



Entergy Services, Inc.  
639 Loyola Avenue 70113-3125  
P.O. Box 61000  
New Orleans, LA 70161-1000  
Tel 504 576 6571  
Fax 504 576 5579

Timothy S. Cragin  
Assistant General Counsel  
Legal Services - Regulatory

September 9, 2016

**VIA HAND DELIVERY**

Ms. Lora W. Johnson, CMC  
Clerk of Council  
Room 1E09, City Hall  
1300 Perdido Street  
New Orleans, LA 70112

**Re: *Application of Entergy New Orleans, Inc. for Approval of Proposed Internal Restructuring and for Related Relief***  
***CNO Docket NO.: UD-16-03***

Dear Ms. Johnson,

On behalf of Entergy New Orleans, Inc. ("ENO"), I have enclosed the original and three copies of the clean and redline versions of errata pages containing corrections to the Application, Testimony of Charles L. Rice, Jr. and Kenneth F. Gallagher, and Exhibits of Kenneth F. Gallagher that were filed on July 22, 2016, in this matter. These errata are being filed to address the following issues that arose subsequent to the original filing:

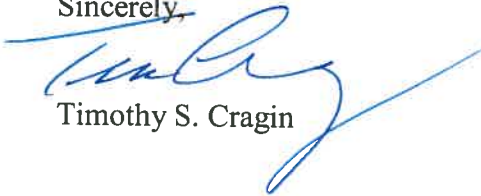
- (1) Although ENO does not anticipate that Nuclear Regulatory Commission ("NRC") approval will be needed to engage in the Restructuring proposed herein, it is now ENO's understanding that ELL, through Entergy Corporation's nuclear operations organization, Entergy Operations, Inc., plans to make a filing with the NRC notifying it of the ENO Restructuring and requesting the NRC's approval of the Restructuring if the NRC deems that such approval is necessary;
- (2) The names of the entities that will own Entergy Utility Holding Company, LLC have been changed from the names identified in the original filings to better differentiate those entities from the customer-serving utilities. Specifically, "Entergy Gulf States Utilities, L.L.C." will become "Entergy Utility Affiliates, LLC"; "EL Investment Company, LLC" will become "Entergy Utility Assets, LLC"; and "Entergy New Orleans, Inc." will become "Entergy Utility Group, Inc." The name changes do not affect the structure of the transaction.

Please retain the original and two copies for your files and return a date-stamped copy to our by-hand courier.

In connection with the ENO's filing, a Confidential Version of the above-described documents bearing the designation "Highly Sensitive Protected Materials" are being provided to the Council's Advisors pursuant to the terms and conditions of the Official Protective Order adopted in Council Resolution R-07-432. Portions of the information included in the filing consist of highly sensitive information, the disclosure of which may subject not only the Company, but also its customers, to a substantial risk of harm. As such, these confidential materials shall be exempt from public disclosure, subject to the provisions of Council Resolution R-07-432.

If you have any questions, please do not hesitate to call me. Thank you for your courtesy and assistance with this matter.

Sincerely,



Timothy S. Cragin

Enclosures

cc: Official Service List UD-16-03 (*via electronic mail*)  
Clinton A. Vince, Esq. (*via electronic mail and UPS*)  
Presley R. Reed, Jr., Esq. (*via electronic mail and UPS*)  
Walter J. Wilkerson, Esq. (*via electronic mail and UPS*)  
J. A. Beatmann, Jr., Esq. (*via electronic mail and UPS*)  
Joseph A. Vumbaco, P.E. (*via electronic mail and UPS*)  
Errol Smith, CPA (*via electronic mail and UPS*)  
Casey DeMoss (*via electronic mail and UPS*)  
Ernest L. Edwards, Jr., Esq. (*via electronic mail and UPS*)  
Maurice Brubaker (*via electronic mail and UPS*)

**BEFORE THE  
COUNCIL OF THE CITY OF NEW ORLEANS**

<b>APPLICATION OF ENTERGY NEW</b>	)	
<b>ORLEANS, INC. FOR APPROVAL OF</b>	)	
<b>PROPOSED INTERNAL</b>	)	
<b>RESTRUCTURING AND FOR</b>	)	<b>DOCKET NO. UD-16-__</b>
<b>RELATED RELIEF</b>	)	
	)	

**APPLICATION OF ENTERGY NEW ORLEANS, INC. FOR APPROVAL  
OF PROPOSED INTERNAL RESTRUCTURING AND FOR RELATED RELIEF**

Entergy New Orleans, Inc. (“ENO” or the “Company”), pursuant to Council Resolution R-06-88 dated March 16, 2006, respectfully submits this Application requesting, among other things, that the Council of the City of New Orleans (the “Council”) approve an internal restructuring of ENO (“Restructuring”) that will enhance the separation between ENO’s regulated utility business and Entergy Corporation’s unregulated business. The Restructuring will do so with no anticipated material future adverse effects on rates, and little to no effect on ENO’s customers, operations, or employees. In addition to providing more separation from the unregulated business, which has a fundamentally different risk profile and liquidity requirements than ENO’s regulated utility business, the Restructuring could provide an additional source of equity financing for ENO. In addition to the public interest benefits inherent in the nature of the Restructuring, if the Council approves this Application by December 31, 2016,<sup>1</sup> ENO will guarantee customer credits of \$5 million in 2016, \$5 million in 2017, and if the Restructuring is also approved by the Federal Energy Regulatory Commission (“FERC”) by December 31, 2018,

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<sup>1</sup> It should be noted that in order for customers to receive the credits in 2016, Council approval would need to be obtained sufficiently in advance of the first December billing cycle to implement the credit on customers’ December bills. If approval is received in 2016, but not in sufficient time to implement the credit on customers’ December bills, ENO will work with the Council and its Advisors to determine the appropriate method and timeline for flowing the credits applicable to 2016 through to customers.

ENO will guarantee customer credits of \$5 million in 2018, \$5 million in 2019, and \$5 million in 2020, with the possibility of additional benefits in future years. The Company will provide the guaranteed credits through a mechanism mutually agreed upon with the Council.

In the Restructuring, ENO would use the merger provisions of the Texas Business Organizations Code (sometimes referred to as the Texas merger-by-division (“MBD”) statute),<sup>2</sup> to transfer<sup>3</sup> substantially all of its assets and liabilities to a newly-created subsidiary, Entergy New Orleans Power, LLC (“ENO Power”), a Texas limited liability company (“LLC”). Thereafter, ENO would contribute its membership interests in ENO Power to an intermediate holding company named Entergy Utility Holding Company, LLC (“EUH”), also a Texas LLC. Once under EUH, ENO Power would be renamed Entergy New Orleans, LLC (“ENOL”). Under this corporate structure, EUH would provide additional separation between ENO’s utility business and Entergy Corporation’s unregulated business.

In further support of its Application, ENO respectfully submits as follows:

## **I. THE COMPANY**

ENO is a corporation duly authorized and qualified to do and doing business in the State of Louisiana, created and organized for the purposes, among others, of manufacturing, generating, transmitting, distributing, and selling electricity for power, lighting, heating, and other such uses. ENO is engaged in the business thereof in Orleans Parish of the State of Louisiana, and ENO also engages in the local distribution of natural gas to residential, commercial, municipal, and other customers in Orleans Parish.

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<sup>2</sup> Texas Business Organizations Code, §§ 1.002(55) & 10.001 *et seq.*

<sup>3</sup> For clarity, certain assets and liabilities of a company may be described in this Application as being transferred or assigned to another company as a result of the merger that occurs in the transaction steps, even though the applicable merger statute states that such merger does not result in a transfer or assignment.

## **II. THE APPLICATION**

ENO seeks a public interest finding from the Council in accordance with Council Resolution R-06-88 with respect to its proposal to engage in the Restructuring. ENO considers this a “transfer [of] . . . ownership . . . of [its] assets,” as defined by Council Resolution R-06-88. As detailed below, the Restructuring is expected to provide significant benefits, is in the public interest, and satisfies all of the relevant factors set forth in Council Resolution R-06-88. Therefore, the Company respectfully requests that the Council adopt a Resolution finding that the Restructuring is in the public interest in accordance with, and satisfies all applicable requirements of, Council Resolution R-06-88.<sup>4</sup>

The relief requested by the Company also includes:

- Approval of each and all of the steps that will be undertaken to accomplish the Restructuring, including authorization for ENOL to operate as a new legal entity at the conclusion of the Restructuring under an intermediate holding company, EUH, with ENOL subject to the same Louisiana and/or Council utility statutes, regulations, resolutions, franchises, and/or ordinances applicable to a public utility and to which ENO is currently subject;
- A declaration that ENOL’s status as a disregarded entity for Federal and Louisiana income tax purposes does not obviate the need for ENOL to collect, in its rates, the expected Federal and Louisiana income tax expense associated with its regulated utility operations; and, that ENOL will be allowed to collect, in its rates, said Federal and Louisiana income tax expense associated with its regulated utility operations;

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<sup>4</sup> In addition to Council Resolution R-06-88, this Application asks that the Council find that the Restructuring satisfies the standards and requirements set forth in any other applicable Council Resolution or Ordinance.

- Approval for the substitution of ENOL for ENO as the member of the Special Purpose Entity under the Financing Order,<sup>5</sup> if necessary;
- Declaration by the Council that Ordering Paragraph No. 7 of Council Resolution R-01-676, which sets forth the “Code of Conduct” applicable to ENO and its affiliates, is not implicated by the Restructuring, or, alternatively, to the extent deemed applicable, that the requirements of said provision are waived under the circumstances of this Restructuring;
- Approval to extend the applicability of the Council’s approval in Council Resolution R-16-188 of ENO’s anticipated level of debt financing through June 30, 2018 to ENOL as a new legal entity at the close of the Restructuring;
- Approval, by Ordinance, of the extension, transfer or assignment of any ENO franchise/indeterminate permit rights and/or of any amendments that may be required to ENO’s existing franchises/indeterminate permits to effect the Restructuring and to allow ENOL to operate as a public utility in Orleans Parish;
- Any requests for finding that any other orders/rules (*e.g.*, affiliate interest conditions) do not apply to the Restructuring, or, alternatively, a waiver of any such orders/rules/conditions or a finding that the orders/rules/conditions are satisfied; and
- Any other approvals or authorizations that may be required by the Council to lawfully consummate the Restructuring.

### **III. WITNESSES SUPPORTING THIS APPLICATION**

With this Application, the Company is submitting the Direct Testimony of Charles L. Rice, Jr., and Kenneth F. Gallagher.

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<sup>5</sup> Council Resolution R-15-193 dated May 14, 2015.

- Charles L. Rice, Jr. – Mr. Rice is the President and Chief Executive Officer of ENO. In his testimony, he provides a brief overview of the Company, the transaction structure, and the benefits of the Restructuring. He then explains why the Restructuring could be achieved with no anticipated material future adverse effects on rates. He also explains that the Restructuring would have little to no effect on the Company’s operations, employees, or customers. He then provides an overview of Council Resolution R-06-88. Finally, he provides an overview of the Application and introduces and summarizes the Direct Testimony of Mr. Gallagher, the other witness testifying on behalf of ENO, who provides more detailed discussions of several matters addressed in Mr. Rice’s testimony.
- Kenneth F. Gallagher – Mr. Gallagher is a senior analyst with Commonwealth Consulting Group, a firm of consultants specializing in the area of public utility economics. He addresses a number of matters relating to the Restructuring, including a discussion of the transaction structure and the securities transactions that are associated with the Restructuring. He then discusses the anticipated benefits of the Restructuring. In addition, he explains how the Restructuring should have minimal effects on certain ENO business functions and on ENO’s Securitization Riders. He then discusses the anticipated tax implications of the Restructuring, as well as other implications of the Restructuring. He then discusses the Restructuring-related filings that are anticipated to be made with FERC and the Nuclear Regulatory Commission (“NRC”). Mr. Gallagher then addresses the public-interest factors enumerated in Council Resolution R-06-88 and concludes that the Restructuring is in the public interest. Finally, he discusses the Company’s request for clarifying relief regarding the “Code of Conduct” set forth in Council Resolution R-01-676 to the extent that the Council finds it applicable to the Restructuring.

#### **IV. TRANSACTION STRUCTURE AND RELATED SECURITIES TRANSACTIONS**

The proposed Restructuring is a transaction through which ENO would transfer substantially all of its assets and liabilities to a newly-formed subsidiary, ENO Power, and contribute its membership interests in ENO Power to an intermediate holding company, EUH. Once under EUH, ENO Power would be renamed “Entergy New Orleans, LLC.” A presentation depicting the specific steps of the Restructuring and a more detailed step-by-step description of the Restructuring steps are included with the testimony of Mr. Gallagher.

In connection with the Restructuring, ENO would redeem its outstanding preferred stock. That redemption, including an expected call premium of approximately \$819,000, is estimated to cost approximately \$21 million, plus any accrued dividends. ENO expects to fund

the redemption from cash from operations and/or lines of credit and/or through an issuance of long-term debt. ENO's redemption of its outstanding preferred stock will result in the cost of that preferred stock being excluded from ENO's weighted-average cost of capital ("WACC"), while the cost of any additional long-term financing would be included in the WACC for ratemaking purposes in the future. The redemption and related funding are not expected to materially affect ENO's WACC or to have any material future adverse effect on rates.

It should also be noted that Entergy Louisiana, LLC ("ELL") is already a subsidiary of EUH. ENO understands that comparable restructurings could be undertaken in the future by the remaining Entergy Operating Companies ("EOCs"),<sup>6</sup> through which the resulting utilities would become EUH subsidiaries.

**V. THE RESTRUCTURING WOULD NOT HAVE AN ANTICIPATED MATERIAL FUTURE ADVERSE EFFECT ON RATES, WOULD NOT AFFECT THE COUNCIL'S JURISDICTION, AND WOULD HAVE LITTLE TO NO EFFECT ON ENO'S OPERATIONS, CUSTOMERS, OR EMPLOYEES**

There are a number of benefits to the proposed Restructuring. Moreover, the Restructuring would not adversely affect the reliability of service, the availability of service, or the cost of service. Further, if the Restructuring is approved, ENOL would be subject to all of the orders that ENO is currently subject to and all other rules and regulations of the Council. ENO is not seeking any change to how its utility business is regulated, and the Council would not lose any jurisdiction over the regulated utility business as a result of the Restructuring. Company witness Mr. Gallagher testifies that although the Council would continue to have jurisdiction over the Company's long-term financings and securities issuances, FERC would also have jurisdiction over those matters.

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<sup>6</sup> The EOCs are ENO; ELL; Entergy Arkansas, Inc.; Entergy Mississippi, Inc.; and Entergy Texas, Inc.



**A. Benefits of the Restructuring**

There are important benefits that result from the Restructuring. Currently, ENO is a direct subsidiary of Entergy Corporation. The use of a holding company structure would enhance the separation between ENO's regulated utility operations and Entergy Corporation's unregulated businesses, including its merchant generation business.

The holding company structure recognizes that the regulated utility operations of Entergy Corporation are a distinct business from its merchant generation business. Each of the respective businesses has its own financial risks and liquidity requirements. For instance, Entergy Corporation's merchant generation business is significantly affected by the market price of power in the northeastern United States. Increases and decreases in power prices affect the merchant generation business's cash flow. Variation in cash flows can, thus, negatively affect the financial metrics of the merchant business. In contrast, Entergy Corporation's utility operations are rate-regulated, and the cash flows associated with that business tend to be more predictable, although this can change in the aftermath of a catastrophic weather event when ENO has a significant and immediate need for cash to support restoration efforts. Further, when natural gas and power prices rise in the region served by the Company, ENO requires access to significant liquidity in order to transact business in the supply markets. The holding company structure is designed to enhance the separation between Entergy Corporation's regulated utility businesses and its merchant generation business, helping to further insulate each, so that their respective risks and requirements are more properly supported by the applicable business.

Under the proposed holding company structure, EUH would not be used to make borrowings on behalf of the unregulated merchant generation businesses owned by Entergy Corporation. Nor would EUH make direct equity investments in those businesses. The holding

company structure also would not modify the existing jurisdiction of the Council to determine the just and reasonable capital structure of ENOL for purposes of setting retail rates.

Additionally, although ENOL would be expected to finance its own obligations, similar to how ENO finances its obligations today, if the Restructuring is approved and completed, EUH could, if necessary, one day obtain financing in the bank or capital markets. That capital could be used to make equity investments in ENOL and/or EUH's other operating company subsidiaries, but not in Entergy Corporation's unregulated affiliated merchant generation business subsidiaries.

In addition to the public interest benefits set forth above, if the Restructuring is approved by the Council by December 31, 2016, ENO is willing to provide guaranteed customer credits of \$5 million in 2016, and \$5 million in 2017. Additionally, if the FERC approves the Restructuring by December 31, 2018, ENO is willing to provide additional guaranteed credits to customers of \$5 million in 2018, \$5 million in 2019, and \$5 million in 2020, with the potential for additional benefits in future years. Moreover, following the Restructuring, ENOL would not be required to pay a corporate franchise tax, and based on ENO's estimated 2016 corporate franchise tax, the annual corporate franchise tax savings after the Restructuring are estimated to be approximately \$1.7 million per year. If approved, these benefits could be achieved with no anticipated material future adverse effect on rates, and little to no effect on ENO's customers, operations, or employees.<sup>7</sup>

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<sup>7</sup> If the Restructuring is approved, ENOL (and not ENO) would be the utility providing services in Orleans Parish. Accordingly, if the Restructuring is approved, ENOL would need to revise ENO's rate schedules/tariffs/riders/terms of service to reflect that ENOL is the utility in New Orleans. The Company would accomplish this by making a compliance filing that attaches the "revised" rate schedules/tariffs/riders/terms of service that, but for the name of the utility on those documents, should be identical to ENO's existing rate schedules/tariffs/riders/terms of service.

The analysis described below shows that the Restructuring will serve the public interest and will provide meaningful benefits to customers and other stakeholders. It is currently anticipated that the Restructuring will close by December 31, 2017. Conditions precedent to closing include, among other things, all necessary regulatory approvals for the Restructuring. Those approvals are discussed below in this Application, as well as in the testimony of Company witness Mr. Gallagher. Accordingly, the Company requests that the Council issue all requested approvals by December 31, 2016.

**B. Little to No Effect on ENO's Operations, Customers, and Employees**

Aside from the benefits discussed above, the proposed Restructuring is not expected to have a material effect on ENO's operations, employees, or customers.

With respect to operations, the Company's quality of management will be maintained. ENO's senior executives would become employees of ENOL, and those executives possess extensive utility experience, including experience with responding to major storms. Accordingly, there should be no doubt that the quality of management would be maintained if the proposed Restructuring occurs.

Moreover, because this is simply an internal reorganization, the Restructuring should not affect generation, transmission, or distribution operations or customer service. That is because ENO's employees will also become employees of ENOL, so the same employees would be providing service to ENO's customers both immediately before and immediately after the Restructuring occurs. Nor will there be any reduction or increase in the workforce as a result of the Restructuring. As Mr. Rice describes, the Restructuring would be fair and reasonable to ENO employees, who would become ENOL employees immediately following the

Restructuring, and whose compensation and benefits would not be affected as a result of the Restructuring.<sup>8</sup>

In addition, ENO's award-winning proficiency in storm response would not be adversely affected because ENOL would (1) use the same employees in the same roles under the same Incident Command System structure, and (2) keep customers and stakeholders informed in the same manner that they do today.

Further, Mr. Rice and Mr. Gallagher discuss that the Restructuring is not expected to affect the manner in which ENO (and the System Planning and Operations ("SPO") group on behalf of ENO) participate in the Midcontinent Independent System Operator, Inc. ("MISO") Regional Transmission Organization. Certain administrative steps, however, would be necessary to substitute ENOL for ENO with respect to participation in MISO, and certain gas transportation or storage contracts would need to be transferred to ENOL, but those are one-time steps that would not have a significant effect on operations.

Accordingly, ENOL would have sufficient qualified and knowledgeable employees to operate and manage ENO's business, thereby ensuring both continuity of operations and the provision of safe, reliable, and adequate service that ENO currently provides to customers. The Company's current customers, who will become customers of ENOL, will receive the same high quality customer service that they enjoy today. Customers will not see any change in the metering and billing processes; customer contact centers will continue to be available; and customers will continue to be able to use an Entergy website to view and pay bills on-line, update their account information, check the status of work orders and permits, and view outage maps. In other words, aside from a new name ("Entergy New Orleans, *LLC*," as opposed to

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<sup>8</sup> As always, however, the Company has the right to change or eliminate any compensation or benefit program at any time, subject to any applicable law, order, and/or regulation.

“Entergy New Orleans, *Inc.*”), customers are not expected to notice the Restructuring in their day-to-day interactions with their utility provider.

## **VI. TAX IMPLICATIONS OF THE RESTRUCTURING**

Mr. Gallagher discusses tax-related implications of the Restructuring in the Highly Sensitive Protected Materials (“HSPM”) portion of his testimony.

## **VII. FILINGS WITH OTHER REGULATORY AUTHORITIES**

ENO will also need to obtain prior authorizations from the FERC under Federal Power Act (“FPA”) Sections 203 and 204 in order to effectuate the Restructuring. FPA Section 203 requires prior FERC authorization of a proposed change in control of FERC-jurisdictional assets. ENO will apply to FERC to establish that the Restructuring would not have an adverse effect on competition, wholesale rates, or regulation, would not result in cross-subsidization among ENOL and its non-utility associate companies or the pledge or encumbrance of utility assets for the benefit of an associate company, and is therefore consistent with the public interest. An application will be filed with FERC to establish FPA Section 204 authorization for ENO to undertake any issuances of securities and assumptions of liabilities that would occur during the intermediate steps of the Restructuring, although ENO currently anticipates that its existing securities issuance authority from the Council and FERC is adequate for any issuances of securities and assumptions of liabilities that may occur during the Restructuring steps and therefore it will not have to request additional authority for purposes of the Restructuring. In addition, ENOL will apply to FERC to establish FPA Section 204 authority to issue securities and to assume liabilities effective on and after the Restructuring closing date when ENOL becomes a public utility.

ENO and/or ENOL also would make filings with FERC pursuant to FPA Section 205, including a market-based rate application to establish authority for ENOL to make wholesale market-rate sales of capacity, energy, and ancillary services effective as of the date of the Restructuring consummation, and post-consummation notices of succession for ENOL to succeed to the FERC-jurisdictional tariffs and rate schedules that it would acquire from ENO. The Company anticipates that the FPA Sections 203, 204 and 205 applications would be filed later in 2016, while the “notice of succession” filing would be made within 30 days after consummation of the Restructuring.

The Restructuring may have regulatory implications under the Natural Gas Act. To the extent that the FERC’s consent may be required for ENOL to be assigned the applicable interstate gas transportation and storage contracts and is not otherwise obtained under the applicable FERC tariff, ENO anticipates seeking a waiver of the applicable pipeline tariff provisions and/or FERC regulations.

Further, if the Restructuring includes a payment of dividends by a public utility (ENO and/or ENOL if it is a public utility at time of distribution), it may be necessary to obtain a FERC declaration that the Restructuring does not violate FPA Section 305(a), which prohibits dividend payments out of the paid-in capital account of a public utility. The payment of dividends by a public utility currently is not anticipated to occur before the Restructuring closes, but ENO notes this possible requirement if the transaction structure is changed.

Finally, although ENO does not anticipate that NRC approval will be needed to engage in the Restructuring proposed herein, it is ENO’s understanding that ELL, through Entergy Corporation’s nuclear operations organization, Entergy Operations, Inc., plans to make a filing

with the NRC notifying it of the Restructuring and requesting the NRC's approval of the Restructuring if the NRC deems that such approval is necessary.

### **VIII. COMPLIANCE WITH COUNCIL RESOLUTION R-06-88**

For the reasons discussed in detail in the supporting testimony, the Restructuring is in the public interest and satisfies all applicable resolutions of the Council. In particular, as discussed by Mr. Gallagher, the Restructuring satisfies each of the 18 factors in Council Resolution R-06-88 as follows:

1. *Whether the transfer is in the public interest.* The proposed Restructuring is in the public interest for a number of reasons. The Restructuring would provide benefits to ENO and its customers by further insulating them from the risks of Entergy Corporation's unregulated merchant generation business, which has a fundamentally different risk profile and liquidity requirements than ENO's regulated utility business. Moreover, the Restructuring could provide an additional source of financing in that EUH could be used to make equity investments into the Company. In addition to these public interest benefits, if the Restructuring is approved by December 31, 2016, ENO is willing to provide guaranteed customer credits of \$5 million in 2016, and \$5 million in 2017, and if approved by FERC by December 31, 2018, ENO will guarantee additional customer credits of \$5 million per year in 2018, 2019, and 2020. The Company will provide the guaranteed credits through a mechanism mutually agreed upon with the Council. Moreover, following the Restructuring, ENOL would not be required to pay a corporate franchise tax, and based on ENO's estimated 2016 corporate franchise tax, the annual corporate franchise tax savings after the Restructuring are estimated to be approximately \$1.7 million per year. If approved,

these benefits could be achieved with no anticipated material future adverse effects on rates, and little to no effect on ENO's customers, operations and employees.

2. ***Whether the purchaser is ready, willing, and able to continue providing safe, reliable and adequate service to the utility's ratepayers.*** While there is no "purchaser," ENOL would be able to continue providing the same safe, reliable, and adequate service that the Company currently provides to customers. Because there will be no reduction or increase of the workforce as a result of the Restructuring, ENOL would have sufficient qualified and knowledgeable employees to operate and manage the Company's former business following the Restructuring, thereby ensuring continuity of operations. The Company's current customers, who will become customers of ENOL, will receive the same high quality customer service that they enjoy today. Customers will not see any change in the metering and billing processes; customer contact centers will continue to be available; and customers will continue to be able to use an Entergy website to view and pay bills on-line, update their account information, check the status of work orders and permits, and view outage maps. In other words, aside from a new name ("Entergy New Orleans, *LLC*," as opposed to "Entergy New Orleans, *Inc.*"), customers are not expected to notice the Restructuring in their day-to-day interactions with their utility provider. Accordingly, customers would not notice or experience any change in the way that the Company generates, transmits, or distributes electricity to provide them with safe and reliable service.

In addition, the Company's award-winning proficiency in storm response would not be adversely affected by the Restructuring because the Company intends to: (1)



use the same employees in the same roles under the same Incident Command System structure immediately following the Restructuring, and (2) keep customers and stakeholders informed in the same manner that it does today. In summary, the Restructuring will not affect the quality or efficiency of service currently enjoyed by ENO's customers in New Orleans. Therefore, there will be no degradation in the safety, reliability, or adequacy of service in New Orleans as a result of the Restructuring.

3. ***Whether the transfer will maintain or improve the financial condition of the resulting public utility or common carrier.*** Because the transaction is simply an internal reorganization, the Restructuring is not expected to affect ENO's financial condition in any material way.
4. ***Whether the proposed transfer will maintain or improve the quality of service.*** This factor is somewhat duplicative of the second factor in that safety and reliability are principal components of the "quality" of service, and those would be maintained. ENOL would have the same operational and management employees immediately following the Restructuring, thereby ensuring no decrease in the high quality of services that the Company's customers currently receive.
5. ***Whether the transfer will provide net benefits to ratepayers in both the short term and the long term and provide a ratemaking method that will ensure, to the fullest extent possible, that ratepayers will receive the forecasted short- and long-term benefits.*** The Restructuring would provide the "insulation" and "additional source of financing" benefits that are discussed in response to the first factor. Moreover, assuming the Restructuring is approved in the above-specified timeframe, the

Restructuring will allow ENO to offer customers guaranteed up-front benefits and the possibility of additional, longer-term benefits. Moreover, following the Restructuring, ENOL would not be required to pay a corporate franchise tax, and based on ENO's estimated 2016 corporate franchise tax, the annual corporate franchise tax savings after the Restructuring are estimated to be approximately \$1.7 million per year. Those benefits would be achieved with no anticipated material future adverse effects on rates, and little to no effect on ENO's customers, operations and employees.

6. ***Whether the transfer will adversely affect competition.*** The Restructuring would not adversely affect competition because the Restructuring simply involves the internal reorganization of the Company and does not affect the Company's operations.
7. ***Whether the transfer will maintain or improve the quality of management of the resulting public utility or common carrier doing business in the State.*** Immediately following the Restructuring, the Company's senior executives, as well as its employees, would become employees of ENOL. These executives and employees possess extensive utility experience, including experience with responding to major storms. Accordingly, there should be no doubt that the quality of management would be maintained if the proposed Restructuring occurs.
8. ***Whether the transfer will be fair and reasonable to the affected public utility or common carrier employees.*** ENO's employees will become employees of ENOL immediately following the Restructuring. As Mr. Rice describes, the Restructuring would be fair and reasonable to the affected employees, who would become

employees of ENOL and whose compensation and benefits would not be affected as a result of the Restructuring.<sup>9</sup>

9. *Whether the transfer would be fair and reasonable to the majority of all affected public utility or common carrier shareholders.* The Restructuring, along with the economic benefits that are expected, would be fair and reasonable to shareholders.
10. *Whether the transfer will be beneficial on an overall basis to City and local economies and to the communities in the area served by the public utility or common carrier.* The Restructuring will be beneficial on an overall basis to New Orleans and customers of ENOL for the reasons set forth with respect to factor 1 above.
11. *Whether the transfer will preserve the jurisdiction of the Council and the ability of the Council to effectively regulate and audit the public utility's operations in New Orleans.* The Louisiana Constitution and the Home Rule Charter of the City of New Orleans set forth the jurisdiction of the Council, and the proposed Restructuring would preserve the jurisdiction of the Council over ENOL, its ability to effectively regulate and audit ENOL's operations in Louisiana, and its ability to oversee the rates charged by ENOL. The Restructuring accordingly should not diminish the Council's jurisdiction over the Company. Company witness Mr. Gallagher testifies that although the Council would continue to have jurisdiction over the Company's long-term financings, FERC would also have jurisdiction over those financings. ENOL does not anticipate conflicts arising from that shared jurisdiction because, just as ENO does today, ENOL would file applications with the Council seeking approval of

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<sup>9</sup> As always, however, the Company has the right to change or eliminate any compensation or benefit program at any time, subject to any applicable law, order, and/or regulation.

- the level of equity securities and long-term debt pursuant to Ordinance No. 6822, as amended, and ENOL would abide by the Council's rulings regarding those applications, just as ENO does today.
12. *Whether conditions are necessary to prevent adverse consequences which may result from the transfer.* The Company believes the Restructuring is in the public interest, and there would be no adverse consequences that require preventative conditions.
13. *The history of compliance or noncompliance of the proposed acquiring entity or principals or affiliates have had with regulatory authorities in this State or other jurisdictions.* There is no "acquiring entity." The Restructuring involves the internal reorganization of the Company, and ENO's history of regulatory compliance is well known and favorable, and there is no reason to believe that ENOL will not continue to be cooperative with the Council and other regulatory authorities after the Restructuring.
14. *Whether the acquiring entity, persons, or corporations have the financial ability to operate the public utility or common carrier system and maintain or upgrade the quality of the physical system.* As was the case with Factor No. 13, there is no "acquiring entity"; instead, the proposed Restructuring involves the internal reorganization of ENO. Following the Restructuring, ENOL would have the same financial ability as the Company currently has today to operate the utility and to maintain or upgrade the quality of the Company's facilities.
15. *Whether any repairs and/or improvements are required and the ability of the acquiring entity to make those repairs and/or improvements.* This factor is not

relevant to the Restructuring. Upon closing, however, ENOL anticipates that it will have the same ability that ENO currently has to make any future repairs and/or improvements to ENO's assets that may become necessary.

16. ***The ability of the acquiring entity to obtain all necessary health, safety and other permits.*** The Company anticipates assigning to ENOL all of its health, safety, and other permits, subject to any required governmental approvals or consents. Because the Company currently possesses all necessary health, safety, and other permits for the operation of its business, there is no basis to question whether ENOL would be able to obtain all necessary health, safety, and other permits.

17. ***The manner of financing the transfer and any impact that may have on encumbering the assets of the entity and the potential impact on rates.*** There is no sale of assets as a result of the Restructuring, but in order to complete the Restructuring, Mr. Gallagher explains that ENO would have to redeem its outstanding preferred stock. That redemption, including call premiums, is estimated to cost approximately \$21 million, plus any accrued dividends. ENO expects to fund the redemption with cash from operations and/or lines of credit and/or through an issuance of long-term debt. ENO's redemption of its outstanding preferred stock will result in the cost of that preferred stock being excluded from ENO's WACC, while the cost of any additional long-term financing would be included in the WACC used for ratemaking purposes in the future. The redemption and related funding are not expected to materially affect ENO's WACC or to have any material future adverse effect on rates. In addition, as Mr. Rice explains, ENOL will be assuming ENO's existing mortgage indenture (referred to as the "ENO Mortgage") that creates a first

lien on substantially all of the tangible assets of the Company, all of which will be transferred to ENOL as a result of the Restructuring. Upon completion of the Restructuring, the tangible assets will be encumbered by the lien of the ENO Mortgage in same manner in which the assets are encumbered today.

18. *Whether there are any conditions which should be attached to the proposed acquisition.* As discussed above with respect to Factor No. 12, conditions are not necessary because no adverse consequences of the Restructuring are expected.

### **IX. AFFILIATE ISSUES**

As discussed above and in the testimony of Mr. Gallagher, the Restructuring will be accomplished through a series of steps that transfer to ENOL substantially all of ENO's assets and liabilities. To the extent that these "transactions" are considered to be affiliate transactions, the Council is asked to declare that Ordering Paragraph No. 7 of Council Resolution R-01-676, which sets forth the "Code of Conduct" applicable to ENO and its affiliates, is not implicated by the Restructuring.<sup>10</sup> Mr. Gallagher notes that Ordering Paragraph No. 7 targets transactions in which assets are ultimately transferred to a *non-regulated* Entergy Corporation affiliate, and not transactions, such as the Restructuring, in which the assets are ultimately transferred to a *regulated* Entergy Corporation affiliate. The transfers involved in the Restructuring accordingly are not the sort of transfers or transactions that Ordering Paragraph No. 7 was intended to address.

Alternatively, if Ordering Paragraph No. 7 is deemed to apply, the Council is asked to waive that provision with respect to the Restructuring. The Company submits that a waiver

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<sup>10</sup> Ordering Paragraph No. 7 provides: "Except for Customer Support Services, transactions between ENO and its Affiliates and between ELL and its Affiliates in excess of \$100,000 shall be limited to tariff products and services, the sale and purchase of goods, property, products or services made generally available by the utility or Affiliate to all Competitive Market Participants through an open, competitive bidding process."

would be appropriate under these circumstances because the creation of a new utility, ENOL, and the transfer of membership interests that result from the Restructuring, do not include a transfer to a non-regulated business. Nor is there a need for a competitive bidding process.

**X. REQUEST FOR TIMELY TREATMENT**

The Company seeks to complete the Restructuring by December 31, 2017. Accordingly, to ensure that the appropriate Council approvals are in place at that time, the Company requests that the Council direct any and all procedural steps necessary to ensure that a Resolution be issued by the Council on this Application no later than December 31, 2016. The Company suggests the following schedule:

Docket Established and 15-Day Intervention Period Begins	August 11, 2016
15-Day Intervention Period Ends	August 26, 2016
Intervenor Direct Testimony Due	September 26, 2016
Council Advisor Direct Testimony Due	October 7, 2016
ENO Rebuttal Testimony Due	October 17, 2016
Hearing	October 25, 2016
Certification of Record	October 31, 2016
Council Utilities, Cable, Telecommunications and Technology Committee and Full Council Decision	November 2016

**XI. SERVICE OF NOTICES AND PLEADINGS**

The Company requests that all notices, correspondence, and other communications concerning this Application be directed to the following persons:

Gary E. Huntley  
Vice President Regulatory Affairs,  
Entergy New Orleans, Inc.  
1600 Perdido Street  
New Orleans, Louisiana 70112  
Telephone: (504) 670-3680  
ghuntle@entergy.com

Timothy S. Cragin  
Alyssa Maurice-Anderson  
Brian L. Guillot  
Harry M. Barton  
Entergy Services, Inc.  
639 Loyola Avenue  
Mail Unit L-ENT-26E  
New Orleans, Louisiana 70113  
Telephone: (504) 576-6571  
tcragin@entergy.com  
bguill1@entergy.com  
amauric@entergy.com  
hbarton@entergy.com

The Company requests that the foregoing persons be placed on the Official Service List for this proceeding.

**XII. REQUEST FOR CONFIDENTIAL TREATMENT**

As recognized by the adoption of an Official Protective Order in Council Resolution No. 07-432, dated September 20, 2007, the disclosure of confidential and proprietary information may not serve the public interest. Therefore, in the light of the commercially sensitive nature of such information, the Company has prepared two versions of the Direct Testimony and Exhibits of Kenneth F. Gallagher, one marked "Public Redacted" and the other marked "Confidential Version." The Confidential Version bears the designation "Highly Sensitive Protected Materials," "HSPM," or "Protected Materials." The confidential information and documents included with this Application will be provided to the appropriate representatives of the Council Advisors and Intervenors pursuant to the terms and conditions of the Official Protective Order.



**XIII. PRAYER FOR RELIEF**

WHEREFORE, Entergy New Orleans, Inc. respectfully requests that the Council, consistent with the fullest extent of its jurisdiction, grant relief as follows:

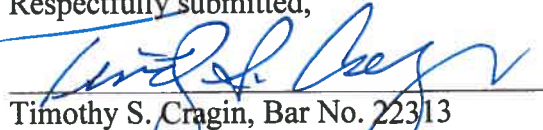
- (a) find that the proposed Restructuring (including the transfer of substantially all of the Company's assets and liabilities to ENOL and all the corporate restructuring steps necessary to consummate the transaction) is in the public interest, and satisfies the standards and requirements provided in Council Resolution No. R-06-88, and Council Resolution No. R-01-676;
- (b) approve all steps that will be undertaken to accomplish the Restructuring, including for ENOL to operate as a new legal entity at the conclusion of the Restructuring under an intermediate holding company, EUH, with ENOL subject to the Council's jurisdiction as a public utility;
- (c) find that the proposed Restructuring either satisfies the requirements of all other Resolutions, Ordinances and other requirements of the Council that may be applicable to the Restructuring or is exempted therefrom;
- (d) declare that ENOL's status as a disregarded entity for Federal and Louisiana income tax purposes does not obviate the need for ENOL to collect, in its rates, the expected Federal and Louisiana income tax expense associated with its regulated utility operations; and, that ENOL will be allowed to collect, in its rates, said Federal and Louisiana income tax expense associated with its regulated utility operations;
- (e) approve the substitution of ENOL for ENO as the member of the Special Purpose Entity under the Financing Order,<sup>11</sup> if necessary;
- (f) grant any other approvals or authorizations that may be required by the Council to lawfully consummate the Restructuring;
- (g) take official action to grant approval of the Restructuring;
- (h) declare that Ordering Paragraph No. 7 of Council Resolution R-01-676, which sets forth the "Code of Conduct" applicable to ENO, ELL and their respective affiliates, is not implicated by the Restructuring, or, alternatively, to the extent deemed applicable, that the requirements of said provision are waived under the circumstances of this Restructuring;

---

<sup>11</sup> Council Resolution R-15-193 dated May 14, 2015.

- (i) extend the applicability of the Council's approval in Council Resolution R-16-188 of ENO's anticipated level of debt financing through June 30, 2018 to ENO as a new legal entity at the close of the Restructuring;
- (j) approve, by Ordinance, the extension, transfer or assignment of any ENO franchise rights/indeterminate permits and/or of any amendments that may be required to ENO's existing franchises/indeterminate permits to effect the Restructuring and to allow ENOL to operate as a public utility in Orleans Parish;
- (k) authorize ENOL to operate as an electric and gas public utility that is subject to Louisiana and Council utility statutes, regulations, resolutions, franchises/indeterminate permits and/or ordinances applicable to a utility;
- (l) declare that on the closing date of the Restructuring, (a) ENOL, on behalf of itself and its successors and assigns, will assume, undertake to perform and be solely responsible for (i) all laws, rules and regulations of the Council that applied to ENO and the operation of its business as a public utility subject to regulation by the Council immediately prior to the closing date of the Restructuring, (ii) all final, non-appealable orders, settlements, certifications, franchises, agreements issued or approved by the Council to which ENO is a party or subject to and which are the obligations in force and effect immediately prior to the closing date of the Restructuring, and (iii) all pending dockets and reporting requirements that are or may be created in final, non-appealable orders, settlements, certifications, agreements issued or approved by the Council for ENO before the Council (collectively, the "Council Obligations"), and (b) ENO and its successors (other than ENOL and its successors and assigns) and assigns, will be fully, finally, unconditionally, irrevocably and forever released and discharged from any and all claims, liabilities, causes of action, rights of action and actions, demands, suits, proceedings, franchises, damages, costs, fees and expenses, and any and all claims, demands, liabilities whatsoever, of every name and nature, both at law and in equity, whether known or unknown, suspected or unsuspected arising out of or related to the Council Obligations, all of which shall be assumed by, undertaken by, and be the sole responsibility of ENOL as of the closing date of the Restructuring;
- (m) direct any and all procedural steps necessary to ensure that a decision on the Application may be made by the Council no later than December 31, 2016;
- (n) direct that notice of all matters in these proceedings be sent to Gary E. Huntley, Timothy S. Cragin, Brian L. Guillot, and Harry M. Barton as representatives of the Company; and
- (o) grant ENO all general and equitable relief that the law and the nature of the case may permit.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Timothy S. Cragin", is written over a horizontal line.

Timothy S. Cragin, Bar No. 22313  
Alyssa Maurice-Anderson, Bar No. 28388  
Brian L. Guillot, Bar No. 31759  
Harry M. Barton, Bar No. 29751  
639 Loyola Avenue, Mail Unit L-ENT-26E  
New Orleans, Louisiana 70113  
Telephone: (504) 576-6571  
Facsimile: (504) 576-5579

**ATTORNEYS FOR ENTERGY NEW  
ORLEANS, INC.**

## CERTIFICATE OF SERVICE

CNO Docket No. UD-16-03

I, the undersigned counsel, hereby certify that a copy of the above and foregoing has been served on the persons listed below by facsimile, by hand delivery, by electronic mail, or by depositing a copy of same with the United States Postal Service, postage prepaid, addressed as follows:

Ms. Lora W. Johnson, CMC  
Clerk of Council  
Council of the City of New Orleans  
Room 1E09, City Hall  
1300 Perdido Street  
New Orleans, LA 70112

Pearlina Thomas,  
Chief of Staff  
W. Thomas Stratton, Jr.  
Director  
City Council Utilities Regulatory Office  
City Hall, Room 6E07  
1300 Perdido Street  
New Orleans, LA 70112

Matthew Lindsay  
Deputy Chief of Staff  
City Hall, Room 1E06  
1300 Perdido Street  
New Orleans, LA 70112

Jeffrey S. Gulin, Esq.  
Hearing Officer  
3203 Bridle Ridge Lane  
Lutherville, MD 21093

Rebecca Dietz  
City Attorney Office  
Law Department  
City Hall – 5<sup>th</sup> Floor  
New Orleans, LA 70112

Norman S. Foster  
Department of Finance  
City Hall, Room 3W06  
1300 Perdido Street  
New Orleans, LA 70112

Timothy S. Cragin, Esq.  
Brian L. Guillot, Esq.  
Alyssa Maurice-Anderson, Esq.  
Harry M. Barton, Esq.  
Entergy Services, Inc.  
639 Loyola Avenue, L-ENT-26E  
New Orleans, LA 70113

Clinton A. Vince, Esq.  
Presley R. Reed, Jr., Esq.  
Emma F. Hand  
Dentons US LLP  
1301 K Street, NW  
Suite 600, East Tower  
Washington, DC 20005-3364

Basile J. Uddo, Esq.  
J. A. “Jay” Beatmann, Jr.  
c/o Dentons US LLP  
650 Poydras Street, Suite 2850  
New Orleans, LA 70130

Walter J. Wilkerson, Esq.  
Kelley Bazile  
Wilkerson and Associates, PLC  
The Poydras Center, Suite 1913  
650 Poydras Street  
New Orleans, LA 70130

Joseph A. Vumbaco, P.E.  
Joseph Rogers  
Victor M. Prep  
Byron S. Watson  
Legend Consulting Group Limited  
8055 East Tufts Avenue, Suite 1250  
Denver, CO 80237-2835

Gary Huntley  
Entergy New Orleans, Inc.  
1600 Perdido Street, L-MAG-505A  
New Orleans, LA 70112

Joseph Romano  
Suzanne M. Fontan  
Danielle Burleigh  
Entergy Services, Inc.  
639 Loyola Avenue, L-ENT-4C  
New Orleans, LA 70113

Mark Zimmerman  
Air Products and Chemicals, Inc.  
7201 Hamilton Blvd.  
Allentown, PA 18195

Maurice Brubaker  
James R. Dauphinais  
Brubaker and Associates  
16690 Swingley Ridge Road, Suite 140  
Chesterfield, MO 63017

Errol Smith, CPA  
Bruno and Tervalon  
4298 Elysian Fields Avenue  
New Orleans, LA 70122

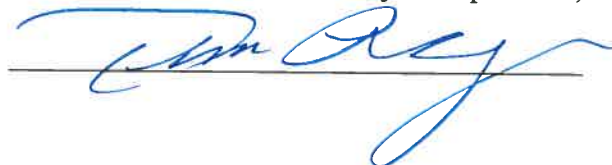
Seth Cureington  
Entergy New Orleans, Inc.  
Manager, Resource Planning  
1600 Perdido Street, L-MAG 505B  
New Orleans, LA 70112

Ernest L. Edwards, Jr.  
The Law Offices of Ernest L. Edwards, Jr.  
APLC  
300 Lake Marina Ave, Unit 5BE  
New Orleans, LA 70124

Luke F. Piontek  
J. Kenton Parsons  
Gayle T. Kellner  
Charles M. Pisano  
Shelly Ann McGlathery  
Rodel, Parsons, Koch, Blache Balhoff &  
McCollister  
8440 Jefferson highway, Suite 301  
Baton Rouge, LA 70809

Casey DeMoss, CEO  
Logan Atkinson Burke  
Alliance for Affordable Energy  
4035 Washington Avenue  
New Orleans, LA 70125

New Orleans, Louisiana, this 9<sup>th</sup> day of September, 2016.



**BEFORE THE  
COUNCIL OF THE CITY OF NEW ORLEANS**

<b>APPLICATION OF ENTERGY NEW</b>	)	
<b>ORLEANS, INC. FOR APPROVAL OF</b>	)	
<b>PROPOSED INTERNAL</b>	)	
<b>RESTRUCTURING AND FOR</b>	)	<b>DOCKET NO. UD-16-__</b>
<b>RELATED RELIEF</b>	)	
	)	

**APPLICATION OF ENTERGY NEW ORLEANS, INC. FOR APPROVAL  
OF PROPOSED INTERNAL RESTRUCTURING AND FOR RELATED RELIEF**

Entergy New Orleans, Inc. (“ENO” or the “Company”), pursuant to Council Resolution R-06-88 dated March 16, 2006, respectfully submits this Application requesting, among other things, that the Council of the City of New Orleans (the “Council”) approve an internal restructuring of ENO (“Restructuring”) that will enhance the separation between ENO’s regulated utility business and Entergy Corporation’s unregulated business. The Restructuring will do so with no anticipated material future adverse effects on rates, and little to no effect on ENO’s customers, operations, or employees. In addition to providing more separation from the unregulated business, which has a fundamentally different risk profile and liquidity requirements than ENO’s regulated utility business, the Restructuring could provide an additional source of equity financing for ENO. In addition to the public interest benefits inherent in the nature of the Restructuring, if the Council approves this Application by December 31, 2016,<sup>1</sup> ENO will guarantee customer credits of \$5 million in 2016, \$5 million in 2017, and if the Restructuring is also approved by the Federal Energy Regulatory Commission (“FERC”) by December 31, 2018,

<sup>1</sup> It should be noted that in order for customers to receive the credits in 2016, Council approval would need to be obtained sufficiently in advance of the first December billing cycle to implement the credit on customers’ December bills. If approval is received in 2016, but not in sufficient time to implement the credit on customers’ December bills, ENO will work with the Council and its Advisors to determine the appropriate method and timeline for flowing the credits applicable to 2016 through to customers.

- Charles L. Rice, Jr. – Mr. Rice is the President and Chief Executive Officer of ENO. In his testimony, he provides a brief overview of the Company, the transaction structure, and the benefits of the Restructuring. He then explains why the Restructuring could be achieved with no anticipated material future adverse effects on rates. He also explains that the Restructuring would have little to no effect on the Company’s operations, employees, or customers. He then provides an overview of Council Resolution R-06-88. Finally, he provides an overview of the Application and introduces and summarizes the Direct Testimony of Mr. Gallagher, the other witness testifying on behalf of ENO, who provides more detailed discussions of several matters addressed in Mr. Rice’s testimony.
- Kenneth F. Gallagher – Mr. Gallagher is a senior analyst with Commonwealth Consulting Group, a firm of consultants specializing in the area of public utility economics. He addresses a number of matters relating to the Restructuring, including a discussion of the transaction structure and the securities transactions that are associated with the Restructuring. He then discusses the anticipated benefits of the Restructuring. In addition, he explains how the Restructuring should have minimal effects on certain ENO business functions and on ENO’s Securitization Riders. He then discusses the anticipated tax implications of the Restructuring, as well as other implications of the Restructuring. He then discusses the Restructuring-related filings that are anticipated to be made the Company intends to make with FERC and the Nuclear Regulatory Commission (“NRC”). Mr. Gallagher then addresses the public-interest factors enumerated in Council Resolution R-06-88 and concludes that the Restructuring is in the public interest. Finally, he discusses the Company’s request for clarifying relief regarding the “Code of Conduct” set forth in Council Resolution R-01-676 to the extent that the Council finds it applicable to the Restructuring.

#### IV. TRANSACTION STRUCTURE AND RELATED SECURITIES TRANSACTIONS

The proposed Restructuring is a transaction through which ENO would transfer substantially all of its assets and liabilities to a newly-formed subsidiary, ENO Power, and contribute its membership interests in ENO Power to an intermediate holding company, EUH. Once under EUH, ENO Power would be renamed “Entergy New Orleans, LLC.” A presentation depicting the specific steps of the Restructuring and a more detailed step-by-step description of the Restructuring steps are included with the testimony of Mr. Gallagher.

In connection with the Restructuring, ENO would redeem its outstanding preferred stock. That redemption, including an expected call premium of approximately \$819,000, is estimated to cost approximately \$21 million, plus any accrued dividends. ENO expects to fund

ENO and/or ENOL also would make filings with FERC pursuant to FPA Section 205, including a market-based rate application to establish authority for ENOL to make wholesale market-rate sales of capacity, energy, and ancillary services effective as of the date of the Restructuring consummation, and post-consummation notices of succession for ENOL to succeed to the FERC-jurisdictional tariffs and rate schedules that it would acquire from ENO. The Company anticipates that the FPA Sections 203, 204 and 205 applications would be filed later in 2016, while the “notice of succession” filing would be made within 30 days after consummation of the Restructuring.

The Restructuring may have regulatory implications under the Natural Gas Act. To the extent that the FERC’s consent may be required for ENOL to be assigned the applicable interstate gas transportation and storage contracts and is not otherwise obtained under the applicable FERC tariff, ENO anticipates seeking a waiver of the applicable pipeline tariff provisions and/or FERC regulations.

~~Furtherinally~~, if the Restructuring includes a payment of dividends by a public utility (ENO and/or ENOL if it is a public utility at time of distribution), it may be necessary to obtain a FERC declaration that the Restructuring does not violate FPA Section 305(a), which prohibits dividend payments out of the paid-in capital account of a public utility. The payment of dividends by a public utility currently is not anticipated to occur before the Restructuring closes, but ENO notes this possible requirement if the transaction structure is changed.

Finally, although ENO does not anticipate that NRC approval will be needed to engage in the Restructuring proposed herein, it is ENO’s understanding that ELL, through Entergy Corporation’s nuclear operations organization, Entergy Operations, Inc., plans to make a filing



with the NRC notifying it of the Restructuring and requesting the NRC's approval of the Restructuring if the NRC deems that such approval is necessary.

### **VIII. COMPLIANCE WITH COUNCIL RESOLUTION R-06-88**

For the reasons discussed in detail in the supporting testimony, the Restructuring is in the public interest and satisfies all applicable resolutions of the Council. In particular, as discussed by Mr. Gallagher, the Restructuring satisfies each of the 18 factors in Council Resolution R-06-88 as follows:

1. *Whether the transfer is in the public interest.* The proposed Restructuring is in the public interest for a number of reasons. The Restructuring would provide benefits to ENO and its customers by further insulating them from the risks of Entergy Corporation's unregulated merchant generation business, which has a fundamentally different risk profile and liquidity requirements than ENO's regulated utility business. Moreover, the Restructuring could provide an additional source of financing in that EUH could be used to make equity investments into the Company. In addition to these public interest benefits, if the Restructuring is approved by December 31, 2016, ENO is willing to provide guaranteed customer credits of \$5 million in 2016, and \$5 million in 2017, and if approved by FERC by December 31, 2018, ENO will guarantee additional customer credits of \$5 million per year in 2018, 2019, and 2020. The Company will provide the guaranteed credits through a mechanism mutually agreed upon with the Council. Moreover, following the Restructuring, ENOL would not be required to pay a corporate franchise tax, and based on ENO's estimated 2016 corporate franchise tax, the annual corporate franchise tax savings after the Restructuring are estimated to be approximately \$1.7 million per year. If approved,

**BEFORE THE  
COUNCIL OF THE CITY OF NEW ORLEANS**

**APPLICATION OF ENTERGY NEW )  
ORLEANS, INC. FOR APPROVAL OF )  
PROPOSED INTERNAL )  
RESTRUCTURING AND FOR )  
RELATED RELIEF )  
)**

**DOCKET NO. UD-16-\_\_\_\_**

**DIRECT TESTIMONY  
OF  
CHARLES L. RICE, JR.  
ON BEHALF OF  
ENTERGY NEW ORLEANS, INC.**

**JULY 2016**

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**EXHIBITS**

Exhibit CLR-1            Listing of Previous Testimony Filed by Charles L. Rice, Jr.

1                                   **I.       INTRODUCTION AND QUALIFICATIONS**

2   Q1.   PLEASE STATE YOUR NAME, POSITION, AND BUSINESS ADDRESS.

3   A.    My name is Charles L. Rice, Jr. I am President and Chief Executive Officer of  
4        Entergy New Orleans, Inc. (“ENO” or the “Company”). My business address is 1600  
5        Perdido Street, New Orleans, Louisiana 70112.

6

7   Q2.   ON WHOSE BEHALF ARE YOU TESTIFYING?

8   A.    I am filing this Direct Testimony before the Council of the City of New Orleans  
9        (“Council”) on behalf of ENO.

10

11   Q3.   WHAT ARE YOUR CURRENT DUTIES?

12   A.    As President and Chief Executive Officer of ENO, a position I have held since June  
13        2010, I have executive responsibility for ENO, including financial responsibility for  
14        the business and operational responsibility for the assets that are used to serve its  
15        customers, which include generation, transmission, and distribution assets. In  
16        addition, my responsibilities include oversight of the field management of ENO’s  
17        electric distribution and transmission systems, as well as its customer service,  
18        economic development, and regulatory and governmental affairs functions.

19

20   Q4.   PLEASE DESCRIBE BRIEFLY YOUR EDUCATIONAL AND PROFESSIONAL  
21        BACKGROUND AND WORK EXPERIENCE.

22   A.    I earned a Bachelor of Science degree in Business Administration from Howard  
23        University in 1986. Following graduation, I was commissioned as a second lieutenant

1 in the United States Army and served as a military intelligence officer with the 101<sup>st</sup>  
2 Airborne Division (Air Assault). In 1995, I earned a Juris Doctorate from Loyola  
3 University New Orleans School of Law. Upon admission to the Louisiana Bar, I  
4 began practicing law with the firm of Jones, Walker, Waechter, Poitevent, Carrère &  
5 Denègre, LLP. In 2000, I joined the Legal Department of Entergy Services, Inc.  
6 (“ESI”), an affiliate of the Entergy Operating Companies (“EOCs”)<sup>1</sup> that provides  
7 engineering, planning, accounting, technical, and regulatory support services to each  
8 of the EOCs, including ENO. In ESI’s Legal Department, I held the position of Senior  
9 Counsel and was a member of the Casualty Litigation group. Shortly thereafter, I  
10 transferred to the Human Resources Department, where I served as Manager of Labor  
11 Relations Litigation Support.

12 In 2002, I left ESI to serve in local government as the City Attorney for the  
13 City of New Orleans. I later served as Chief Administrative Officer for the City of  
14 New Orleans, in which role I managed 6,000 employees and the City’s \$600 million  
15 budget. In 2004, I returned to private law practice as a partner with the law firm of  
16 Barasso, Usdin, Kupperman, Freeman & Sarver, LLC. In 2009, I returned to Entergy  
17 to serve as Director of Utility Strategy for ESI. In that role, I was responsible for  
18 coordinating regulatory, legislative and communications efforts for Entergy’s  
19 regulated utility companies. In early 2010, I transferred to ENO to lead the  
20 Regulatory Affairs Department, and, in June 2010, I was promoted to my current  
21 position. I also earned an Executive Master of Business Administration degree from

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<sup>1</sup> The EOCs are ENO; Entergy Louisiana, LLC (“ELL”); Entergy Mississippi, Inc.; Entergy Arkansas, Inc.; and Entergy Texas, Inc.

1 Tulane University in 2012. A listing of my previous testimony is attached hereto as  
2 Exhibit CLR-1.

3 **II. PURPOSE OF THE TESTIMONY**

4 Q5. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?

5 A. My testimony supports ENO’s request, submitted pursuant to Council Resolution R-  
6 06-88 dated March 16, 2006, and set forth in the Company’s Application for Approval  
7 of Proposed Internal Restructuring and for Related Relief. Through the Application,  
8 ENO seeks Council authorization to engage in an internal restructuring (the  
9 “Restructuring”) through which ENO would transfer<sup>2</sup> substantially all of its assets and  
10 liabilities to a newly-created subsidiary, Entergy New Orleans Power, LLC (“ENO  
11 Power”), and thereafter contribute its membership interests in ENO Power to an  
12 intermediate holding company named Entergy Utility Holding Company, LLC  
13 (“EUH”). Once under EUH, ENO Power would be renamed Entergy New Orleans,  
14 LLC (“ENOL”).

15 In my testimony, I provide a brief overview of the Company, the transaction  
16 structure, and the benefits of the Restructuring. I then explain why the Restructuring  
17 would have no anticipated material future adverse effects on rates, and why it will  
18 have little to no effect on the Company’s operations, employees, or customers. I then  
19 provide an overview of Council Resolution R-06-88. Finally, I provide an overview  
20 of the Application and introduce and summarize the Direct Testimony of Kenneth F.

---

<sup>2</sup> For clarity, certain assets and liabilities of a company may be described in this testimony as being transferred or assigned to another company as a result of the merger that occurs in the transaction steps, even though the applicable merger statute states that such merger does not result in a transfer or assignment.

1 Gallagher, the other witness testifying on behalf of ENO, who provides more detailed  
2 discussions of several matters briefly addressed in my testimony.

3 **III. OVERVIEW OF THE RESTRUCTURING**

4 **A. Description of the Company**

5 Q6. PLEASE GENERALLY DESCRIBE THE OPERATIONS OF THE COMPANY.

6 A. ENO is a corporation duly authorized and qualified to do and doing business in the  
7 State of Louisiana, created and organized for the purposes, among others, of  
8 manufacturing, generating, transmitting, distributing, and selling electricity for power,  
9 lighting, heating, and other such uses. ENO is engaged in the business thereof in  
10 Orleans Parish of the State of Louisiana, and ENO also engages in the local  
11 distribution of natural gas to residential, commercial, municipal, and other customers  
12 in Orleans Parish.

13 **B. Transaction Structure**

14 Q7. PLEASE PROVIDE AN OVERVIEW OF THE PROPOSED INTERNAL  
15 RESTRUCTURING.

16 A. As noted above, and as is discussed in further detail in the testimony of Mr. Gallagher,  
17 ENO proposes to transfer substantially all of its assets and liabilities to a newly-  
18 created subsidiary, ENO Power, which would become a subsidiary of a holding  
19 company, EUH. Once under EUH, ENO Power would be renamed “Entergy New  
20 Orleans, LLC.” Two exhibits depicting the specific steps of the Restructuring and a  
21 more detailed step-by-step description of the Restructuring steps are included with the  
22 testimony of Mr. Gallagher. In connection with the Restructuring, ENO would  
23 redeem its outstanding preferred stock. That redemption, including call premiums, is

1 estimated to cost approximately \$21 million, plus any accrued dividends. ENO  
2 expects to fund the redemption with cash from operations and/or lines of credit and/or  
3 through an issuance of long-term debt. As discussed in Mr. Gallagher’s Direct  
4 Testimony, ENO’s redemption of its outstanding preferred stock will result in the cost  
5 of that preferred stock being excluded from ENO’s weighted-average cost of capital  
6 (“WACC”), and the cost of any additional long-term financing being included in the  
7 WACC used for ratemaking purposes in the future. The redemption and related  
8 funding are not expected to materially affect ENO’s WACC or have any material  
9 future adverse effect on rates. It should also be noted that ELL is already a subsidiary  
10 of EUH. It is ENO’s understanding that comparable restructurings could be  
11 undertaken in the future by the remaining EOCs, through which the resulting utilities  
12 would become EUH subsidiaries.

13 **C. Benefits of the Restructuring**

14 Q8. WHAT PURPOSES DOES THE PROPOSED RESTRUCTURING SERVE?

15 A. Some important benefits would result from the Restructuring, and those benefits are  
16 discussed in further detail in Mr. Gallagher’s Direct Testimony. The Restructuring  
17 would benefit ENO and its customers by further insulating the New Orleans utility  
18 from the risks of Entergy Corporation’s unregulated merchant generation business,  
19 which has a fundamentally different risk profile and liquidity requirements than  
20 ENO’s regulated utility business. Additionally, although generally ENOL would be  
21 expected to finance its own obligations, as ENO generally does today, if the  
22 Restructuring is approved and completed, EUH could, if necessary, obtain financing in  
23 the bank or capital markets. As is discussed in more detail by Mr. Gallagher, that



1 capital could be used to make equity investments in ENOL (and/or EUH’s other  
2 operating company subsidiaries), but not in Entergy Corporation’s unregulated  
3 affiliated merchant generation business subsidiaries.

4 In addition to the public interest benefits set forth above, if the Restructuring is  
5 approved by the Council by December 31, 2016, ENO is willing to provide guaranteed  
6 customer credits of \$5 million in 2016,<sup>3</sup> and \$5 million in 2017. Additionally, if the  
7 Federal Energy Regulatory Commission (“FERC”) approves the Restructuring by  
8 December 31, 2018, ENO is willing to provide additional guaranteed customer credits  
9 of \$5 million in 2018, \$5 million in 2019, and \$5 million in 2020, with the potential  
10 for additional benefits in future years. The Company will provide the guaranteed  
11 credits through a mechanism mutually agreed upon with the Council. Moreover,  
12 following the Restructuring, ENOL would not be required to pay a corporate franchise  
13 tax, and based on ENO’s estimated 2016 corporate franchise tax, the annual corporate  
14 franchise tax savings after the Restructuring are estimated to be approximately \$1.7  
15 million per year.

16 If approved, these benefits could be provided with no anticipated material  
17 future adverse effect on rates, and little to no effect on ENO’s customers, operations or  
18 employees. In other words, the Restructuring would not adversely affect the reliability  
19 of service, the availability of service, or the cost of service. Further, it is my  
20 understanding that if the Restructuring is approved, ENOL will continue to be subject

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<sup>3</sup> For customers to receive the 2016 guaranteed credits in 2016, Council approval would need to occur sufficiently in advance of the first December 2016 billing cycle to allow time to implement the credit to customers’ bills in December. If approval is received in 2016, but not in sufficient time to credit December bills, ENO will work with the Council and the Council Advisors to determine the best way to flow the 2016 guaranteed credits back to customers.

1 to the full regulatory jurisdiction of the Council. Company witness Mr. Gallagher  
2 testifies that although the Council would continue to have jurisdiction over the  
3 Company's long-term financings, FERC would also have jurisdiction over those  
4 financings. ENOL does not anticipate conflicts arising from that shared jurisdiction  
5 because, just as ENO does today, ENOL would file applications with the Council  
6 seeking approval of the level of equity securities and long-term debt pursuant to  
7 Ordinance No. 6822, as amended, and ENOL would abide by the Council's rulings  
8 regarding those applications, just as ENO does today.

9 **D. The Restructuring Will Have No Anticipated Material Future Adverse**  
10 **Effects on Rates, and Little to No Effect on the Company's**  
11 **Operations, Employees, or Customers**

12 Q9. WHAT IS THE PURPOSE OF THIS SECTION OF YOUR TESTIMONY?

13 A. In this section, I discuss how the Restructuring would have no anticipated material  
14 future adverse effects on rates, and that the Restructuring is expected to have minimal  
15 effects on the Company's operations, employees, and customers.

16  
17 Q10. IS THE COMPANY SEEKING IN THIS PROCEEDING TO CHANGE BASE  
18 RATES OR THE FORMULA RATE PLAN RATE ADJUSTMENTS THAT ARE  
19 CURRENTLY IN PLACE?

20 A. No.<sup>4</sup> Additionally, the Company is not seeking to change the phase-in of the base  
21 rates increase applicable to its customers located in the Fifteenth Ward of the City of  
22 New Orleans, that is, Algiers.

---

<sup>4</sup> If the Restructuring is approved, ENOL (and not ENO) would be the utility providing services in Orleans Parish. Accordingly, if the Restructuring is approved, ENOL would need to revise ENO's rate schedules/tariffs/riders/terms of service to reflect that ENOL is the utility in New Orleans. The Company would

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Q11. WHY DO YOU SAY THAT THE RESTRUCTURING WILL HAVE MINIMAL EFFECTS ON THE COMPANY’S OPERATIONS?

A. To begin, ENO’s senior executives would become employees of ENOL, and those executives possess extensive utility experience, including experience with responding to major storms. Accordingly, there should be no doubt that the quality of management would be maintained if the proposed Restructuring occurs.

Q12. IN ADDITION TO RETAINING THE COMPANY’S EXECUTIVES, HOW ELSE WOULD THE COMPANY’S OPERATIONS BE MAINTAINED?

A. Because this is simply an internal reorganization, the Restructuring should not affect day-to-day generation, transmission, or distribution operations or customer service, particularly because ENO’s employees will become employees of ENOL immediately following the Restructuring. Accordingly, the same employees would be providing service to ENO’s customers both immediately before and immediately after the Restructuring occurs.

Q13. WOULD THE RESTRUCTURING BE FAIR AND REASONABLE TO THE COMPANY’S EMPLOYEES?

A. Yes. To begin, there will not be any reduction or increase in the workforce as a result of the Restructuring. ENO’s current employees would become ENOL employees, and

---

accomplish this by making a compliance filing that attaches the “revised” rate schedules/tariffs/riders/terms of service that, but for the name of the utility on those documents, should be identical to ENO’s existing rate schedules/tariffs/riders/terms of service.

1           their compensation and benefits would not be affected as a result of the  
2           Restructuring.<sup>5</sup>

3   Q14.   YOU MENTIONED THAT ENO’S EMPLOYEES WOULD BECOME ENOL  
4           EMPLOYEES. WOULD THERE BE ANY COSTS ASSOCIATED WITH THAT  
5           TRANSITION?

6   A.     Yes. Certain costs will be incurred to amend employee benefit plan documents and to  
7           cover minimal administrative expenses and vendor fees that would arise by virtue of  
8           making the changes necessary both to account for the change of the affected  
9           employees’ employer, and to add ENOL as a participating employer in the plans.

10

11   Q15.  IS THE RESTRUCTURING EXPECTED TO AFFECT THE COMPANY’S  
12           ABILITY TO RESPOND TO STORMS?

13   A.     No. ENO’s award-winning proficiency in storm response would not be adversely  
14           affected by the Restructuring because ENOL would (1) use the same employees in the  
15           same roles under the same Incident Command System structure immediately  
16           following the Restructuring, and (2) keep customers and stakeholders informed in the  
17           same manner that it does today.

18

19   Q16.  DOES THE COMPANY ANTICIPATE ANY OPERATIONAL CHANGES TO  
20           ARISE AS A RESULT OF THE RESTRUCTURING?

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<sup>5</sup> As always, however, the Company has the right to change or eliminate any compensation or benefit program at any time, subject to any applicable law, order, and/or regulation.

1 A. As discussed by Mr. Gallagher, no significant changes are expected. For example, the  
2 Restructuring is not expected to affect the manner in which ENO (and the System  
3 Planning and Operations group on behalf of ENO) participate in the Midcontinent  
4 Independent System Operator, Inc. (“MISO”) Regional Transmission Organization.  
5 Certain administrative steps, however, would be necessary to substitute ENOL for  
6 ENO with respect to participation in MISO, and certain gas transportation or storage  
7 contracts would need to be transferred to ENOL, but those are one-time steps that  
8 would not have a significant effect on operations.

9

10 Q17. WILL ENO’S EXISTING CONTRACTS NEED TO BE ASSIGNED TO ENOL?

11 A. It is my understanding that they will need to be assigned since ENOL will replace  
12 ENO as the utility that operates in New Orleans.

13

14 Q18. WILL THE ASSIGNMENT OF ENO’S CONTRACTS TO ENOL PRESENT ANY  
15 CHALLENGES?

16 A. The assignment of ENO’s contracts to ENOL should not present significant issues,  
17 regardless of whether consent under such contracts must be obtained.

18

19 Q19. WILL ENOL NEED TO POSSESS ANY OF THE ENVIRONMENTAL PERMITS  
20 OR LICENSES OF ENO?

21 A. Yes. ENOL will need to possess those ENO environmental permits and licenses upon  
22 completion of the Restructuring or shortly thereafter. This is not expected to be a  
23 significant issue, particularly since such permit and license assignments have occurred

1           within Entergy Corporation in the past, including, for example, when Entergy Gulf  
2           States, Inc. ceased to exist and Entergy Texas, Inc. and Entergy Gulf States Louisiana,  
3           L.L.C. were created.

4

5   Q20.   PLEASE DESCRIBE HOW ENO’S EXISTING MORTGAGE INDENTURE WILL  
6           BE HANDLED IN THE RESTRUCTURING.

7   A.     If the Restructuring is approved, ENOL will be assuming ENO’s existing mortgage  
8           indenture (referred to as the “ENO Mortgage”) that creates a first lien on substantially  
9           all of the tangible assets of the Company, all of which will be transferred to ENOL as  
10          a result of the Restructuring. Upon completion of the Restructuring, the tangible  
11          assets will be encumbered by the lien of the ENO Mortgage in the same manner in  
12          which the assets are encumbered today.

13

14   Q21.   WHAT EFFECT WILL THE RESTRUCTURING HAVE ON ENO’S  
15          FRANCHISES/INDETERMINATE PERMITS?

16   A.     The Company will have to assign its franchises/indeterminate permits and have such  
17          assignments approved by the Council in an Ordinance.

18

19   Q22.   IN LIGHT OF THE MINIMAL EFFECTS ON THE COMPANY’S OPERATIONS  
20          AND EMPLOYEES, WOULD THE RESTRUCTURING BE RELATIVELY  
21          SEAMLESS FOR CUSTOMERS?

22   A.     Yes, it would. Following the Restructuring, ENOL would have sufficient qualified  
23          and knowledgeable employees to operate and manage ENO’s business following the

1 Restructuring, thereby ensuring both continuity of operations and the provision of  
2 safe, reliable, and adequate service that ENO currently provides to customers. The  
3 Company’s current customers, who will become customers of ENOL, will receive the  
4 same high quality customer service that they enjoy today. Customers will not see any  
5 change in the metering and billing processes; customer contact centers will continue to  
6 be available; and customers will continue to be able to use an Entergy website to view  
7 and pay bills on-line, update their account information, check the status of work orders  
8 and permits, and view outage maps. In other words, aside from a new name (“Entergy  
9 New Orleans, *LLC*”, as opposed to “Entergy New Orleans, *Inc.*”), customers are not  
10 expected to notice the Restructuring in their day-to-day interactions with their utility  
11 provider. Accordingly, customers are not expected to notice or experience any change  
12 in the way that the Company generates, transmits, or distributes electricity to provide  
13 them with safe and reliable service. Although certain information technology system  
14 upgrades would be required due to the Restructuring, the upgrades are not expected to  
15 cause significant issues with respect to the provision of services.

16  
17 **E. Council Resolution R-06-88**

18 Q23. WHAT IS COUNCIL RESOLUTION R-06-88 DATED MARCH 16, 2006, AND  
19 HOW DOES IT RELATE TO THESE PROCEEDINGS?

20 A. It is my understanding that Council Resolution R-06-88 requires advance Council  
21 approval of all changes in ownership or control of jurisdictional entities or their  
22 facilities that meet certain criteria. In addition, Resolution R-06-88 sets forth eighteen  
23 factors that are to be taken into account by the Council in deciding whether to approve

1 a change-in-ownership request. Because the Restructuring involves a change in  
2 ownership of ENO’s assets, it is my understanding that Resolution R-06-88 requires  
3 that the Company address, and the Council consider, the 18 factors listed in that  
4 Resolution.

5

6 Q24. DOES THE RESTRUCTURING SATISFY THE STANDARDS AND  
7 REQUIREMENTS PROVIDED IN RESOLUTION R-06-88?

8 A. Yes. As discussed by Mr. Gallagher, each of the enumerated factors that is applicable  
9 to the Restructuring is satisfied under the proposed structure and terms of the  
10 Restructuring.

11 **IV. SUMMARY OF APPLICATION AND INTRODUCTION OF WITNESS**

12 Q25. PLEASE SUMMARIZE THE RELIEF THAT ENO SEEKS IN THIS  
13 PROCEEDING.

14 A. As set forth more fully in the Application, ENO seeks Council approval of each and  
15 all of the steps that will be undertaken to accomplish the Restructuring, as described  
16 by Mr. Gallagher in his testimony and exhibits, including authorization for ENOL to  
17 operate as a new legal entity at the conclusion of the Restructuring under an  
18 intermediate holding company, EUH, with ENOL subject to the same Louisiana  
19 and/or Council utility statutes, regulations, resolutions, franchises and/or ordinances  
20 applicable to a public utility and to which ENO is currently subject. ENO further  
21 seeks a Council finding that the Restructuring is in the public interest and satisfies the  
22 standards and requirements provided in Council Resolution R-06-88 dated March 16,  
23 2006. The Company also seeks a Council declaration that ENOL’s status as a



1           disregarded entity for Federal and Louisiana income tax purposes does not obviate the  
2           need for ENOL to collect, in its rates, the expected Federal and Louisiana income tax  
3           expense associated with its regulated utility operations; and, that ENOL will be  
4           allowed to collect, in its rates, said Federal and Louisiana income tax expense  
5           associated with its regulated utility operations. ENO further seeks approval for the  
6           substitution of ENOL for ENO as a member of the Special Purpose Entity under the  
7           securitization Financing Order,<sup>6</sup> if necessary. As discussed by Mr. Gallagher, ENO is  
8           requesting clarifying relief from the Council relating to Ordering Paragraph No. 7 of  
9           Council Resolution R-01-676, which sets forth the “Code of Conduct” applicable to  
10          ENO and its affiliates. To the extent that the provision is deemed applicable and not  
11          waived, ENO seeks any necessary approvals related thereto. Council approval also is  
12          being sought to extend the financing authority granted to ENO in Council Resolution  
13          R-16-188 to the newly-formed ENOL that will succeed ENO upon the close of the  
14          Restructuring. ENO also seeks approval, by Ordinance, of the extension, transfer, or  
15          assignment of any ENO franchise/indeterminate permit rights and/or of any  
16          amendments that may be required to ENO’s existing franchises/ indeterminate permits  
17          to effect the Restructuring and to allow ENOL to operate as a public utility in Orleans  
18          Parish. ENO also seeks a finding that any other orders/rules (*e.g.*, affiliate interest  
19          conditions) do not apply to the Restructuring or, alternatively, a waiver of any such  
20          orders/rules/conditions or a finding that the orders/rules/conditions are satisfied.  
21          Finally, ENO requests any other approvals or authorizations required by the Council to  
22          lawfully consummate the Restructuring.

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<sup>6</sup> Council Resolution R-15-193 dated May 14, 2015.

1

2 Q26. WHAT OTHER WITNESS HAS SUBMITTED TESTIMONY ON BEHALF OF  
3 THE COMPANY IN SUPPORT OF THE APPLICATION?

4 A. In addition to me, the Company has one other witness, Kenneth F. Gallagher. The  
5 subjects about which he testifies are:

- 6 • Mr. Gallagher addresses a number of matters relating to the Restructuring,  
7 including a discussion of the transaction structure and the securities transactions  
8 that are associated with the Restructuring. He then discusses the anticipated  
9 benefits of the Restructuring. In addition, he explains how the Restructuring  
10 should have minimal effects on certain ENO business functions and on ENO's  
11 Securitization Riders. He then discusses the anticipated tax implications of the  
12 Restructuring, as well as other implications of the Restructuring. He then  
13 discusses Restructuring-related filings that are anticipated to be made with FERC  
14 and the Nuclear Regulatory Commission. Mr. Gallagher then addresses the  
15 public-interest factors enumerated in Council Resolution R-06-88 and concludes  
16 that the Restructuring is in the public interest. Finally, he discusses the  
17 Company's request for clarifying relief regarding the "Code of Conduct" set forth  
18 in Council Resolution R-01-676 to the extent that the Council finds it applicable to  
19 the Restructuring.

20 **V. CONCLUSION**

21 Q27. PLEASE SUMMARIZE HOW ENO'S PROPOSED RESTRUCTURING WILL  
22 SERVE THE PUBLIC INTEREST.

1 A. As is discussed by Mr. Gallagher, the proposed Restructuring is in the public interest  
2 for a number of reasons. The Restructuring would further insulate ENO, and  
3 correspondingly its customers, from the risks of Entergy Corporation’s unregulated  
4 merchant generation business, which has a fundamentally different risk profile and  
5 liquidity requirements than ENO’s regulated utility business. Moreover, EUH could,  
6 if necessary, one day obtain financing in the bank or capital markets, and that capital  
7 could be used to make equity investments in ENOL. In addition to the public interest  
8 benefits inherent in the nature of the Restructuring, if the Council approves this  
9 Application by December 31, 2016, ENO will guarantee customer credits of \$5  
10 million in 2016, \$5 million in 2017, and if the Restructuring is also approved by  
11 FERC by December 31, 2018, will guarantee customer credits of \$5 million in 2018,  
12 \$5 million in 2019, and \$5 million in 2020, with the possibility of additional benefits  
13 in future years. Moreover, following the Restructuring, ENOL would not be required  
14 to pay a corporate franchise tax, and based on ENO’s estimated 2016 corporate  
15 franchise tax, the annual corporate franchise tax savings after the Restructuring are  
16 estimated to be approximately \$1.7 million per year. If approved, these benefits could  
17 be achieved with no anticipated material future adverse effects on rates, and little to no  
18 effect on ENO’s customers, operations or employees. ENO accordingly believes that  
19 the Restructuring is in the public interest, satisfies any applicable requirements of the  
20 Council, and would be beneficial to customers and other stakeholders, the Council, the  
21 Advisors, the Company, and the City of New Orleans.

22

1 Q28. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

2 A. Yes.

1

2 Q26. WHAT OTHER WITNESS HAS SUBMITTED TESTIMONY ON BEHALF OF  
3 THE COMPANY IN SUPPORT OF THE APPLICATION?

4 A. In addition to me, the Company has one other witness, Kenneth F. Gallagher. The  
5 subjects about which he testifies are:

- 6 • Mr. Gallagher addresses a number of matters relating to the Restructuring,  
7 including a discussion of the transaction structure and the securities transactions  
8 that are associated with the Restructuring. He then discusses the anticipated  
9 benefits of the Restructuring. In addition, he explains how the Restructuring  
10 should have minimal effects on certain ENO business functions and on ENO's  
11 Securitization Riders. He then discusses the anticipated tax implications of the  
12 Restructuring, as well as other implications of the Restructuring. He then  
13 discusses Restructuring-related filings that are anticipated to be made the  
14 Company intends to make with FERC and the Nuclear Regulatory Commission.  
15 Mr. Gallagher then addresses the public-interest factors enumerated in Council  
16 Resolution R-06-88 and concludes that the Restructuring is in the public interest.  
17 Finally, he discusses the Company's request for clarifying relief regarding the  
18 "Code of Conduct" set forth in Council Resolution R-01-676 to the extent that the  
19 Council finds it applicable to the Restructuring.

20 **I. CONCLUSION**

21 Q27. PLEASE SUMMARIZE HOW ENO'S PROPOSED RESTRUCTURING WILL  
22 SERVE THE PUBLIC INTEREST.

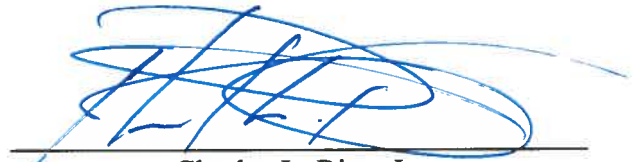
**AFFIDAVIT**

STATE OF LOUISIANA

PARISH OF ORLEANS

**NOW BEFORE ME**, the undersigned authority, personally came and appeared, **CHARLES L. RICE, JR.**, who after being duly sworn by me, did depose and say:

That the above and foregoing is his sworn testimony in this proceeding and that he knows the contents thereof, that the same are true as stated, except as to matters and things, if any, stated on information and belief, and that as to those matters and things, he verily believes them to be true.



Charles L. Rice, Jr.

**SWORN TO AND SUBSCRIBED BEFORE ME**  
**THIS 8<sup>th</sup> DAY OF SEPTEMBER, 2016**



NOTARY PUBLIC

My commission expires: at death

**TIMOTHY S. CRAGIN**  
**NOTARY PUBLIC (La. Bar No. 22319)**  
Parish of Orleans, State of Louisiana  
My Commission is issued for Life

**BEFORE THE  
COUNCIL OF THE CITY OF NEW ORLEANS**

**APPLICATION OF ENTERGY NEW )  
ORLEANS, INC. FOR APPROVAL OF )  
PROPOSED INTERNAL )  
RESTRUCTURING AND FOR )  
RELATED RELIEF )  
)  
)  
)  
)**

**DOCKET NO. UD-16-\_\_\_\_\_**

**DIRECT TESTIMONY  
OF  
KENNETH F. GALLAGHER  
ON BEHALF OF  
ENTERGY NEW ORLEANS, INC.**

**HIGHLY SENSITIVE PROTECTED MATERIALS  
PURSUANT TO COUNCIL RESOLUTION R-07-432  
HAVE BEEN REDACTED**

**JULY 2016**

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## **EXHIBITS**

Exhibit KFG-1	Listing of Previous Testimony Filed by Kenneth F. Gallagher
Exhibit KFG-2	Presentation Depicting the Restructuring Steps
Exhibit KFG-3	Detailed, Step-by-Step List of Material Restructuring-Related Events



1                                   **I. INTRODUCTION AND QUALIFICATIONS**

2   Q1.   PLEASE STATE YOUR NAME AND CURRENT BUSINESS ADDRESS.

3   A.    My name is Kenneth F. Gallagher. My office address is 1491 Chain Bridge Road,  
4        McLean, Virginia 22101.

5

6   Q2.   BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

7   A.    I am a senior analyst with Commonwealth Consulting Group, a firm of consultants  
8        specializing in the area of public utility economics. I am also president of KFG, Inc.,  
9        a consulting firm specializing in the area of public utility economics.

10

11   Q3.   ON WHOSE BEHALF ARE YOU FILING THIS DIRECT TESTIMONY?

12   A.    I am filing this Direct Testimony before the Council of the City of New Orleans (“the  
13        Council”) on behalf of Entergy New Orleans, Inc. (“ENO” or the “Company”).

14

15   Q4.   PLEASE DESCRIBE YOUR EDUCATION AND EXPERIENCE.

16   A.    In 1971, I received a Bachelor of Science degree in Economics from the University of  
17        Maryland. I have also received a Master of Business Administration degree in  
18        Finance from American University and a Master of Arts degree in Economics from  
19        Georgetown University. During the course of my education, I have taken numerous  
20        courses in economic theory, statistics, finance, and accounting. I am a member of the  
21        American Economic Association and the American Finance Association.

22                   Prior to joining Commonwealth Consulting Group in 1974, I was employed  
23        by the Montgomery County Department of Finance performing studies relevant to

1 valuation of land and buildings for the Maryland Department of Assessments and  
2 Taxation. In 1973, I was promoted to an administrative position with the  
3 Montgomery County Office of Facilities and Management specializing in problems  
4 related to the allocation of budgeted funds for leased office space and properties  
5 acquired for public use.

6 During my work as a utility rate consultant, I have been responsible for the  
7 preparation of financial and economic studies concerning various aspects of utility  
8 rate regulation. These studies have dealt primarily with the determination of the fair  
9 rate of return, cost of service, rate base and revenue requirements. I have also  
10 performed detailed studies of the cost of fuel for fuel rate proceedings on behalf of  
11 the State of Maryland Office of People's Counsel.

12

13 Q5. HAVE YOU PREVIOUSLY PROVIDED TESTIMONY BEFORE ANY  
14 REGULATORY BODY?

15 A. Yes. I have testified previously before the Council, the Louisiana Public Service  
16 Commission, the Maine Public Service Commission, the Maryland Public Service  
17 Commission, the Minnesota Public Service Commission, the Washington Utilities  
18 and Transportation Commission, and the Public Utility Commission of Texas. See  
19 Exhibit KFG-1 for a list of previous proceedings in which I provided testimony.

20

1 **II. PURPOSE OF TESTIMONY**

2 Q6. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?

3 A. The purpose of my Direct Testimony is to support the Company's Application  
4 seeking Council approval of the proposed internal restructuring (the "Restructuring")  
5 through which ENO, using the merger provisions of the Texas Business  
6 Organizations Code (sometimes referred to as the Texas merger-by-division  
7 ("MBD") statute),<sup>1</sup> would transfer<sup>2</sup> substantially all of its assets and liabilities to a  
8 newly-created subsidiary, Entergy New Orleans Power, LLC ("ENO Power"), a  
9 Texas limited liability company ("LLC"). Thereafter, ENO would contribute its  
10 membership interests in ENO Power to an intermediate holding company named  
11 Entergy Utility Holding Company, LLC ("EUH"), also a Texas LLC. Once under  
12 EUH, ENO Power would be renamed Entergy New Orleans, LLC ("ENOL"). As  
13 discussed below, approval of the Restructuring is in the public interest and would be  
14 beneficial to customers and other stakeholders, the Council, the Advisors, the  
15 Company, and the City of New Orleans.

16

17 Q7. HOW IS YOUR TESTIMONY STRUCTURED?

18 A. My testimony addresses a number of matters relating to the Restructuring. In  
19 Section III, I explain and support the structure of the transaction, and I discuss the  
20 securities transactions that are associated with the Restructuring. In Section IV, I

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<sup>1</sup> Texas Business Organizations Code, §§ 1.002(55) & 10.001 *et seq.*

<sup>2</sup> For clarity, certain assets and liabilities of a company may be described in this testimony as being transferred or assigned to another company as a result of the merger that occurs in the transaction steps, even though the applicable merger statute states that such merger does not result in a transfer or assignment.

1 discuss the anticipated benefits of the Restructuring. In Section V, I discuss the  
2 Restructuring’s anticipated minimal effects on ENO’s business functions and on  
3 ENO’s Securitization Riders. In Section VI, I discuss the anticipated tax implications  
4 of the Restructuring, including the effects of a potential change in the tax basis of the  
5 depreciable property, as well as the potential for certain tax benefits that result from  
6 the “mark-to-market” tax treatment of a Power Purchase Agreement (“PPA”). In  
7 Section VII, I describe other implications of the Restructuring, including anticipated  
8 effects of ENOL being a Texas LLC, as well as the Restructuring’s effects on  
9 securities offerings. In Section VIII, I describe the Restructuring-related filings that  
10 are anticipated to be made with the Federal Energy Regulatory Commission  
11 (“FERC”) and the Nuclear Regulatory Commission (“NRC”). In Section IX, I  
12 discuss why the Restructuring is in the public interest. In Section X, I discuss the  
13 Company’s request for clarifying relief regarding the “Code of Conduct” set forth in  
14 Council Resolution R-01-676 to the extent that the Council finds it applicable to the  
15 Restructuring. In Section XI, I conclude my testimony.

16

17 **III. TRANSACTION STRUCTURE AND RELATED**  
18 **SECURITIES TRANSACTIONS**

19 **A. Overview**

20 Q8. PLEASE PROVIDE AN OVERVIEW OF THE TRANSACTION STRUCTURE.

21 A. ENO proposes to transfer substantially all of its assets and liabilities to a subsidiary,  
22 ENO Power, which would become a subsidiary of a holding company, EUH. Once  
23 under EUH, ENO Power would be renamed “Entergy New Orleans, LLC.” It should



1 from its regulated activities.<sup>5</sup> FERC has established this policy because it allows rate  
2 recovery of the income tax liability attributable to regulated utility income, facilitates  
3 investment in public utility assets, and assures just and reasonable rates.<sup>6</sup> Here,  
4 ENOL's parent, EUH, would be subject to actual income tax liability on the income  
5 associated with ENOL's regulated activities; thus, the fact that ENOL is a disregarded  
6 entity for Federal and Louisiana income tax purposes does not obviate the need to  
7 collect in rates the expected Federal and Louisiana income tax expense associated  
8 with its regulated utility operations.

9  
10 Q11. WILL ENOL'S RATEMAKING FILINGS CONTAIN ANY LESS INFORMATION  
11 ON INCOME TAX EXPENSE AND ACCUMULATED DEFERRED INCOME  
12 TAXES ("ADIT") THAN ENO HAS SHOWN IN THE PAST?

13 A. No. ENOL's ratemaking filings will continue to reflect the same level of detail with  
14 respect to income tax expense and ADIT as ENO's ratemaking filings have in the  
15 past.

16

17 **C. Securities Transactions**

18 Q12. WILL ANY SECURITIES TRANSACTIONS BE REQUIRED TO COMPLETE  
19 THE RESTRUCTURING?

20 A. Yes. In step number one of the Restructuring, ENO would redeem its outstanding  
21 preferred stock. That redemption, including an expected call premium of

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<sup>5</sup> *Policy Statement on Income Tax Allowances*, 111 FERC ¶ 61,139 (May 4, 2005).

<sup>6</sup> *Id.* at 1.

1 approximately \$819,000, is estimated to cost approximately \$21 million, plus any  
2 accrued dividends. ENO expects to fund the redemption with cash from operations  
3 and/or lines of credit and/or through an issuance of long-term debt. ENO's  
4 redemption of its outstanding preferred stock will result in the cost of that preferred  
5 stock being excluded from ENO's weighted-average cost of capital ("WACC") and  
6 the cost of any additional long-term financing being included for ratemaking purposes  
7 in the future. The redemption and related funding are not expected to materially  
8 affect ENO's WACC or have any material future adverse effect on rates. In addition  
9 to ENO's redemption of its outstanding preferred stock, in step number four, EUH  
10 will issue additional units of voting preferred membership interests. The terms and  
11 conditions of those preferred membership interests will not be determined until after  
12 all requisite regulatory approvals are obtained.

13

#### 14 **IV. ANTICIPATED RESTRUCTURING BENEFITS**

15 Q13. WHAT BENEFITS ARE EXPECTED TO RESULT FROM THE  
16 RESTRUCTURING?

17 A. Some important benefits will result from the proposed Restructuring. The  
18 Restructuring would further insulate ENO, and correspondingly its customers, from  
19 the risks of Entergy Corporation's unregulated merchant generation business.  
20 Additionally, EUH could provide an additional source of equity financing for ENO. I  
21 discuss those benefits below.

1                   In addition to the public interest benefits mentioned above, if the Council  
2 approves this Application by December 31, 2016,<sup>7</sup> ENO witness Charles Rice  
3 explains that ENO will guarantee customer credits of \$5 million in 2016, and \$5  
4 million in 2017. Further, if the Restructuring is also approved by the FERC by  
5 December 31, 2018, ENO will guarantee customer credits of \$5 million in 2018, \$5  
6 million in 2019, and \$5 million in 2020, with the possibility of additional benefits in  
7 future years. The Company will provide the guaranteed credits through a mechanism  
8 mutually agreed upon with the Council.

9  
10 Q14. WOULD THE RESTRUCTURING ALSO REDUCE ENO'S LOUISIANA  
11 CORPORATE FRANCHISE TAX?

12 A. Yes. Following the Restructuring, ENOL would not be required to pay a corporate  
13 franchise tax, and based on ENO's estimated 2016 corporate franchise tax, the annual  
14 corporate franchise tax savings after the Restructuring are estimated to be  
15 approximately \$1.7 million per year.

16                   **A. Additional Source of Insulation**

17 Q15. PLEASE DESCRIBE THE BENEFIT OF INSULATING ENO FROM ENTERGY  
18 CORPORATION'S UNREGULATED MERCHANT BUSINESS.

19 A. Currently, ENO is a direct subsidiary of Entergy Corporation. The use of a holding  
20 company structure would enhance the separation between ENO's regulated utility

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<sup>7</sup> It should be noted that in order for customers to receive the credits in 2016, Council approval would need to be obtained sufficiently in advance of the first December billing cycle to implement the credit on customers' December bills. If approval is received in 2016, but not in sufficient time to implement the credit on customers' December bills, ENO will work with the Council and its Advisors to determine the appropriate method and timeline for flowing the credits applicable to 2016 through to customers.



1 operations and Entergy Corporation's unregulated businesses, including its merchant  
2 generation business. As noted above, ELL is already an EUH subsidiary, and  
3 comparable restructurings could be undertaken in the future by the remaining EOCs,  
4 through which the resulting utilities would become EUH subsidiaries.

5

6 Q16. WHY IS IT BENEFICIAL TO ENHANCE THE EXISTING SEPARATION  
7 BETWEEN THE COMPANY AND THE MERCHANT GENERATION  
8 BUSINESS?

9 A. The holding company structure recognizes that the regulated utility operations of  
10 Entergy Corporation are a distinct business from its merchant generation business.  
11 Each of the respective businesses has its own financial risks and liquidity  
12 requirements. For instance, Entergy Corporation's merchant generation business is  
13 significantly affected by the market price of power in the northeastern United States.  
14 Increases and decreases in power prices affect the merchant generation business's  
15 cash flow. Variation in cash flows can, thus, negatively affect the financial metrics of  
16 the merchant business.

17 In contrast, Entergy Corporation's utility operations are rate-regulated, and the  
18 cash flows associated with that business tend to be more predictable, although this  
19 can change in the aftermath of a catastrophic weather event when ENO has a  
20 significant and immediate need for cash to support restoration efforts. Further, when  
21 natural gas and power prices rise in the region served by the Company, ENO requires  
22 access to significant liquidity in order to transact business in the supply markets. The  
23 holding company structure is designed to enhance the separation between those

1 businesses, helping to further insulate each, so that their respective risks and  
2 requirements are more properly supported by the applicable business.

3 Under the proposed holding company structure, EUH would not be used to  
4 make borrowings on behalf of the unregulated merchant generation businesses owned  
5 by Entergy Corporation. Nor would EUH make direct equity investments in those  
6 businesses.

7

8 **B. Additional Source of Financing**

9 Q17. PLEASE EXPLAIN HOW EUH COULD PROVIDE AN ADDITIONAL SOURCE  
10 OF FINANCING TO ENO.

11 A. Although ENOL generally would be expected to finance its own obligations, just as  
12 ENO generally does today, if the Restructuring is approved and completed, EUH  
13 could, if necessary, obtain financing in the bank or capital markets. That capital  
14 could be used to make equity investments in ENOL (and/or any of EUH's other  
15 operating company subsidiaries), but not in Entergy Corporation's unregulated  
16 affiliated merchant generation business subsidiaries.

17

18 Q18. PLEASE PROVIDE AN EXAMPLE IN WHICH IT WOULD BE NECESSARY TO  
19 MAKE EQUITY INVESTMENTS IN ENOL.

20 A. Additional equity investments in ENOL by EUH would be an exception and not the  
21 rule and generally be used to address unexpected events. For example, after  
22 Hurricanes Katrina and Rita, Entergy Corporation made an equity contribution to  
23 Entergy Gulf States Louisiana, L.L.C. and extended debtor-in-possession financing to

1 ENO during its bankruptcy. As another example, Entergy Corporation contributed  
2 equity to ENO and other EOCs to facilitate the purchase of the Union Power Station,  
3 which was an unexpected but beneficial opportunity. In the future, such measures  
4 could possibly originate at EUH, and having a single entity, such as EUH with  
5 significant cash flow, originate a single financing for such unexpected transactions  
6 may be beneficial, at least from a logistics perspective, for customers.

7

8 **V. THE RESTRUCTURING IS EXPECTED TO HAVE LITTLE TO NO EFFECT**  
9 **ON BUSINESS FUNCTIONS AND THE SECURITIZATION RIDERS**

10 Q19. ENO WITNESS MR. RICE TESTIFIES THAT THE RESTRUCTURING IS  
11 EXPECTED TO HAVE MINIMAL EFFECT ON THE COMPANY'S  
12 OPERATIONS. DO YOU AGREE?

13 A. Yes. I discuss below the minimal possible effects that the Restructuring could have  
14 on certain key business functions and on the Company's securitization riders.

15

16 **A. Commercial Property and Contracts**

17 Q20. WILL THE PROPOSED RESTRUCTURING AFFECT THE MANNER IN WHICH  
18 CERTAIN COMPANY ASSETS AND COMMERCIAL ACTIVITIES ARE  
19 MANAGED AND SUPPORTED BY ENTERGY SERVICES, INC. POST-  
20 TRANSACTION?

21 A. No. Currently, certain assets (including real and personal property, as well as  
22 contracts and other agreements) and commercial activities of ENO are managed and

1 supported by Entergy Services, Inc. (“ESI”),<sup>8</sup> although ENO’s President and CEO,  
2 Charles Rice, has ultimate responsibility for these assets. It is not anticipated that the  
3 Restructuring would materially change or significantly affect the manner in which the  
4 assets and commercial activities are managed post-Restructuring.

5

6 **B. Participation in MISO**

7 Q21. WILL THE TRANSACTION AFFECT THE WAY THE COMPANY AND SPO  
8 PARTICIPATE IN MISO?

9 A. No. The Restructuring is not expected to affect the manner in which ENO (and the  
10 System Planning and Operations (“SPO”) group on behalf of ENO) participate in the  
11 Midcontinent Independent System Operator, Inc. (“MISO”) Regional Transmission  
12 Organization.

13

14 Q22. WILL THERE BE ANY NECESSARY ADMINISTRATIVE STEPS AS A RESULT  
15 OF THE RESTRUCTURING WITH RESPECT TO ENO’S PARTICIPATION IN  
16 MISO?

17 A. Yes. The Company has identified several administrative steps that would be  
18 necessary as a result of the Restructuring. MISO-related issues regarding the  
19 Restructuring that affect SPO include the following: (i) the Credit and Security  
20 Agreements with MISO require an EOC that is a party to the agreements to provide  
21 prior written notice of any change in its jurisdiction of organization at least 30 days

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<sup>8</sup> ESI is the service company affiliate of the EOCs that provides engineering, planning, accounting, technical, regulatory, and other administrative support services to each of the EOCs.

1 before the effectiveness of the change; (ii) MISO needs to be informed in writing of  
2 any material change in the financial condition of an EOC within five days of the  
3 occurrence of such material change (to the extent this requirement is triggered, it can  
4 be satisfied by the filing of a Form 8-K with the U.S. Securities and Exchange  
5 Commission (“SEC”)); and (iii) it is expected that ENOL would not need to enter into  
6 a new Cash Collateral Agreement and Credit and Security Agreement, but would  
7 need the bank institution, on behalf of ENOL, to issue a new or amended letter of  
8 credit to MISO, which would replace the letters of credit originally entered into and  
9 issued to MISO on behalf of ENO.

10 With respect to operating in MISO, the Restructuring is not expected to  
11 require any changes to the Company’s processes for determining demand bids and  
12 resource offers to be made in the MISO markets. In developing instructions as to  
13 which generating units are to be committed or dispatched, MISO is indifferent as to  
14 the ownership of the unit.

15  
16 Q23. WOULD ANY GAS TRANSPORTATION OR STORAGE CONTRACTS BE  
17 TRANSFERRED TO ENOL?

18 A. Yes, but those steps are not expected to have a significant effect on operations.  
19 Under existing FERC policies and pipeline tariffs, for ENOL to succeed to the  
20 applicable interstate gas transportation and storage contracts, the consent of the  
21 counter-parties might be required, in which case FERC will not allow consent to be  
22 withheld unreasonably. Generally, the applicable pipeline service agreements  
23 provide that successor corporations are entitled to the rights and obligations of their

1 predecessor-in-interest and, therefore, the Company does not anticipate any consent  
2 issues. In those instances where counter-party consent may be required, the Company  
3 will proceed with planning for the Restructuring while working with the counter-  
4 party to obtain any required consents.

5  
6 Q24. WILL YOU NOW DESCRIBE THE RESTRUCTURING'S EXPECTED EFFECTS  
7 ON THE COMPANY'S TRANSMISSION OPERATIONS UNDER MISO?

8 A. Yes. The Company has identified administrative and largely ministerial adjustments  
9 that would need to be made in connection with the Restructuring. For example, the  
10 Company's signature page for the Agreement of Transmission Facilities Owners to  
11 Organize the Midcontinent Independent System Operator, Inc., A Delaware Non-  
12 Stock Corporation (commonly known as the MISO Transmission Owners  
13 Agreement) ("TOA") and certain of its appendices, as well as other MISO  
14 membership agreements, would need to be modified to reflect that ENO would no  
15 longer be a transmission owner and that it would be replaced as a transmission owner  
16 by ENOL. ENOL also would have to update certain maps, signage, and substation  
17 drawings to reflect the fact that it (as opposed to ENO) would own the transmission-  
18 related assets formerly owned by ENO. Costs relating to the above actions are  
19 expected to be minimal.

20 Following completion of the Restructuring, ENOL will make ministerial  
21 changes to the rate schedules and tariffs of ENO on file with FERC to reflect that  
22 ENOL has succeeded to those rate schedules and tariffs and is the provider of FERC-

1 jurisdictional services under them. ENOL’s succession to ENO’s rate schedules and  
2 tariffs will not cause any substantive changes to their rates, terms, or conditions.  
3

4 **C. Financial Reporting Issues**

5 Q25. HOW WILL ENOL REPORT ITS FINANCIAL RESULTS?

6 A. ENOL will fulfill its reporting requirements to the SEC and FERC similarly to how  
7 ENO fulfills those requirements today.  
8

9 **D. Securitization Matters**

10 Q26. PLEASE DESCRIBE THE SECURITIZATION THAT IS APPLICABLE TO ENO.

11 A. ENO, through a wholly-owned Special Purpose Entity (“SPE”), has issued bonds to  
12 fund storm damage reserves and to recover storm recovery costs incurred as a result  
13 of Hurricane Isaac pursuant to the Louisiana Electric Utility Storm Recovery  
14 Securitization Act, La. R.S. 45:1226–1236.  
15

16 Q27. WOULD ENOL BECOME THE SERVICER OF THE OUTSTANDING  
17 SECURITIZATION BONDS?

18 A. Yes. It is expected that ENOL would become the servicer of all of the storm recovery  
19 bonds, as permitted by the Council-approved Financing Order<sup>9</sup> that authorized and set  
20 forth the terms of ENO’s securitization. Accordingly, after the Restructuring,  
21 ENOL’s customers would continue to pay for existing securitization costs the same  
22 way that they do today.

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<sup>9</sup> Council Resolution R-15-193 dated May 14, 2015.

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Q28. IS COUNCIL CONSENT REQUIRED UNDER THE TERMS OF THE  
SECURITIZATION FINANCING ORDER?

A. Although I am not offering a legal opinion in response to this question, it is my  
understanding that Council consent may be required. Since the Restructuring  
contemplates ENO being replaced as the SPE member by ENOL, and in the event  
that the Council determines that consent is required, ENO requests in its Application  
that the Council include a finding that approves the substitution of ENOL for ENO as  
the member of the SPE.

[REDACTED]



1 [REDACTED]

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**VII. OTHER EFFECTS OF THE RESTRUCTURING**

**A. Implications of ENOL Being a Texas LLC**

Q40. YOU PREVIOUSLY NOTED THAT THE TRANSFER OF SUBSTANTIALLY ALL OF ENO'S ASSETS AND LIABILITIES TO ENOL WOULD BE ACCOMPLISHED THROUGH THE TEXAS MBD STATUTE. PLEASE GENERALLY DISCUSS THE REASONS WHY ENO PLANS TO USE THAT STATUTE.

A. While I am not a lawyer, it is my understanding that using certain provisions of the Texas MBD statute to effect the Restructuring will be considerably less burdensome, in terms of resources and costs, than if it were accomplished through a traditional asset transfer. The Texas MBD statute permits a Texas entity to allocate portions of its assets to one or more Texas entities by operation of law rather than by transfer or assignment of each individual asset or liability. The costs associated with an allocation of numerous assets and liabilities by operation of law can be significantly less than the costs associated with transferring or assigning those assets. For example, with respect to real property, there is no need to identify each piece of real estate and right of way owned by a company, prepare deeds and other transfer documents, record the deeds and transfer documents or pay recording fees on those documents. Also, each of ENO's agreements would generally not need to be assigned to ENOL in order for the agreement to be vested in ENOL. Thus, by

1           undergoing a Texas “merger by division,” an entity (in this case, ENO)<sup>10</sup> is able to  
2           allocate certain of its assets to another entity (in this case, ENOL) by operation of  
3           law, thereby reducing the costs associated with the Restructuring. ENOL cannot avail  
4           itself of the benefits of the MBD statute if it is a Louisiana entity.

5

6   Q41. IS IT YOUR UNDERSTANDING THAT ENOL’S STATUS AS A TEXAS LLC  
7           COULD HAVE IMPLICATIONS UNDER THE FEDERAL POWER ACT?

8   A.   Yes. Again, while I am not a lawyer, it is my understanding that ENOL’s status as a  
9           Texas LLC could have implications under the Federal Power Act (“FPA”).  
10          Specifically, Section 204(a) of the FPA generally requires public utilities to obtain  
11          FERC authorization before they issue securities or assume certain obligations or  
12          liabilities. FPA Section 204(f), however, exempts certain public utilities from  
13          obtaining that FPA Section 204(a) FERC approval. FPA Section 204(f) provides:  
14          “The provisions of this section shall not extend to a public utility organized and  
15          operating in a State under the laws of which its security issues are regulated by a State  
16          commission.”

17

18   Q42. DOES ENO CURRENTLY CLAIM A SECTION 204(F) EXEMPTION FROM  
19          OBTAINING FERC SECTION 204(A) APPROVAL?

20   A.   Yes, ENO currently utilizes a partial exemption with respect to equity securities and  
21          long-term financings. ENO currently is a corporation organized under Louisiana law,

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<sup>10</sup> As is noted in Exhibits KFG-2 and KFG-3, in Step 3 of the Restructuring ENO will convert to a Texas corporation, and ENOL will be formed as a Texas LLC.

1 and ENO operates in Louisiana. It is my understanding that the Council has authority  
2 to regulate ENO's issuances of equity securities and long-term financings pursuant to  
3 Ordinance No. 6822 (1922), as amended.<sup>11</sup> Because ENO is currently organized and  
4 operating in Louisiana, and because the Council regulates ENO's equity securities  
5 issuances and long-term financings, ENO currently qualifies under FPA Section  
6 204(f) to be exempt from obtaining Section 204(a) approval from FERC for equity  
7 securities issuances and long-term financings.

8

9 Q43. DOES ENO CURRENTLY CLAIM AN EXEMPTION FROM OBTAINING FERC  
10 APPROVAL FOR SHORT-TERM FINANCINGS?

11 A. No. Because the Council has asserted jurisdiction pursuant to Ordinance No. 6822, as  
12 amended, only with respect to equity securities issuances and long-term financings,  
13 the Council has not expressly regulated ENO's short-term financings. Accordingly,  
14 the requirements of Section 204(f) are not met for ENO's short-term financings, and  
15 ENO has historically sought and obtained FERC approval for engaging in short-term  
16 financings pursuant to FPA Section 204(a).

17

18 Q44. IF ENOL IS A TEXAS LLC, WILL IT BE EXEMPT FROM OBTAINING FERC  
19 APPROVAL UNDER FPA SECTION 204(F) FOR EQUITY SECURITY  
20 ISSUANCES AND LONG-TERM FINANCINGS?

21 A. It is my understanding that if ENOL is a Texas LLC, it will not be eligible for the  
22 Section 204(f) exemption because even though it will still be "operating" in

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<sup>11</sup> Pursuant to Ordinance No. 6822, as amended, long-term financings are those having a maturity greater than twelve months.



1 Louisiana, it will not be “organized” in Louisiana, and it therefore will not meet that  
2 prong of the Section 204(f) exemption requirement. Accordingly, if the Restructuring  
3 occurs, ENOL would not only need to seek Section 204(a) approval from FERC for  
4 short-term financings (just as ENO currently does), but it would also need to seek  
5 Section 204(a) approval from FERC for equity securities issuances and long-term  
6 financings.

7

8 Q45. BY VIRTUE OF BEING A TEXAS LLC, WILL ENOL NEED TO INCREASE THE  
9 NUMBER OF SECTION 204 FILINGS THAT ENO CURRENTLY MAKES  
10 TODAY?

11 A. Not necessarily. As I noted above, ENO today applies to FERC for Section 204(a)  
12 approval to engage in short-term financings. If ENOL were a Texas LLC, it would  
13 likely simply expand the scope of those Section 204(a) applications to also seek  
14 approval to engage in equity securities issuances and long-term financings.

15

16 Q46. ALTHOUGH ENOL WOULD, AS A TEXAS LLC, NEED TO SEEK FERC  
17 APPROVAL TO ENGAGE IN EQUITY SECURITIES ISSUANCES AND LONG-  
18 TERM FINANCINGS, WOULD ENOL ALSO APPLY TO THE COUNCIL TO  
19 ENGAGE IN ANY EQUITY SECURITIES ISSUANCES AND LONG-TERM  
20 FINANCINGS?

21 A. Yes, because it is my understanding that the Council would continue to have  
22 jurisdiction over the Company’s long-term financings and securities issuances  
23 pursuant to Ordinance No. 6822, as amended, ENOL would seek Council approval

1           regarding the level of those financings and securities issuances pursuant to that  
2           Ordinance, just as ENO currently does today. The difference is that ENOL would  
3           also have to seek FERC approval to engage in those financings.

4

5   Q47.   WOULD ENOL HONOR THE COUNCIL’S RULINGS WITH RESPECT TO THE  
6           PARAMETERS OF ENOL’S FINANCINGS?

7   A.     Yes. ENOL does not anticipate conflicts arising from that shared jurisdiction because  
8           ENOL would file applications with the Council to engage in equity securities  
9           issuances and long-term financings pursuant to Ordinance No. 6822, as amended, and  
10          ENOL would abide by the Council’s rulings regarding those applications, just as  
11          ENO does today.

12

13   Q48.   DO YOU ANTICIPATE THAT FERC WOULD AUTHORIZE ENOL’S  
14          ISSUANCES OF EQUITY SECURITIES AND DEBT FINANCINGS AT LEVELS  
15          SUFFICIENT FOR ENOL TO ADEQUATELY SERVE ITS CUSTOMERS?

16   A.     Yes. It is my understanding that ENOL should generally be able to obtain authority  
17          from FERC for equity securities issuances and debt financings at levels comparable to  
18          those ENOL would expect the Council to authorize. ENOL does not anticipate that  
19          FERC’s regulation of equity securities issuances and long-term financings would  
20          have any negative effect on customers or operations.

21

22   Q49.   REGARDLESS OF THE FACT THAT ENOL WOULD SEEK FERC APPROVAL  
23          FOR EQUITY SECURITIES ISSUANCES AND LONG-TERM FINANCINGS,

1           WOULD THE RESTRUCTURING MODIFY THE COUNCIL'S EXISTING  
2           JURISDICTION TO DETERMINE ENOL'S JUST AND REASONABLE CAPITAL  
3           STRUCTURE FOR RATEMAKING PURPOSES?

4    A.   No. The holding company structure would not modify the existing jurisdiction of the  
5           Council to determine the just and reasonable capital structure of ENOL for purposes of  
6           setting retail rates.

7

8   **B.       Effects on Securities Offerings**

9    Q50.  ARE THERE ANY ANTICIPATED EFFECTS ON THE PROCESS BY WHICH  
10           THE COMPANY MAKES PUBLIC OFFERINGS OF SECURITIES AS A RESULT  
11           OF THE RESTRUCTURING?

12   A.   Yes. As a result of the Restructuring, the process by which ENOL will make any  
13           public offerings of securities (primarily first mortgage bonds) will differ from the  
14           process that ENO was able to use. Specifically, ENO's ability to issue securities via  
15           Form S-3 (often referred to as a "short-form" registration statement or "shelf"  
16           registration statement) will not carry over to the newly-created ENOL. Accordingly,  
17           ENOL will have to conduct its financings by using a Form S-1 (often referred to as a  
18           "long-form" registration statement), by privately offering pursuant to Rule 144A, or  
19           by conducting a traditional private placement. While the timing of preparing the  
20           offering documents and accessing the market, the process, and the interest rate and  
21           expense may differ somewhat from the current practice of issuing securities pursuant  
22           to Form S-3, none of these alternatives is expected to result in a material adverse  
23           effect on either ENOL's ability to access capital or its cost rate. ENOL will continue

1 to be able to obtain market-based financing and maintain cash flow flexibility over  
2 the long-term. In short, ENOL will continue to be positioned to attract and respond to  
3 economic development opportunities in New Orleans and to respond to other capital  
4 demands.

5

6 **VIII. ANTICIPATED RESTRUCTURING-RELATED FILINGS**

7 Q51. IN ADDITION TO THE INSTANT APPLICATION, WHAT OTHER  
8 REGULATORY APPROVALS DOES ENO ANTICIPATE SEEKING IN ORDER  
9 TO PROCEED WITH THE RESTRUCTURING?

10 A. The Company anticipates that it will seek approval of the Restructuring from FERC.

11

12 Q52. PLEASE PROVIDE DETAILS REGARDING THE ANTICIPATED FERC  
13 FILINGS.

14 A. In order to effectuate the Restructuring, ENO will need to obtain prior authorizations  
15 from FERC under FPA Sections 203 and 204. ENO and/or ENOL will also make  
16 FERC pre- and post-closing filings under FPA Section 205. The Company also will  
17 interact with the FERC with respect to the Restructuring's implications under the  
18 Natural Gas Act ("NGA").

19

20 Q53. PLEASE DISCUSS THE SECTIONS 203 AND 204 APPLICATIONS.

21 A. FPA Section 203 requires prior FERC authorization of a proposed change in control  
22 of FERC-jurisdictional assets (such as a change in control of FERC-jurisdictional  
23 assets from ENO to ENOL) and a public utility's acquisition of the securities of

1 another public utility of a value in excess of \$10 million. Jurisdictional assets include  
2 transmission facilities, generating facilities, tariffs, rate schedules (such as PPAs and  
3 interconnection agreements), and “books and records.” The Company will apply to  
4 FERC to establish that the Restructuring would not have an adverse effect on  
5 competition, wholesale rates, or regulation, and would not result in cross-  
6 subsidization among ENOL and its non-utility associate companies or the pledge or  
7 encumbrance of utility assets for the benefit of an associate company, and that the  
8 Restructuring therefore is consistent with the public interest. The application will  
9 identify the various discrete steps of the Restructuring and request approval of all the  
10 jurisdictional elements that occur during those steps.

11 FERC generally has an obligation to act on a completed Section 203  
12 application within 180 days of filing, although if FERC requests additional  
13 information to supplement the application, the 180-day clock can be reset as of the  
14 date that the applicant files its reply to that FERC request.<sup>12</sup> Because the  
15 Restructuring will not have an effect on competition, ENO does not anticipate an  
16 unduly lengthy FERC approval process. Nevertheless, to accommodate FERC’s  
17 consideration of any protests that might be filed in response to the application, and to  
18 give FERC substantial time within which to act, ENO anticipates filing the FERC  
19 Section 203 application later in 2016, which is more than 180 days in advance of the  
20 anticipated Restructuring closing date. FERC may issue its order within the 180-day  
21 window for action.

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<sup>12</sup> 18 C.F.R. § 33.11(a).

1           Second, a public utility's issuance of securities and assumptions of liabilities  
2           are subject to FERC regulation under FPA Section 204. ENOL's issuances of  
3           securities and assumptions of liabilities will be subject to FERC regulation under FPA  
4           Section 204. ENO will request FPA Section 204 authorization for any issuances of  
5           securities and assumptions of liabilities by public utilities that will occur during the  
6           intermediate steps of the Restructuring, although the Company currently anticipates  
7           that its existing securities issuance authority from the Council and FERC is adequate  
8           for any issuances of securities and assumptions of liabilities that may occur during the  
9           Restructuring steps and therefore it will not have to request additional authority for  
10          purposes of the Restructuring. ENOL also will apply to FERC to establish FPA  
11          Section 204 authority to issue securities and to assume liabilities effective on the  
12          Restructuring closing date when ENOL becomes a public utility. The FERC's action  
13          on the FPA Section 204 application likely would occur within 180 days of the  
14          application's submission. ENO anticipates that the FPA Section 204 application  
15          would be filed concurrently with or not long after the filing of the Section 203  
16          application, which is expected to occur later in 2016.

17

18 Q54. PLEASE DISCUSS THE SECTION 205 FERC FILING.

19 A. ENO and/or ENOL also would make filings with FERC pursuant to FPA Section 205,  
20          including a market-based rate application to establish authority for ENOL to make  
21          wholesale market-rate sales of capacity, energy, and ancillary services effective as of  
22          the date of the Restructuring consummation, and post-consummation notices of  
23          succession to succeed to the FERC-jurisdictional tariffs and rate schedules that ENOL

1 would acquire from ENO. FERC's action on ENOL's market-based rate application  
2 would also likely take place within 180 days of submission. "Notice of succession"  
3 filings will be made within 30 days after consummation of the Restructuring.

4

5 Q55. ARE ANY OTHER RESTRUCTURING-RELATED FERC FILINGS  
6 ANTICIPATED?

7 A. If the Restructuring includes a payment of dividends by a public utility (ENO, and  
8 ENOL if it is a public utility at time of distribution), it may be necessary to obtain a  
9 FERC declaration that the Restructuring does not violate FPA Section 305(a)'s  
10 prohibition of dividend payments out of the paid-in capital account of a public utility.  
11 The payment of dividends by a public utility currently is not anticipated to occur  
12 before the Restructuring closes, but ENO notes this possible requirement if the  
13 structure of the Restructuring is changed. If ENO elects to request a FERC  
14 determination with respect to FPA Section 305(a), it would file its petition concurrent  
15 with the filing of the Sections 203 and 204 applications. The FERC's action on the  
16 FPA Section 305(a) petition likely would occur within 180 days of submission.

17 It should also be noted that under the NGA, the FERC's consent may be  
18 required for ENOL to be assigned the applicable interstate gas transportation and  
19 storage contracts. To the extent that such consent is deemed to be required and is not  
20 otherwise obtained under the applicable FERC tariff, ENO anticipates seeking a  
21 waiver of the applicable pipeline tariff provisions and/or FERC regulations. Because  
22 the granting of any necessary waivers will be consistent with existing FERC practice  
23 and precedent, ENO anticipates that any necessary FERC approvals should be

1           obtained within 60 to 90 days of the submission of the waiver request. ENO  
2           anticipates filing its waiver request concurrent with or not long after the filing of the  
3           FPA Sections 203 and 204 applications.

4

5   Q56.   ARE ANY OTHER RESTRUCTURING-RELATED FILINGS ANTICIPATED?

6   A.     Although ENO does not anticipate that NRC approval will be needed to engage in the  
7           Restructuring proposed herein, it is ENO's understanding that ELL, through Entergy  
8           Corporation's nuclear operations organization, Entergy Operations, Inc., plans to  
9           make a filing with the NRC notifying it of the Restructuring and requesting the  
10          NRC's approval of the Restructuring if the NRC deems that such approval is  
11          necessary.

12

13                   **IX.    THE RESTRUCTURING IS IN THE PUBLIC INTEREST**

14   Q57.   YOU INDICATED PREVIOUSLY THAT YOU WOULD DISCUSS WHETHER,  
15           IN YOUR OPINION, THE RESTRUCTURING IS IN THE PUBLIC INTEREST.  
16           PLEASE DESCRIBE WHAT IS MEANT BY THE PUBLIC INTEREST.

17   A.     As a general matter, decisions or actions that are in the public interest are those that  
18           are considered to be for the "common good." In other words, if the net effect of a  
19           decision or action is believed to be positive, or beneficial to society as a whole, it can  
20           be said that the decision or action serves the "public interest."

21           Public utilities generally, and electric utilities in particular, affect nearly all  
22           elements of society. They have the ability to influence the cost of production of the  
23           businesses that are served by them, to affect the standard of living of their customers,



1 to affect employment levels in the areas they serve, and to affect the interests of  
2 investors. In sum, public utilities affect the general economic activity of the territory  
3 that they serve.

4 There is no immutable law or principle that can be applied to determine  
5 whether a particular decision or policy is in the public interest. While the public  
6 interest is often defined in terms of “net benefits,” the difficulty is in defining and  
7 quantifying the “net benefits.”

8 It is generally recognized that “net benefits” cannot simply be defined as  
9 lower prices. For example, if lower prices are achieved through a reduction in the  
10 reliability or quality of service, it may very well be perceived that the lower prices  
11 have not produced net benefits. Similarly, higher prices might not produce negative  
12 net benefits or detriments. If, however, an existing price is low due to a cross-  
13 subsidy, removing that subsidy would raise that price, but doing so would not  
14 necessarily be detrimental. The Louisiana Supreme Court reached just such a  
15 conclusion in *City of Plaquemine v. Louisiana Public Service Commission*<sup>13</sup> when it  
16 found that:

17 The entire regulatory scheme, including increases as well as decreases  
18 in rates, is indeed in the public interest, designed to assure the  
19 furnishing of adequate service to all public utility patrons at the lowest  
20 reasonable rates consistent with the interest both of the public and of  
21 the utilities.

22 Thus the public interest necessity in utility regulation is not offended,  
23 but rather served by reasonable and proper rate increases  
24 notwithstanding that an immediate and incidental effect of any

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<sup>13</sup> 282 So. 2d 440 (La. 1973).

1                   increase is improvement in the economic condition of the regulated  
2                   utility company.<sup>14</sup>

3                   At least since the middle of the last century, regulatory decision-making has  
4                   been tested in the courts by a balancing-of-interests standard. In these cases,  
5                   beginning with *Federal Power Commission v. Hope Natural Gas Company*,<sup>15</sup> the  
6                   courts have found that if the regulatory body's decision reflected a reasonable  
7                   balancing of customer and investor interests, the decision was to be affirmed as just  
8                   and reasonable.

9                   In sum, determining whether a decision is in the "public interest" is typically  
10                  not susceptible of objective measurement, but instead requires a balancing of the  
11                  various effects of a particular course of action measured subjectively over the longer  
12                  run. Whether a course of action is in the public interest will depend upon factors that  
13                  are potentially quantifiable on an estimated basis, such as likely changes in costs, as  
14                  well as upon other factors that are not quantifiable, such as the effect of that course of  
15                  action on the efficiency of a competitive market. Finally, while witnesses can  
16                  provide facts and opinions that bear on this issue, ultimately the Council must  
17                  determine whether it agrees that it is in the public interest for ENO to engage in the  
18                  Restructuring.

19

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<sup>14</sup> *Id.* at 442-43.

<sup>15</sup> 320 U.S. 591, 660 (1944).

1 Q58. IS THE RESTRUCTURING IN THE PUBLIC INTEREST?

2 A. Yes, for a number of reasons, including those explained in more detail by Mr. Rice.

3 The Restructuring would provide benefits to ENO and its customers by further  
4 insulating them from the risks of Entergy Corporation's unregulated merchant  
5 generation business, which has a fundamentally different risk profile and liquidity  
6 requirements than ENO's regulated utility business. Moreover, the Restructuring  
7 could provide an additional source of financing in that EUH could be used to make  
8 equity investments into the Company. In addition to these public interest benefits, if  
9 the Restructuring is approved by December 31, 2016, ENO is willing to provide  
10 guaranteed customer credits of \$5 million in 2016, and \$5 million in 2017, and if  
11 approved by FERC by December 31, 2018, ENO will guarantee additional customer  
12 credits of \$5 million per year in 2018, 2019, and 2020. The Company will provide  
13 the guaranteed credits through a mechanism mutually agreed upon with the Council.  
14 Moreover, following the Restructuring, ENOL would not be required to pay a  
15 corporate franchise tax, and based on ENO's estimated 2016 corporate franchise tax,  
16 the annual corporate franchise tax savings after the Restructuring are estimated to be  
17 approximately \$1.7 million per year. If approved, these benefits could be achieved  
18 with no anticipated material future adverse effects on rates, and little to no effect on  
19 ENO's customers, operations and employees.

20

1 Q59. DOES CONSIDERATION OF THE FACTORS SET FORTH IN COUNCIL  
2 RESOLUTION R-06-88 DATED MARCH 16, 2006, SUPPORT APPROVAL OF  
3 THE RESTRUCTURING?

4 A. Yes. Council Resolution R-06-88 is targeted to providing notice to public utilities  
5 subject to the Council's jurisdiction that all material changes in ownership or control  
6 of jurisdictional entities or their facilities meeting certain criteria need prior Council  
7 approval. The Resolution also sets forth 18 factors that are to be taken into account  
8 by the Council in deciding whether to approve a change-in-ownership request. I  
9 specifically discuss below each of the 18 factors contained in Resolution R-06-88 to  
10 make clear to stakeholders, customers, and the Council that the Restructuring is in the  
11 public interest and should be approved.

12

13 Q60. IS THE TRANSFER IN THE PUBLIC INTEREST (FACTOR NO. 1)?

14 A. Yes. I already have discussed this issue and explained the multiple reasons why it is  
15 in the public interest for the Restructuring to occur.

16

17 Q61. IS THE PURCHASER READY, WILLING, AND ABLE TO CONTINUE  
18 PROVIDING SAFE, RELIABLE, AND ADEQUATE SERVICE TO THE  
19 UTILITY'S RATEPAYERS (FACTOR NO. 2)?

20 A. Yes. While there is no "purchaser," ENOL would be able to continue providing the  
21 same safe, reliable, and adequate service that the Company currently provides to  
22 customers. Because there will be no reduction or increase of the workforce as a result  
23 of the Restructuring, ENOL would have sufficient qualified and knowledgeable

1 employees to operate and manage the Company's former business following the  
2 Restructuring, thereby ensuring continuity of operations. The Company's current  
3 customers, who will become customers of ENOL, will receive the same high quality  
4 customer service that they enjoy today. Customers will not see any change in the  
5 metering and billing processes; customer contact centers will continue to be available;  
6 and customers will continue to be able to use an Entergy website to view and pay bills  
7 on-line, update their account information, check the status of work orders and  
8 permits, and view outage maps. In other words, aside from a new name ("Entergy  
9 New Orleans, *LLC*", as opposed to "Entergy New Orleans, *Inc.*"), customers are not  
10 expected to notice the Restructuring in their day-to-day interactions with their utility  
11 provider. Accordingly, customers would not notice or experience any change in the  
12 way that the Company generates, transmits, or distributes electricity to provide them  
13 with safe and reliable service.

14 In addition, the Company's award-winning proficiency in storm response would  
15 not be adversely affected by the Restructuring because the Company intends to: (1)  
16 use the same employees in the same roles under the same Incident Command System  
17 structure immediately following the Restructuring, and (2) keep customers and  
18 stakeholders informed in the same manner that it does today. In summary, the  
19 Restructuring will not affect the quality or efficiency of service currently enjoyed by  
20 ENO's customers in New Orleans. Therefore, there will be no degradation in the  
21 safety, reliability, or adequacy of service in New Orleans as a result of the  
22 Restructuring.

23

1 Q62. WILL THE TRANSFER MAINTAIN OR IMPROVE THE FINANCIAL  
2 CONDITION OF THE RESULTING PUBLIC UTILITY (FACTOR NO. 3)?

3 A. Because the transaction is simply an internal reorganization, the Restructuring is not  
4 expected to affect ENO's financial condition in any material way.  
5

6 Q63. WILL THE PROPOSED TRANSFER MAINTAIN OR IMPROVE THE QUALITY  
7 OF SERVICE (FACTOR NO. 4)?

8 A. Yes. This factor is somewhat duplicative of the second factor in that safety and  
9 reliability are principal components of the "quality" of service, and those would be  
10 maintained. ENOL would have the same operational and management employees  
11 immediately following the Restructuring, thereby ensuring no decrease in the high  
12 quality of services that the Company's customers currently receive.  
13

14 Q64. WILL THE TRANSFER PROVIDE NET BENEFITS TO RATEPAYERS IN BOTH  
15 THE SHORT TERM AND LONG TERM AND PROVIDE A RATEMAKING  
16 METHOD THAT WILL ENSURE, TO THE FULLEST EXTENT POSSIBLE,  
17 THAT RATEPAYERS RECEIVE THE FORECASTED BENEFITS (FACTOR NO.  
18 5)?

19 A. Yes. The Restructuring would provide the "insulation" and "additional source of  
20 financing" benefits that are discussed in response to the first factor. Moreover,  
21 assuming the Restructuring is approved in the above-specified timeframe, the  
22 Restructuring will allow ENO to offer customers guaranteed up-front benefits and the  
23 possibility of additional, longer-term benefits. Moreover, following the

1           Restructuring, ENOL would not be required to pay a corporate franchise tax, and  
2           based on ENO's estimated 2016 corporate franchise tax, the annual corporate  
3           franchise tax savings after the Restructuring are estimated to be approximately \$1.7  
4           million per year. Those benefits could be achieved with no anticipated material  
5           future adverse effects on rates, and little to no effect on ENO's customers, operations  
6           and employees.

7

8   Q65.   WILL THE TRANSFER ADVERSELY AFFECT COMPETITION (FACTOR NO.  
9           6)?

10   A.    No.    The Restructuring would not adversely affect competition because the  
11           Restructuring simply involves the internal reorganization of the Company and does  
12           not affect the Company's operations.

13

14   Q66.   WILL THE TRANSFER MAINTAIN OR IMPROVE THE QUALITY OF  
15           MANAGEMENT OF THE RESULTING PUBLIC UTILITY (FACTOR NO. 7)?

16   A.    Yes.  Immediately following the Restructuring, the Company's senior executives, as  
17           well as its employees, would become employees of ENOL. These executives and  
18           employees possess extensive utility experience, including experience with responding  
19           to major storms. Accordingly, there should be no doubt that the quality of  
20           management would be maintained if the proposed Restructuring occurs.

21

1 Q67. WILL THE TRANSFER BE FAIR AND REASONABLE TO THE AFFECTED  
2 PUBLIC UTILITY OR COMMON CARRIER EMPLOYEES (FACTOR NO. 8)?

3 A. Yes. ENO's employees will become employees of ENOL immediately following the  
4 Restructuring. As Mr. Rice describes, the Restructuring would be fair and reasonable  
5 to the affected employees, who would become employees of ENOL and whose  
6 compensation and benefits would not be affected as a result of the Restructuring.<sup>16</sup>

7

8 Q68. WILL THE TRANSFER BE FAIR AND REASONABLE TO THE MAJORITY OF  
9 ALL AFFECTED SHAREHOLDERS (FACTOR NO. 9)?

10 A. Yes. The Restructuring, along with the economic benefits that are expected, would  
11 be fair and reasonable to shareholders.

12

13 Q69. WILL THE TRANSFER BE BENEFICIAL ON AN OVERALL BASIS TO CITY  
14 AND LOCAL ECONOMIES AND TO THE COMMUNITIES IN THE AREAS  
15 SERVED BY THE COMPANY (FACTOR NO. 10)?

16 A. Yes. The Restructuring will be beneficial on an overall basis to New Orleans, and  
17 customers of ENOL for the reasons set forth with respect to factor 1 above.

18

19 Q70. WILL THE TRANSFER PRESERVE THE JURISDICTION OF THE COUNCIL  
20 AND THE ABILITY OF THE COUNCIL TO EFFECTIVELY REGULATE AND

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<sup>16</sup> As Mr. Rice notes, the Company has the right to change or eliminate any compensation or benefit program at any time, subject to any applicable law, order, and/or regulation.



1           AUDIT THE PUBLIC UTILITY’S OPERATIONS IN NEW ORLEANS (FACTOR  
2           NO. 11)?

3    A.    Yes. The Louisiana Constitution and the Home Rule Charter of the City of New  
4           Orleans set forth the jurisdiction of the Council, and the proposed Restructuring  
5           would preserve the jurisdiction of the Council over ENOL, its ability to effectively  
6           regulate and audit ENOL’s operations in Louisiana, and its ability to oversee the rates  
7           charged by ENOL. The Restructuring accordingly should not diminish the Council’s  
8           jurisdiction over the Company in any way. I discuss earlier in my testimony that  
9           although the Council would continue to have jurisdiction over the Company’s long-  
10          term financings, FERC would also have jurisdiction over those financings. ENOL  
11          does not anticipate conflicts arising from that shared jurisdiction because, just as  
12          ENO does today, ENOL would file applications with the Council seeking approval of  
13          the level of equity securities and long-term debt pursuant to Ordinance No. 6822, as  
14          amended, and ENOL would abide by the Council’s rulings regarding those  
15          applications, just as ENO does today.

16

17    Q71. ARE THERE ANY CONDITIONS THAT ARE NECESSARY TO PREVENT  
18          ADVERSE CONSEQUENCES WHICH MAY RESULT FROM THE TRANSFER  
19          (FACTOR NO. 12)?

20    A.    The Company believes the Restructuring is in the public interest, and there would be  
21          no adverse consequences that require preventative conditions.

22

1 Q72. WHAT IS THE HISTORY OF COMPLIANCE OR NONCOMPLIANCE OF THE  
2 PROPOSED ACQUIRING ENTITY WITH REGULATORY AUTHORITIES IN  
3 NEW ORLEANS OR OTHER JURISDICTIONS (FACTOR NO. 13)?

4 A. There is no “acquiring entity.” The Restructuring involves the internal reorganization  
5 of the Company, and ENO’s history of regulatory compliance is well known and  
6 favorable, and there is no reason to believe that ENOL will not continue to be  
7 cooperative with the Council and other regulatory authorities after the Restructuring.

8

9 Q73. WILL THE ACQUIRING ENTITY HAVE THE FINANCIAL ABILITY TO  
10 OPERATE THE UTILITY OR COMMON CARRIER SYSTEM AND MAINTAIN  
11 OR UPGRADE THE QUALITY OF THE PHYSICAL SYSTEM (FACTOR NO.  
12 14)?

13 A. Yes. As was the case with Factor No. 13, there is no “acquiring entity”; instead, the  
14 proposed Restructuring involves the internal reorganization of ENO. Following the  
15 Restructuring, ENOL would have the same financial ability as the Company currently  
16 has today to operate the utility and to maintain or upgrade the quality of the  
17 Company’s facilities.

18

1 Q74. WILL ANY REPAIRS AND/OR IMPROVEMENTS BE REQUIRED, AND, IF SO,  
2 WILL THE ACQUIRING ENTITY HAVE THE ABILITY TO MAKE SUCH  
3 REPAIRS AND/OR IMPROVEMENTS (FACTOR NO. 15)?

4 A. This factor is not relevant to the Restructuring. Upon closing, however, ENOL  
5 anticipates that it will have the same ability that ENO currently has to make any  
6 future repairs and/or improvements to ENO's assets that may become necessary.

7

8 Q75. WILL THE ACQUIRING ENTITY HAVE THE ABILITY TO OBTAIN ALL  
9 NECESSARY HEALTH, SAFETY, AND OTHER PERMITS (FACTOR NO. 16)?

10 A. The Company anticipates assigning to ENOL all of its health, safety, and other  
11 permits, subject to any required governmental approvals or consents. Because the  
12 Company currently possesses all necessary health, safety, and other permits for the  
13 operation of its business, there is no basis to question whether ENOL would be able  
14 to obtain all necessary health, safety, and other permits.

15

16 Q76. WILL YOU NOW ADDRESS THE MANNER OF FINANCING OF THE  
17 TRANSFER, AS WELL AS ANY IMPACT THE FINANCING MAY HAVE ON  
18 ENCUMBERING THE ASSETS OR ON RATES (FACTOR NO. 17)?

19 A. There is no sale of assets as a result of the Restructuring, but as I explained above, in  
20 order to complete the Restructuring, ENO would have to redeem its outstanding  
21 preferred stock. That redemption, including call premiums, is estimated to cost  
22 approximately \$21 million, plus any accrued dividends. ENO expects to fund the  
23 redemption with cash from operations and/or lines of credit and/or through an

1 issuance of long-term debt. ENO's redemption of its outstanding preferred stock will  
2 result in the cost of that preferred stock being excluded from ENO's WACC, while  
3 the cost of any additional long-term financing would be included in the WACC used  
4 for ratemaking purposes in the future. The redemption and related funding are not  
5 expected to materially affect ENO's WACC or to have any material future adverse  
6 effect on rates. In addition, as Mr. Rice explains, ENOL will be assuming ENO's  
7 existing mortgage indenture (referred to as the "ENO Mortgage") that creates a first  
8 lien on substantially all of the tangible assets of the Company, all of which will be  
9 transferred to ENOL as a result of the Restructuring. Upon completion of the  
10 Restructuring, the tangible assets will be encumbered by the lien of the ENO  
11 Mortgage in same manner in which the assets are encumbered today.

12

13 Q77. ARE THERE ANY CONDITIONS THAT SHOULD BE ATTACHED TO THE  
14 RESTRUCTURING (FACTOR NO. 18)?

15 A. As discussed above with respect to Factor No. 12, conditions are not necessary  
16 because no adverse consequences of the Restructuring are expected.

17

18 **X. REQUESTS FOR DECLARATORY OR CLARIFYING RELIEF**

19 Q78. ARE CERTAIN RULES SET FORTH IN THE COUNCIL'S CODE OF CONDUCT  
20 ESTABLISHED BY COUNCIL RESOLUTION R-01-676 POTENTIALLY  
21 APPLICABLE TO THE RESTRUCTURING?

22 A. Council Resolution R-01-676 sets forth the "Code of Conduct" applicable to ENO  
23 and its affiliates. As I explained above, the Restructuring involves a transfer of assets

1 and liabilities between ENO and ENOL, which are subsidiaries of Entergy  
2 Corporation. The only Code of Conduct rule that potentially might be implicated by  
3 the Restructuring is Ordering Paragraph No. 7, which requires that transactions  
4 between ENO and its “Affiliates” involving the sale and purchase of “goods,  
5 property, products or services” exceeding a fair market value of \$100,000 be made  
6 generally available by the utility or Affiliate to all Competitive Market Participants  
7 through an open, competitive bidding process.<sup>17</sup>

8 Although the Restructuring involves ENO’s transfer of electric utility  
9 infrastructure to ENOL, the Company does not consider ENO and ENOL to be  
10 Affiliates of each other for purposes of the Code of Conduct.<sup>18</sup> That is because the  
11 Council’s stated intention when it adopted the Code of Conduct, as expressed in the  
12 Resolution itself, is “to govern transactions of ENO and ELI [(now ELL, which is no  
13 longer subject to the Council’s jurisdiction)] with any and all of *their* respective  
14 Affiliates.”<sup>19</sup> Ordering Paragraph No. 7, moreover, targets transactions in which  
15 assets are ultimately transferred to a *non-regulated* Entergy Corporation affiliate, and  
16 not transactions, such as the Restructuring, in which the assets are transferred to a  
17 *regulated* Entergy Corporation affiliate. In short, the transfer contemplated to

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<sup>17</sup> The full text of Ordering Paragraph No. 7 provides that:

Except for Customer Support Services, transactions between ENO and its Affiliates and between ELI and its Affiliates in excess of \$100,000 shall be limited to tariff products and services, the sale and purchase of goods, property, products or services made generally available by the utility or Affiliate to all Competitive Market Participants through an open, competitive bidding process.

<sup>18</sup> See Plan for Compliance with Council of the City of New Orleans Resolution R-01-676 Adopting a Code of Conduct (November 19, 2001), *available at* <http://www.entergy-neworleans.com/content/affiliate/docs/CompliancePlan.pdf>.

<sup>19</sup> See the final “Whereas” clause of Resolution R-01-676 (emphasis added).

1 complete the Restructuring is not the sort of transfer that Ordering Paragraph No. 7  
2 was intended to address. ENO's assets will be owned and operated by a regulated  
3 public utility – ENOL – whose costs are recovered directly from its retail customers.  
4 Accordingly, it is the Company's position that Ordering Paragraph No. 7 does not  
5 apply to the Restructuring.

6

7 Q79. IS THE COMPANY REQUESTING ANY ACTION BY THE COUNCIL WITH  
8 RESPECT TO ORDERING PARAGRAPH NO. 7 OF COUNCIL RESOLUTION R-  
9 01-676?

10 A. Yes. The Company requests that the Council declare that Ordering Paragraph No. 7  
11 does not apply to the Restructuring. In the alternative, the Company formally  
12 requests a waiver of Ordering Paragraph No. 7 to the extent it is deemed to apply.

13

14 Q80. WHAT IS THE COMPANY'S BASIS FOR REQUESTING A WAIVER?

15 A. The Company submits that a waiver would be appropriate under these circumstances  
16 because the creation of a new utility, ENOL, and the transfer of membership interests  
17 that result from the Restructuring do not include a transfer to a non-regulated  
18 business. Nor is there a need for a competitive bidding process.

1

2

## **XI. CONCLUSION**

3

Q81. PLEASE SUMMARIZE HOW THE RESTRUCTURING WILL SERVE THE  
PUBLIC INTEREST.

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A. For the reasons that I have discussed, the proposed Restructuring is in the public  
interest. The Restructuring would further insulate ENO, and correspondingly its  
customers, from the risks of Entergy Corporation's unregulated merchant generation  
business, which has a fundamentally different risk profile and liquidity requirements  
than ENO's regulated utility business. Moreover, EUH could, if necessary, one day  
obtain financing in the bank or capital markets, and that capital could be used to make  
equity investments in ENOL. In addition to the public interest benefits inherent in the  
nature of the Restructuring, if the Council approves this Application by December 31,  
2016, ENO will guarantee customer credits of \$5 million in 2016, \$5 million in 2017,  
and if the Restructuring is also approved by the Federal Energy Regulatory  
Commission by December 31, 2018, will guarantee customer credits of \$5 million in  
2018, \$5 million in 2019, and \$5 million in 2020, with the possibility of additional  
benefits in future years. Moreover, following the Restructuring, ENOL would not be  
required to pay a corporate franchise tax, and based on ENO's estimated 2016  
corporate franchise tax, the annual corporate franchise tax savings after the  
Restructuring are estimated to be approximately \$1.7 million per year. If approved,  
these benefits could be achieved with no anticipated material future adverse effects on  
rates, and little to no effect on ENO's customers, operations, or employees.

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1                   The Restructuring accordingly is in the public interest, satisfies any applicable  
2 requirements of the Council, and would be beneficial to customers and other  
3 stakeholders, the Council, the Advisors, the Company, and the City of New Orleans.

4

5 Q82. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

6 A. Yes.



1 discuss the anticipated benefits of the Restructuring. In Section V, I discuss the  
2 Restructuring’s anticipated minimal effects on ENO’s business functions and on  
3 ENO’s Securitization Riders. In Section VI, I discuss the anticipated tax implications  
4 of the Restructuring, including the effects of a potential change in the tax basis of the  
5 depreciable property, as well as the potential for certain tax benefits that result from  
6 the “mark-to-market” tax treatment of a Power Purchase Agreement (“PPA”). In  
7 Section VII, I describe other implications of the Restructuring, including anticipated  
8 effects of ENOL being a Texas LLC, as well as the Restructuring’s effects on  
9 securities offerings. In Section VIII, I describe the Restructuring-related filings that  
10 are anticipated to be made ~~the Company intends to make~~ with the Federal Energy  
11 Regulatory Commission (“FERC”) and the Nuclear Regulatory Commission  
12 (“NRC”). In Section IX, I discuss why the Restructuring is in the public interest. In  
13 Section X, I discuss the Company’s request for clarifying relief regarding the “Code  
14 of Conduct” set forth in Council Resolution R-01-676 to the extent that the Council  
15 finds it applicable to the Restructuring. In Section XI, I conclude my testimony.

16  
17 **III. TRANSACTION STRUCTURE AND RELATED**  
18 **SECURITIES TRANSACTIONS**

19 **A. Overview**

20 Q8. PLEASE PROVIDE AN OVERVIEW OF THE TRANSACTION STRUCTURE.

21 A. ENO proposes to transfer substantially all of its assets and liabilities to a subsidiary,  
22 ENO Power, which would become a subsidiary of a holding company, EUH. Once  
23 under EUH, ENO Power would be renamed “Entergy New Orleans, LLC.” It should  
24 also be noted that Entergy Louisiana, LLC (“ELL”) is already a subsidiary of EUH

1           obtained within 60 to 90 days of the submission of the waiver request. ENO  
2           anticipates filing its waiver request concurrent with or not long after the filing of the  
3           FPA Sections 203 and 204 applications.

4  
5           Q56. ARE ANY OTHER RESTRUCTURING-RELATED FILINGS ANTICIPATED?

6           A. Although ENO does not anticipate that NRC approval will be needed to engage in the  
7           Restructuring proposed herein, it is ENO's understanding that ELL, through Entergy  
8           Corporation's nuclear operations organization, Entergy Operations, Inc., plans to  
9           make a filing with the NRC notifying it of the Restructuring and requesting the  
10           NRC's approval of the Restructuring if the NRC deems that such approval is  
11           necessary.

12  
13           **IX. THE RESTRUCTURING IS IN THE PUBLIC INTEREST**

14           ~~Q56-Q57.~~ YOU INDICATED PREVIOUSLY THAT YOU WOULD DISCUSS  
15           WHETHER, IN YOUR OPINION, THE RESTRUCTURING IS IN THE PUBLIC  
16           INTEREST. PLEASE DESCRIBE WHAT IS MEANT BY THE PUBLIC  
17           INTEREST.

18           A. As a general matter, decisions or actions that are in the public interest are those that  
19           are considered to be for the "common good." In other words, if the net effect of a  
20           decision or action is believed to be positive, or beneficial to society as a whole, it can  
21           be said that the decision or action serves the "public interest."

22                       Public utilities generally, and electric utilities in particular, affect nearly all  
23           elements of society. They have the ability to influence the cost of production of the

**AFFIDAVIT**

STATE OF LOUISIANA

PARISH OF ORLEANS

**NOW BEFORE ME**, the undersigned authority, personally came and appeared, **KENNETH F. GALLAGHER.**, who after being duly sworn by me, did depose and say:

That the above and foregoing is his sworn testimony in this proceeding and that he knows the contents thereof, that the same are true as stated, except as to matters and things, if any, stated on information and belief, and that as to those matters and things, he verily believes them to be true.

  
Kenneth F. Gallagher

**SWORN TO AND SUBSCRIBED BEFORE ME**  
**THIS 1st DAY OF SEPTEMBER, 2016**

  
\_\_\_\_\_  
NOTARY PUBLIC

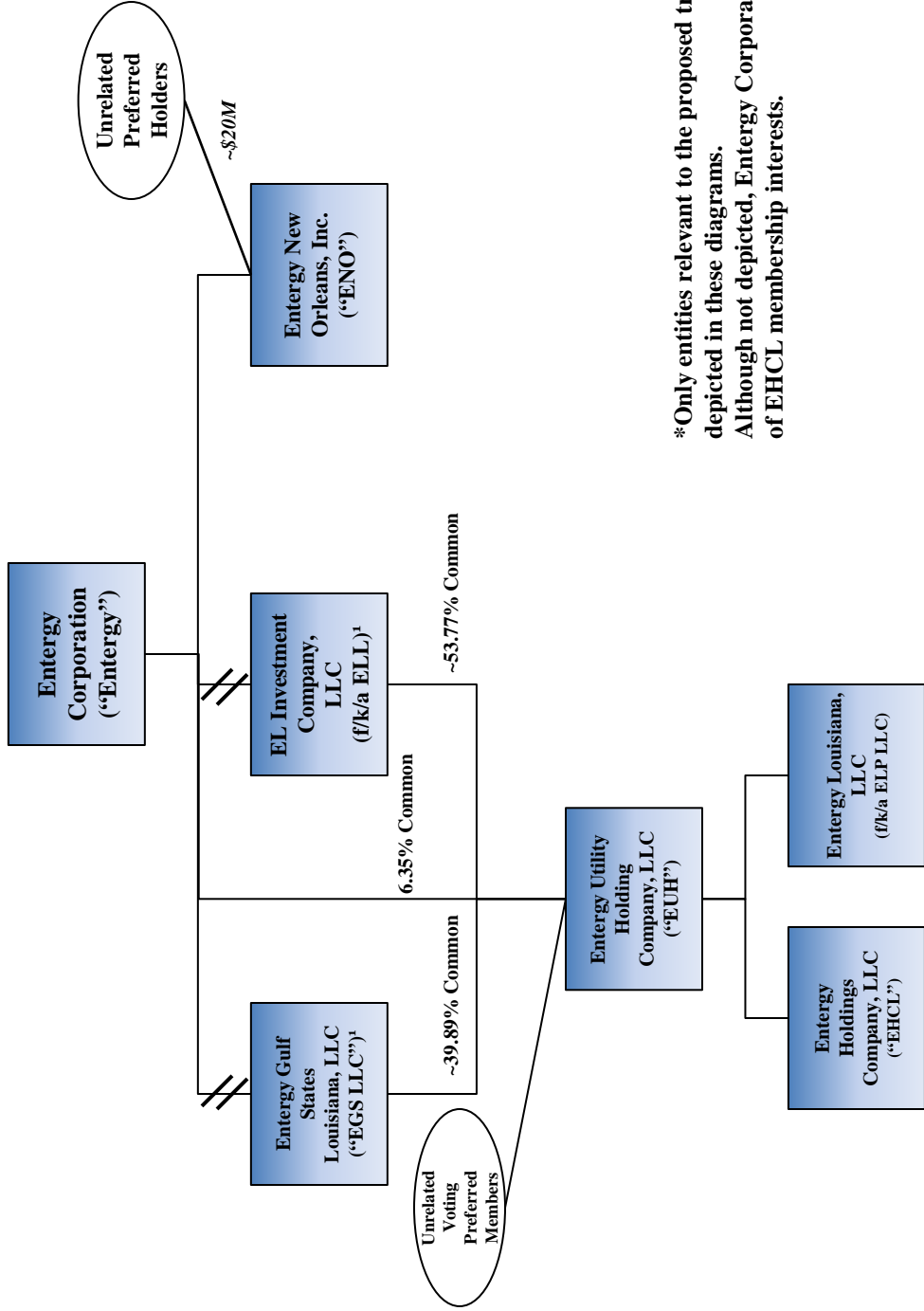
My commission expires: at death

**Harry M. Barton**  
**Notary Public**  
**Notary ID# 90845**  
**Parish of Orleans, State of Louisiana**  
**My Commission is for Life**

# ENO – UTILITY HOLDCO Proposed Steps

July 2016

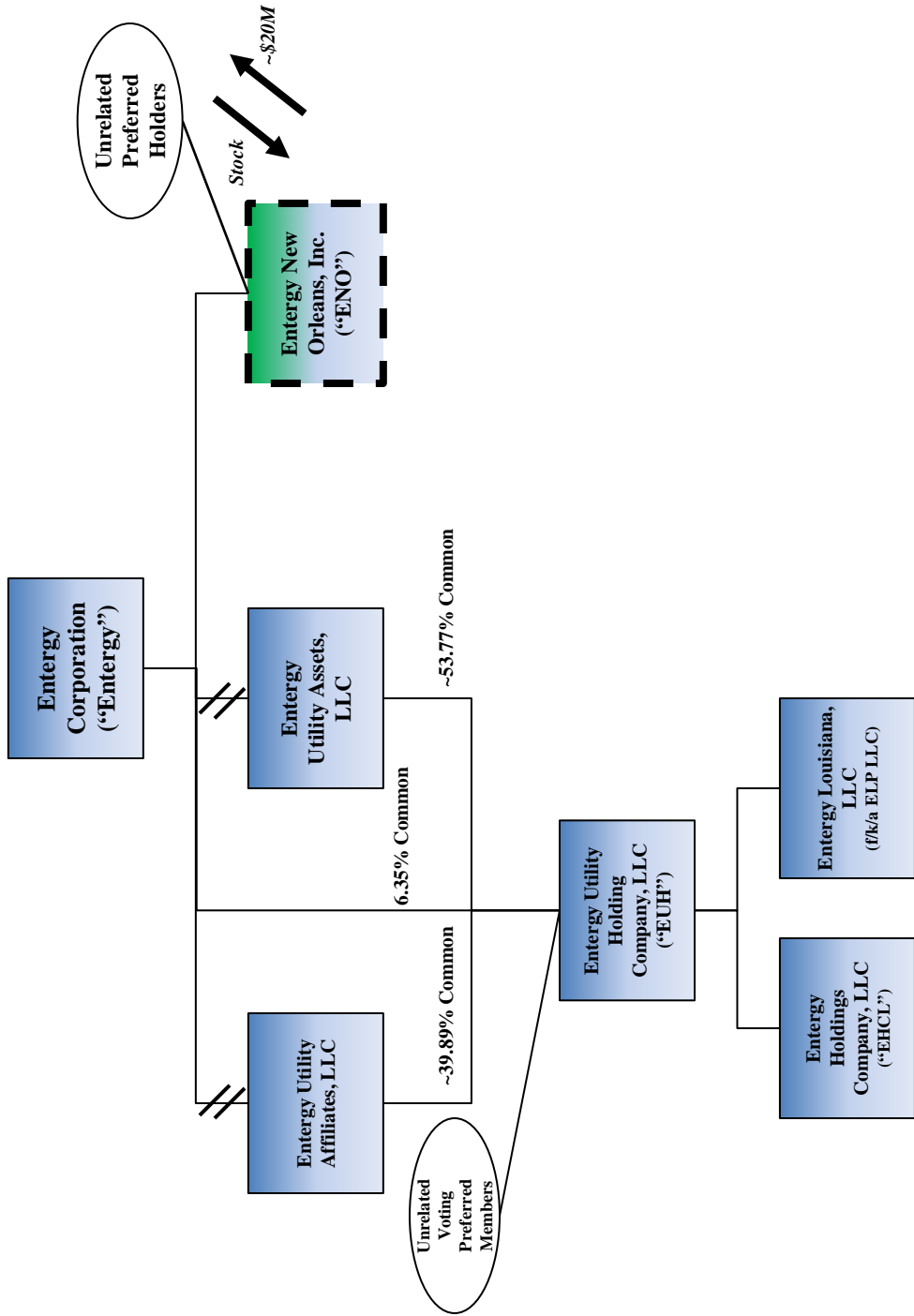
# INITIAL STRUCTURE\*



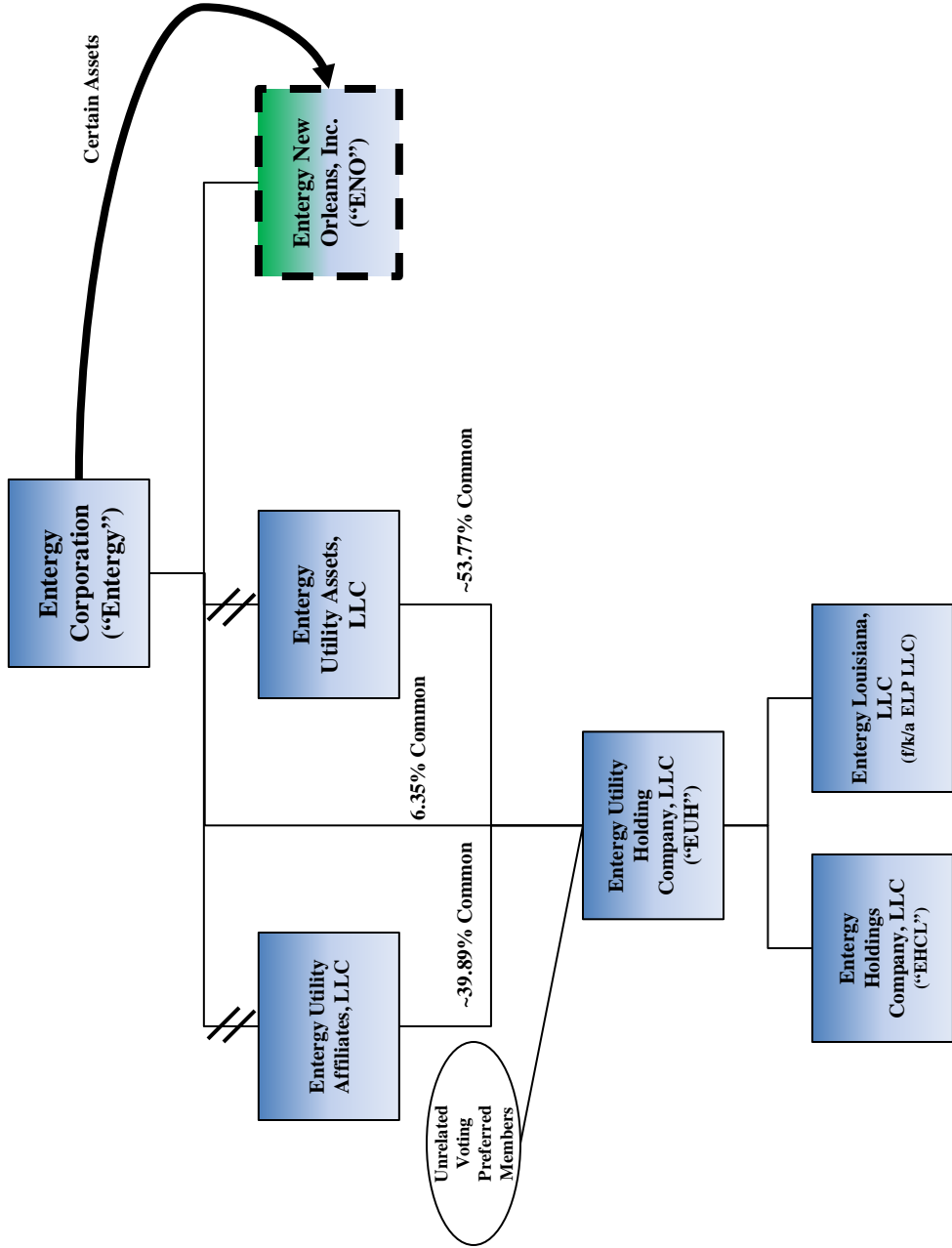
**\*Only entities relevant to the proposed transaction are depicted in these diagrams. Although not depicted, Energy Corporation is also an owner of EHCL membership interests.**

<sup>1</sup> In the near future, the names of Energy Gulf States Louisiana, LLC and EL Investment Company, LLC are expected to change respectively to Energy Utility Affiliates, LLC and Energy Utility Assets, LLC. While the precise timing of those name changes has not yet been determined, the remaining slides of this Exhibit KFG-2 reflect those name changes.

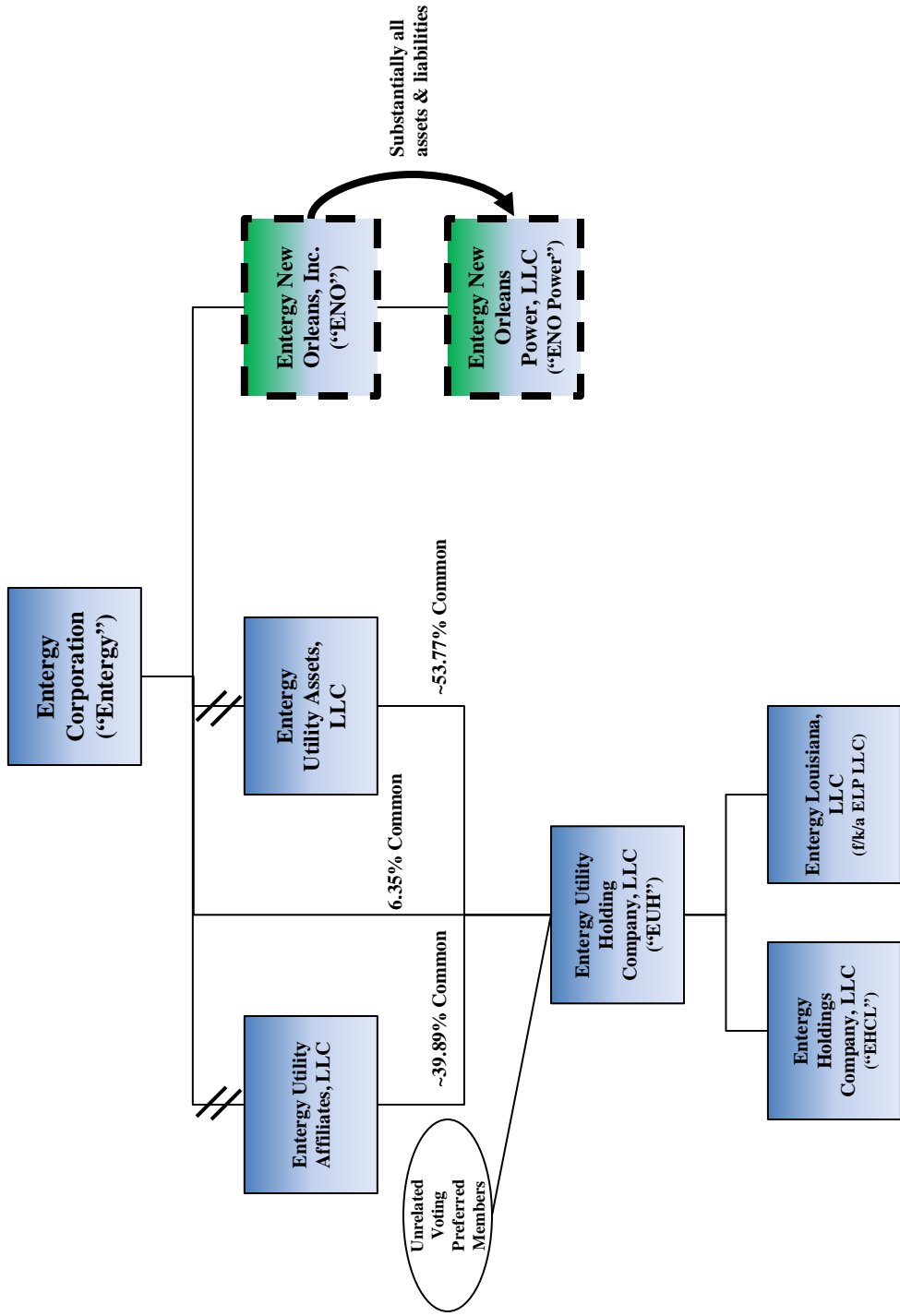
Step 1: ENO redeems any outstanding preferred stock.



Step 2: Entergy may contribute certain assets to ENO.

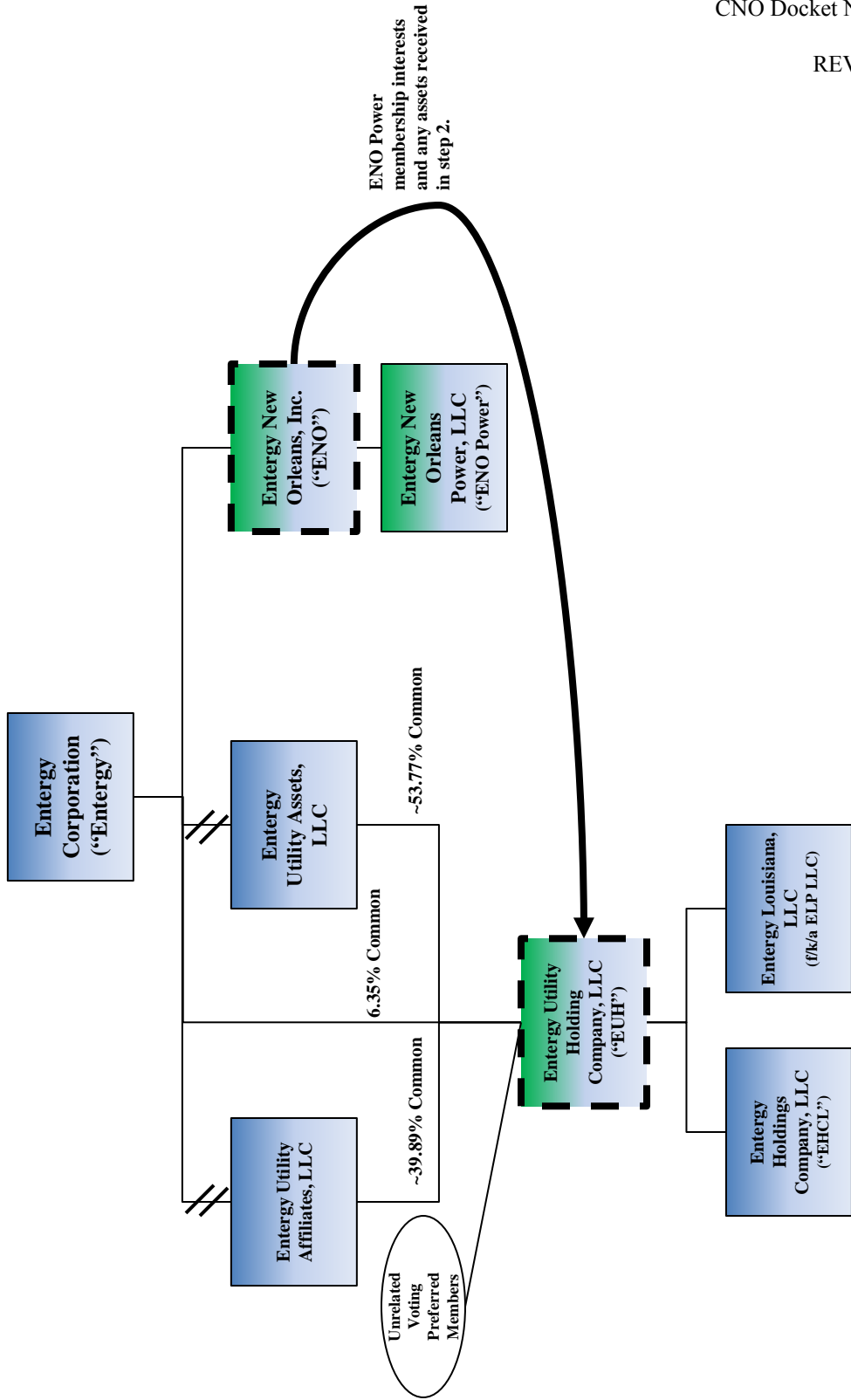


Step 3: ENO converts to a Texas corporation and, using the merger provisions of the Texas Business Organizations Code (sometimes referred to as the Texas merger-by-division statute), transfers substantially all of its assets and liabilities (other than any assets received in Step 2) to a newly-formed, wholly-owned subsidiary, Entergy New Orleans Power, LLC (“ENO Power”).

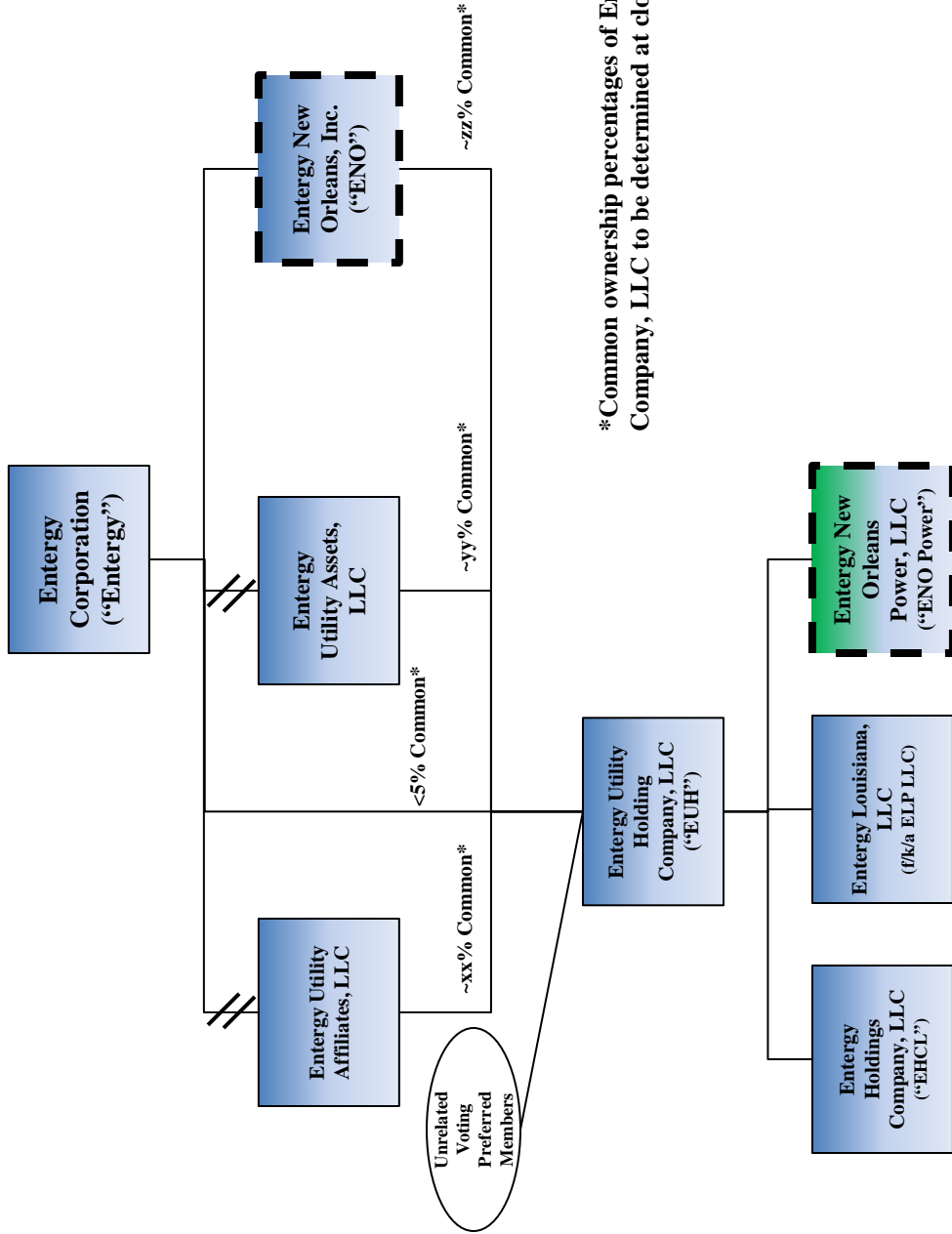




Step 4: ENO contributes its ENO Power membership interests and any assets received in Step 2 to Energy Utility Holding Company LLC (“EUH”) in exchange for common membership interests in EUH. EUH will simultaneously issue additional voting preferred membership interests.

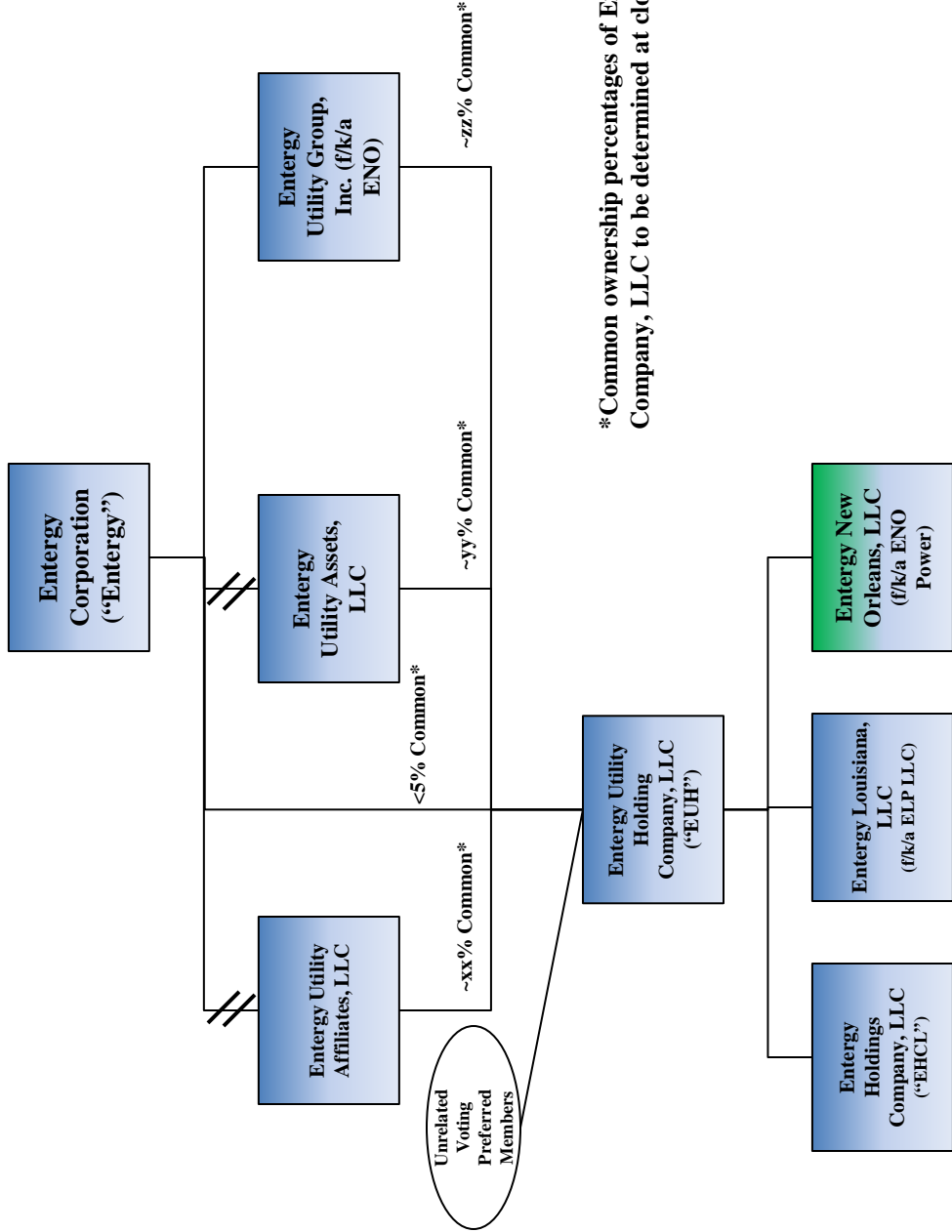


Step 5: ENO changes its name to Entergy Utility Group, Inc., and ENO Power changes its name to Entergy New Orleans, LLC.



\*Common ownership percentages of Entergy Utility Holding Company, LLC to be determined at closing time.

# FINAL STRUCTURE

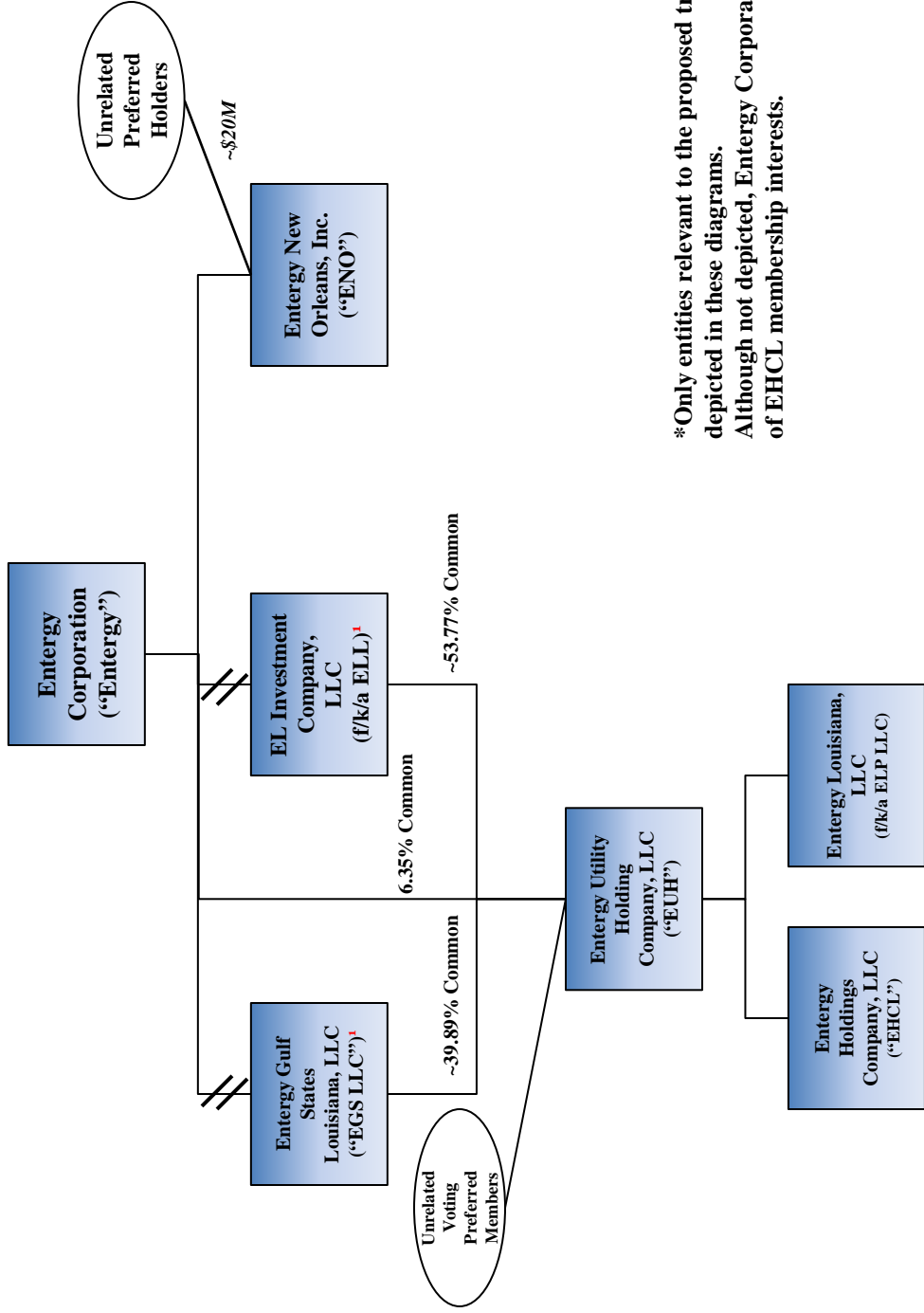


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# ENO – UTILITY HOLDCO Proposed Steps

July 2016

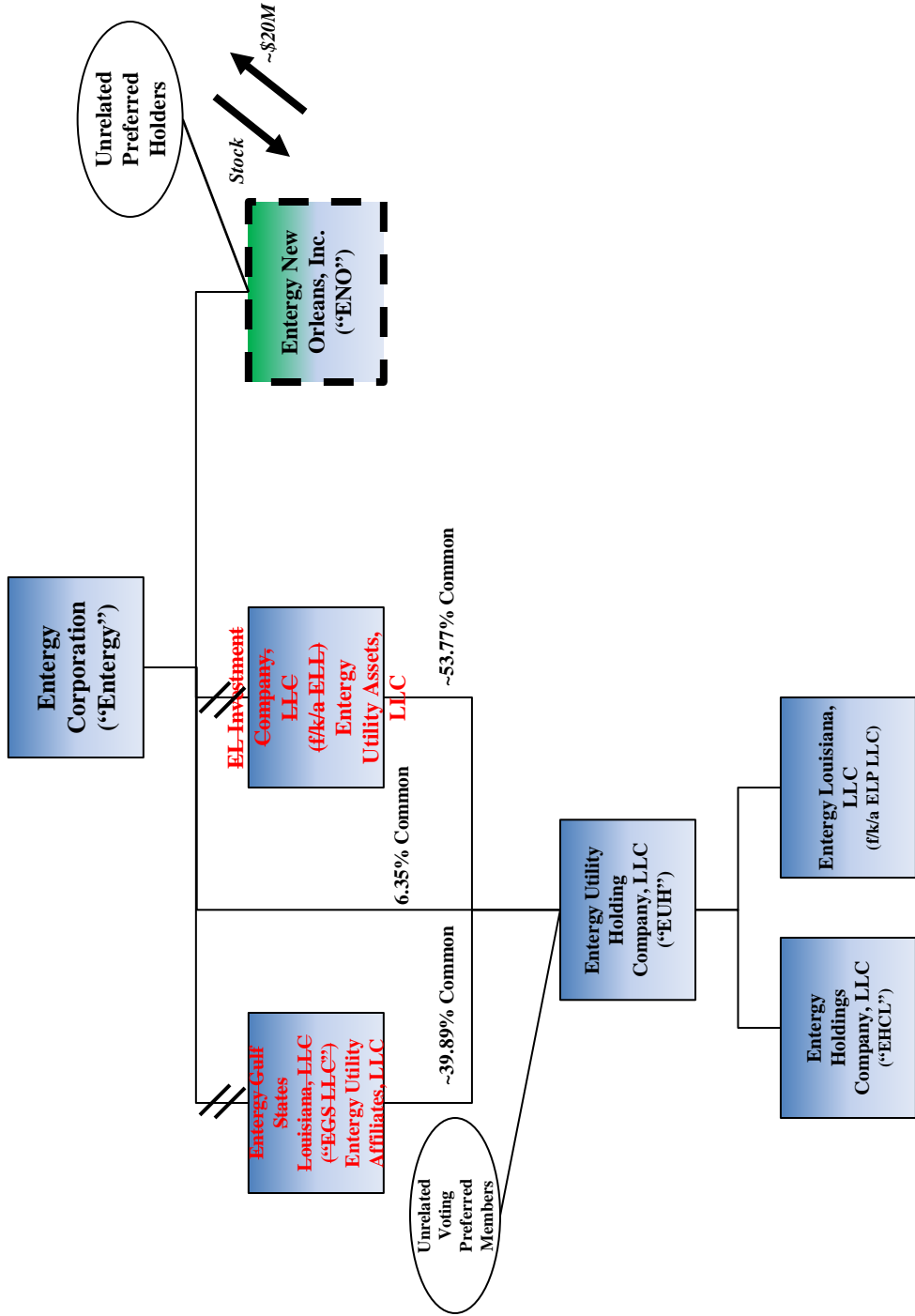
# INITIAL STRUCTURE\*



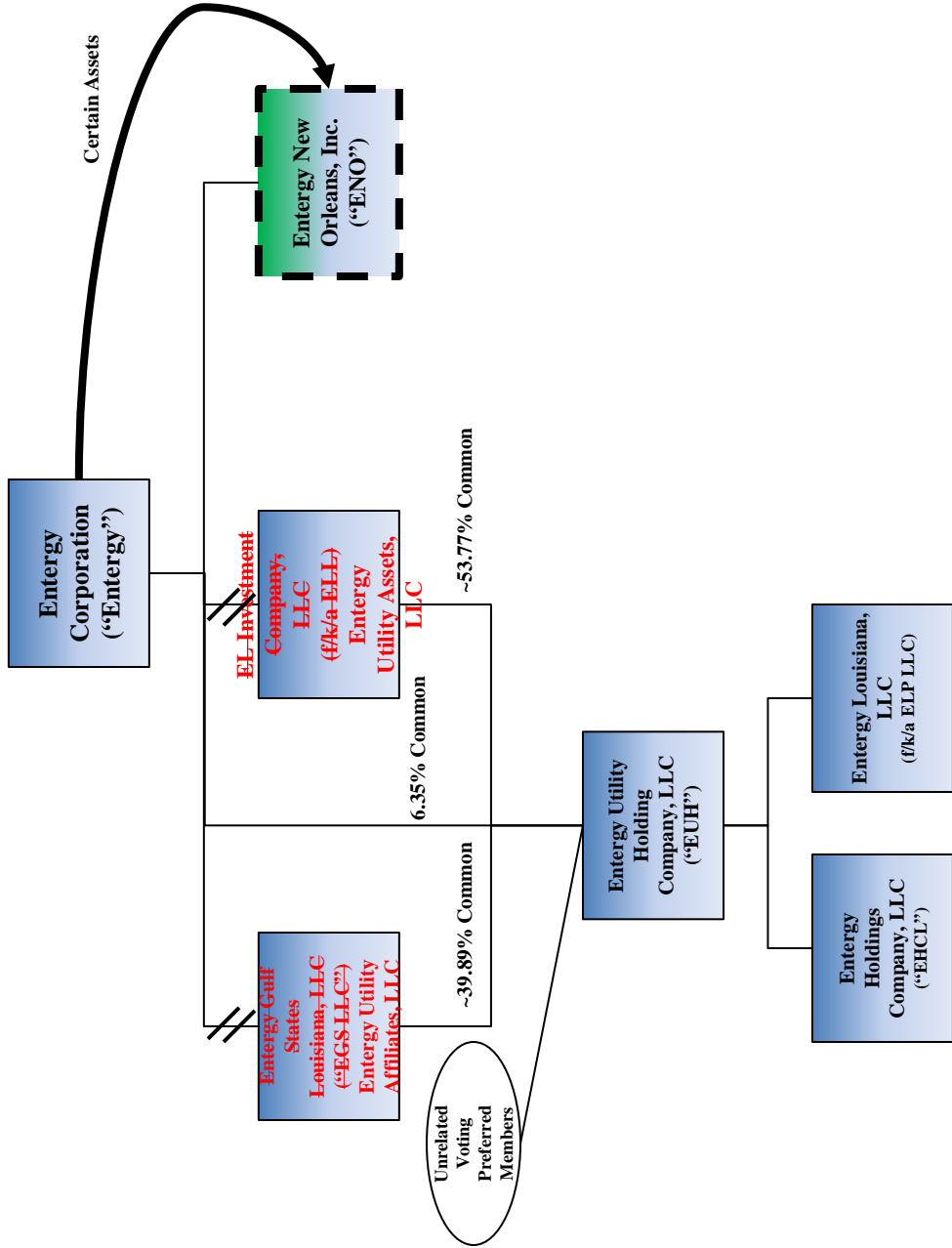
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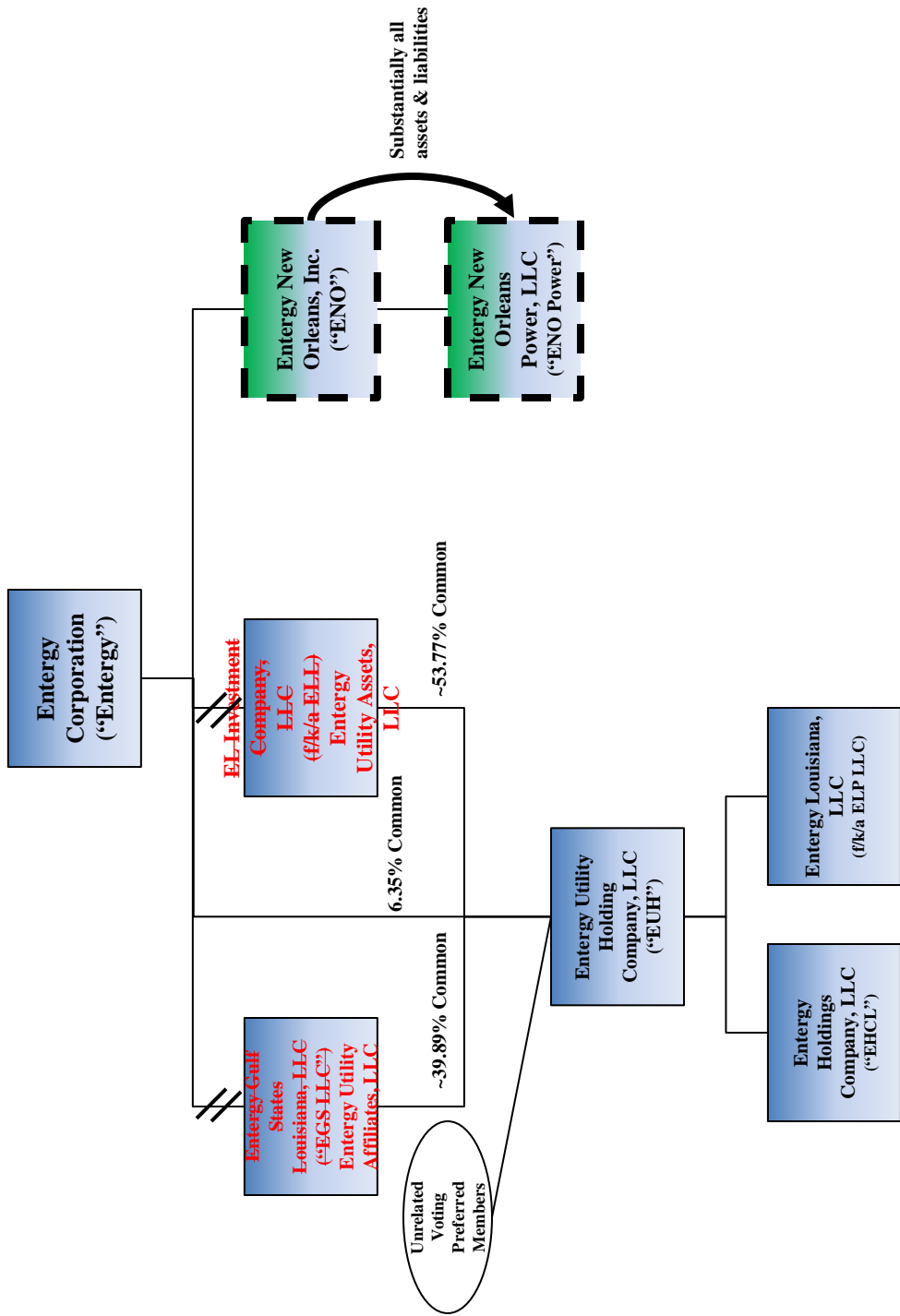
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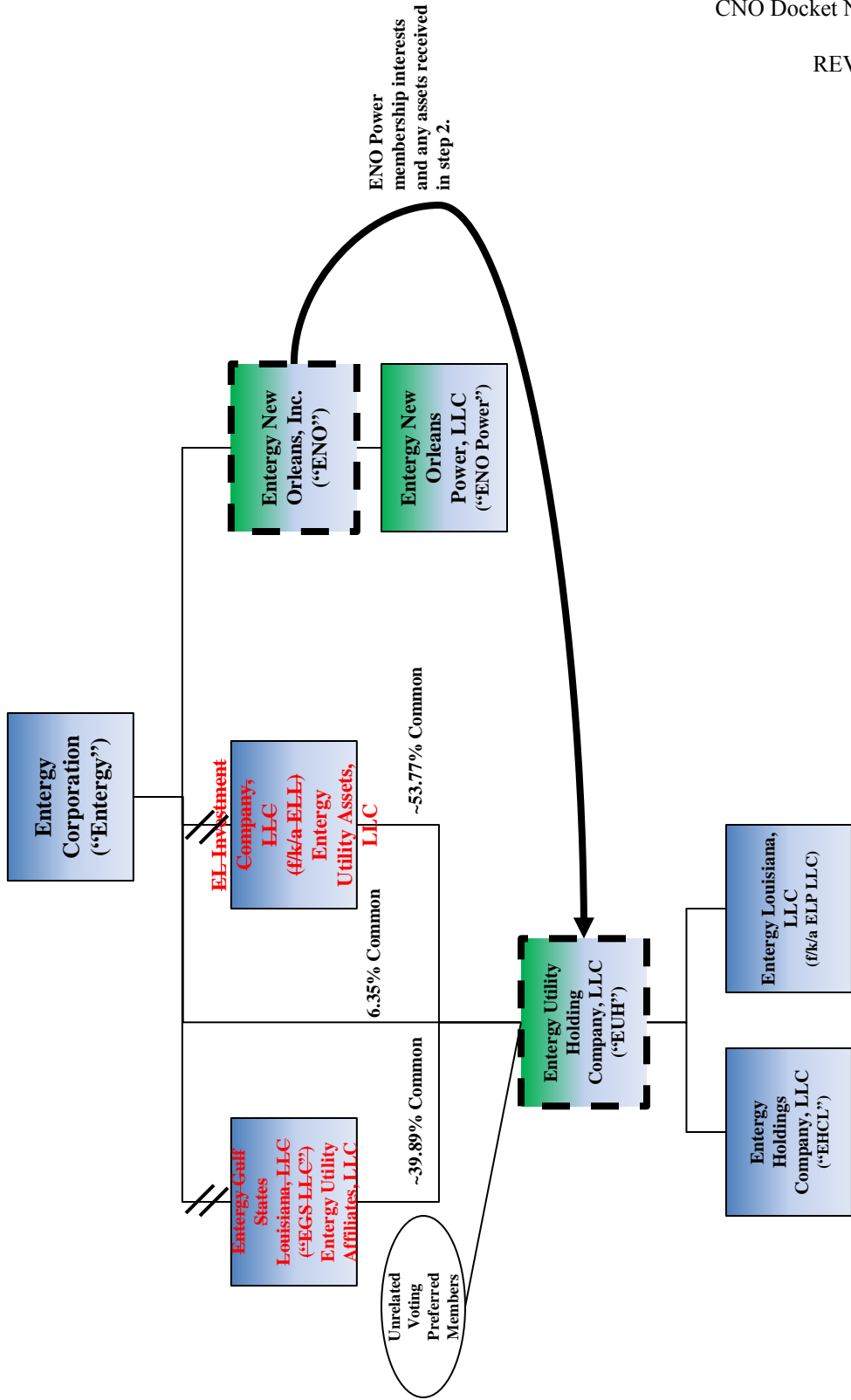


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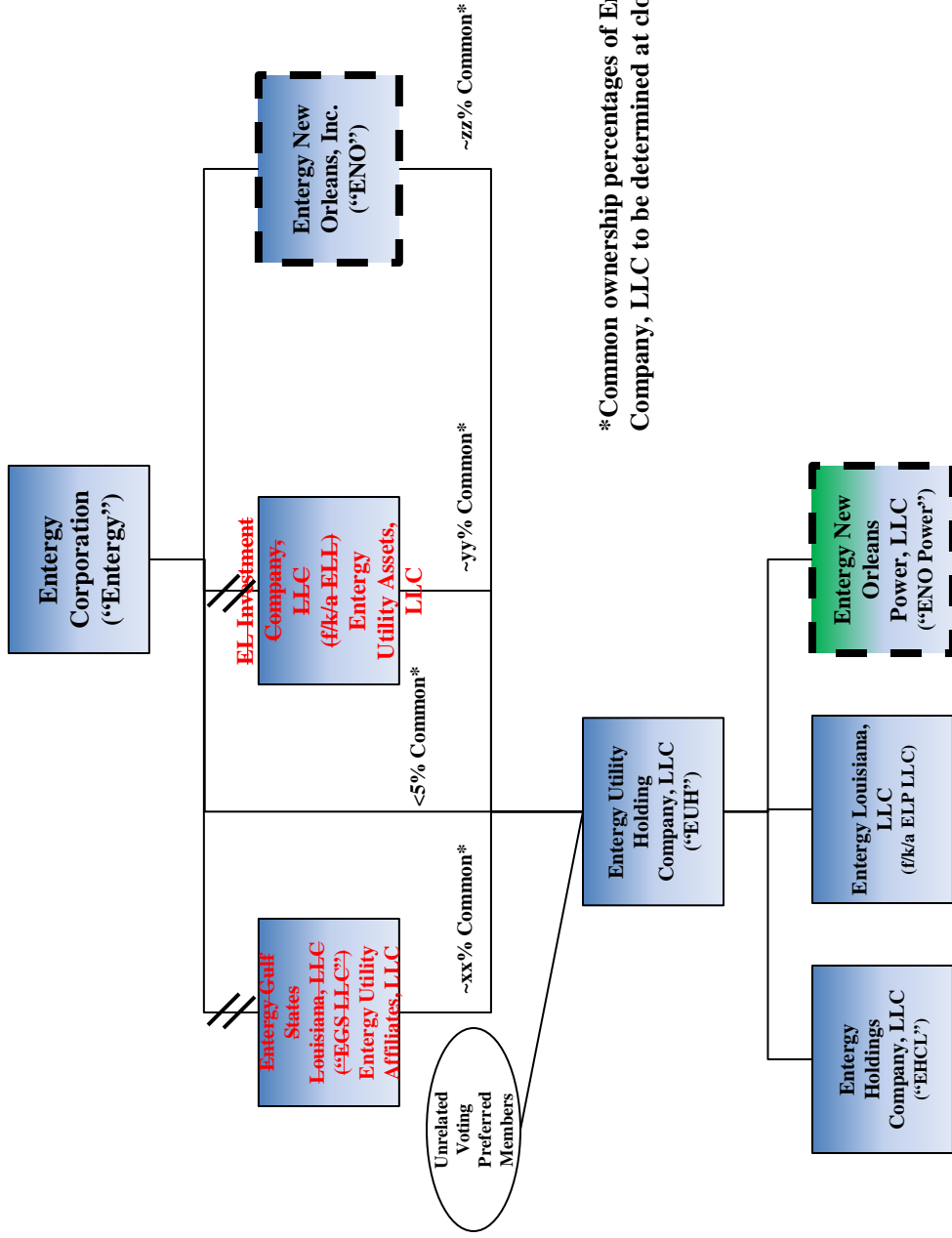




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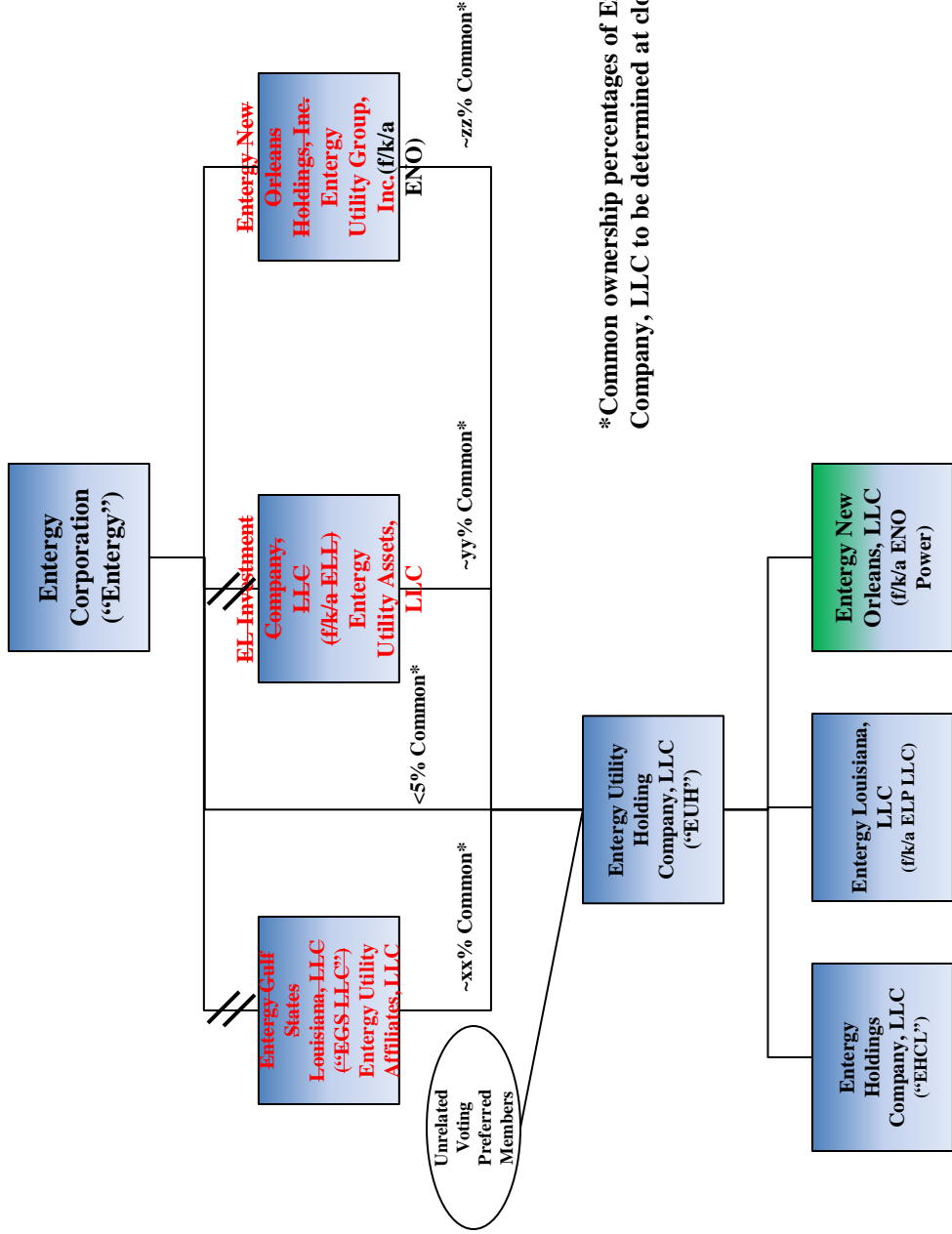


Step 5: ENO changes its name to **Energy Utility Group, Inc.** ~~Energy New Orleans Holdings, Inc.~~, and ENO Power changes its name to **Energy New Orleans, LLC**.



\* Common ownership percentages of Energy Utility Holding Company, LLC to be determined at closing time.

# FINAL STRUCTURE



\* Common ownership percentages of Energy Utility Holding Company, LLC to be determined at closing time.

Detailed Description of the Restructuring

Below is a step-by-step list illustrating the material events related to the Restructuring. The exact order and timing of any particular steps may vary from the description below:

**Step 1:** Entergy New Orleans, Inc., a Louisiana corporation (“**ENO**”), will redeem its outstanding preferred stock.

**Step 2:** Entergy Corporation, a Delaware corporation, may contribute certain assets to ENO.

**Step 3:** ENO will convert to a Texas corporation. Pursuant to the merger provisions of the Texas Business Organizations Code (“**TXBOC**”) (sometimes referred to as the Texas merger-by-division statute), ENO will then transfer substantially all of its assets (other than any assets received in Step 2 above) and liabilities to a newly-formed subsidiary, Entergy New Orleans Power, LLC, a Texas limited liability company (“**ENO Power**”). Under the TXBOC, each of ENO and ENO Power will survive the merger, except that the specified assets and liabilities will be allocated from ENO to ENO Power upon consummation of the merger.

**Step 4:** ENO will contribute its membership interests in ENO Power and any assets received in Step 2 above to Entergy Utility Holding Company LLC, a Texas limited liability company (“**EUH**”), in exchange for common membership interests in EUH. EUH will simultaneously issue additional voting preferred membership interests. As a result of the contribution, ENO Power will be a wholly-owned subsidiary of EUH.

**Step 5:** ENO will change its name to Entergy Utility Group, Inc. ENO Power will then change its name to Entergy New Orleans, LLC.

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