of rate schedules, or terms or conditions of service, or the

applicability of any rule or interpretation of law, that may underlie, or be thought to underlie, this Joint Stipulation.

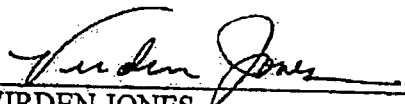
10. The Staff and the Company understand and expressly agree that, except as previously stated, the stipulations made herein are for the purpose of this proceeding only and Docket 2018-UN-205 and shall not apply to or be used as precedent in any other proceeding of Entergy Mississippi or any utility. Nothing herein shall operate to prevent the Company or the Staff from making any filing or proposing any change in rates. Both the Staff and the Company fully reserve their respective rights under state and federal law, and the Company fully reserves its rights under state or federal law with regard to the recovery of costs through retail rates. Nothing in this Joint Stipulation shall constitute a waiver by Entergy Mississippi of its rights with respect to matters within the jurisdiction of the Federal Energy Regulatory Commission, the Securities and Exchange Commission, or any other agency or governmental body having jurisdiction over Entergy Mississippi.

11. It is agreed that this Joint Stipulation is expressly conditioned upon acceptance by the Commission of all of the Joint Stipulation's provisions. It is also specifically understood and agreed that this Joint Stipulation is interdependent, non-separable, and cannot be severed. If the Commission does not accept this Joint Stipulation in its entirety, it is agreed that neither the Staff nor Entergy Mississippi will be thereafter bound by any of its provisions.

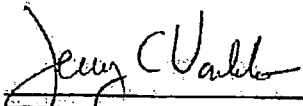
12. The Staff and Company stipulate and agree that the matters set out in this Joint Stipulation are just, reasonable, and in the best interest of the customers, the Company, and the general public.

SO STIPULATED this the 30th day of September 2019.

MISSISSIPPI PUBLIC UTILITIES STAFF

BY:   
VIRDEN JONES  
Executive Director

ENTERGY MISSISSIPPI, LLC

BY:   
JEREMY C. VANDERLOO  
Vice President, Regulatory Affairs