



Entergy Services, Inc.
639 Loyola Avenue (70113)
P.O. Box 61000
New Orleans, LA 70161-1000
Tel 504 576 2984
Fax 504 576 5579

Harry M. Barton
Senior Counsel
Legal Services – Regulatory
hbarton@entergy.com

September 5, 2017

By Hand Delivery

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

Re: In Re: Resolution Directing Entergy New Orleans, Inc. to Investigate and Remediate Electric Service Disruptions and Complaints and to Establish Minimum Electric Reliability Performance Standards and Financial Penalty Mechanisms – CNO Docket No. UD-17-04

Dear Ms. Johnson:

Entergy New Orleans, Inc. (“ENO”) hereby submits for your further handling and filing an original and three copies of ENO’s Objection to the Requested Intervention by The Louisiana Resiliency Project in the above reference Docket. Please file an original and two copies into the record in the above referenced matter, and return a date-stamped copy to our courier.

Should you have any questions regarding the above matter, please don’t hesitate to contact me. Thank you for your assistance with this matter.

Sincerely,


Harry M. Barton

HMB\bkd

Enclosures

cc: Official Service List (*via electronic mail*)

RECEIVED
SEP 05 2017

BY: 

SEP 5 4

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

In Re: RESOLUTION DIRECTING)	
ENTERGY NEW ORLEANS, INC. TO)	
INVESTIGATE AND REMEDIATE)	
ELECTRIC SERVICE DISRUPTIONS)	
AND COMPLAINTS AND TO)	DOCKET NO. UD-17-04
ESTABLISH MINIMUM ELECTRIC)	
RELIABILITY PERFORMANCE)	
STANDARDS AND FINANCIAL)	
PENALTY MECHANISMS)	

**ENTERGY NEW ORLEANS, INC.’S OBJECTION TO THE REQUESTED
INTERVENTION BY THE LOUISIANA RESILIENCY PROJECT**

Entergy New Orleans, Inc. (“ENO”) submits this Objection to the Petition of Intervention (“Petition”) submitted by The Louisiana Resiliency Project (the “LRP”) to the Council of the City of New Orleans (the “Council”). The LRP filed its Petition with the Council on August 25, 2017. Although the LRP’s attorney, and apparently sole officer, Mr. Thomas W. Milliner, certified to the Council that the Petition was served on the Parties to this proceeding on August 25, 2017, ENO did not receive service via email until August 27, 2017.¹ The LRP has failed to establish a justiciable or administratively cognizable interest in this proceeding.

The LRP was registered with the Louisiana Secretary of State’s office as a Non-Profit Corporation, domiciled in Jefferson Parish Louisiana, on August 25, 2017 – the same day on which Mr. Milliner filed the Petition on the LRP’s behalf.² The sole allegation contained in the Petition seeking to establish the LRP’s interest in this proceeding in Orleans Parish claims that the LRP “has members served by [ENO].” Although, as described below, ENO attempted to obtain information verifying the LRP’s interest in this proceeding, the LRP has not provided

¹ See attached Exhibit A. ENO has yet to receive service of any copy of the Petition via U.S. Mail, facsimile or hand delivery.

² See attached Exhibit B.

such information. Through this Objection, ENO respectfully requests that the Hearing Officer in this Docket, the Honorable Judge Jeffrey S. Gulin, require the LRP to demonstrate its justiciable interest in this Docket, or deny the LRP's Petition.

I. The LRP Has Failed to Demonstrate an Interest in this Proceeding.

Section 158-287 of Chapter 158 of the City of New Orleans' Code of Ordinances allows interventions from parties with a "justiciable or administratively cognizable interest in the proceeding." The circumstances surrounding the LRP's formation and the contents of its Petition cast serious doubt on the validity of any such interest on the LRP's part.

As noted above, the LRP was registered with the State of Louisiana as a Non-Profit Corporation on the same day it filed the Petition. The Louisiana Secretary of State's Corporations Database identifies Mr. Thomas W. Milliner, of 3636 S. I-10 Service Rd. W., Suite 206, Metairie, LA 70001, as the LRP's sole officer and registered agent. Mr. Milliner is also the LRP's attorney in this proceeding and has also frequently represented the Alliance for Affordable Energy in proceedings before the Council.

Based on the concerns raised by these facts, ENO sought to obtain more information to allow ENO to assess the LRP's standing to intervene in this proceeding. The sole allegation that tends to establish the LRP's interest in this proceeding is contained in paragraph 2 of the Petition and states that the LRP "has members served by Entergy New Orleans, Inc."³ Through correspondence of August 30, 2017,⁴ ENO sought a list of these members and the dates on which they became members of the LRP. No such information was provided. ENO also sought information that would verify the LRP's existence as an entity formed for any purpose other than intervening in this Docket. Specifically, ENO sought a copy of the Certificate of Incorporation

³ The LRP's Petition also generally alleges that it represents the resiliency interests of "Louisiana residents." See Petition at ¶ 3. However, this allegation, if true, does not establish any interest specific to proceedings in Orleans Parish.

⁴ See attached Exhibit C.

evidencing the LRP's existence, a copy of the LRP's Articles of Incorporation, a copy of the LRP's Bylaws, and a list of the LRP's Board of Directors (other than Mr. Milliner). No such information was provided.

If the LRP truly has a valid interest in these proceedings, providing ENO with the requested information should have been a simple task. The fact that the LRP was unwilling, or unable, to provide the requested information calls the LRP's standing to intervene in these proceedings into doubt. As such, the LRP should be required to provide evidence of its interest in this Docket, or be declined permission to intervene.

II. The LRP may not be a Validly Created Louisiana Non-Profit Corporation.

Chapter 2 of Title 12 of the Louisiana Revised Statutes contains the laws governing the creation and governance of Non-Profit Corporations. The LRP's Petition, when viewed in conjunction with the publicly available information about the LRP, leaves doubts as to whether the LRP is in compliance with certain of these laws.

La. R.S. § 12:224(B) requires that "the affairs of the corporation shall be managed by a board of directors of not less than three natural persons, except that if there are fewer than three members, there need be only as many directors as there are members." The Secretary of State's Corporations Database only identifies one officer or director of the LRP, Mr. Milliner. Based on the above statute, having only one director would be permissible if the LRP only had one member, presumably also Mr. Milliner.⁵ However, the LRP's Petition indicates it has multiple members, some of whom are served by ENO. As such, an ambiguity appears to exist concerning the LRP's compliance with La. R.S. § 12:224(B). Either the LRP only has one member and it

⁵ Note that La. R.S. § 12:201 (16) and (17) define membership in a Louisiana Non-Profit Corporation as follows: "(16) "Member" means each natural or artificial person admitted to membership in a corporation, and, unless the context indicates otherwise, includes shareholders. (17) "Membership" means an interest in a corporation entitling the holder thereof to participate in the control of the corporation or to a pro rata share of its net assets upon dissolution."

was formed in compliance with La. R.S. § 12:224, but has no standing in this proceeding, or, the LRP has multiple members, some of whom are served by ENO, but it may have been formed out of compliance with La. R.S. § 12:224.

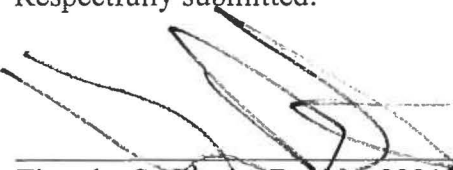
ENO afforded the LRP an opportunity to clarify this ambiguity by producing (i) a list of its members, (ii) copies of the members' stock or membership certificates, (iii) a list of the Board of Directors, and (iv) a copy of the LRP's Bylaws, if any exist. However, the LRP chose not to produce the information that could clarify its standing with the Louisiana Secretary of State and as an intervenor in this proceeding. As such, ENO was forced to file this Objection to require the LRP to produce the information that ENO initially requested on an informal basis.

III. Conclusion

Due to the issues identified herein, the LRP's standing to intervene in this proceeding has not been sufficiently established. ENO objects to the LRP's Petition for Intervention and requests that the Hearing Officer in this Docket, the Honorable Judge Jeffrey S. Gulin, either require the LRP to produce evidence demonstrating the validity of its interest in the proceedings, or deny the LRP's Petition.

Respectfully submitted:

BY:



Timothy S. Cragin, Bar No. 22313
Brian L. Gullot, Bar No. 31759
Alyssa Maurice-Anderson, Bar No. 28388
Harry Barton, Bar No. 29751
639 Loyola Avenue, Mail Unit L-ENT-26 E
New Orleans, Louisiana 70113
Telephone: (504) 576-2984
Facsimile: (504) 576-5579

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

Barton, Harry M

From: Tommy Milliner <tommymilliner@fastmail.net>
Sent: Sunday, August 27, 2017 1:00 PM
To: Lora W. Johnson; phthomas@nola.gov; Tom Stratton; Rebecca H. Dietz; Norman S. Foster; Vince, Clinton A.; Presley R. Reed; Emma F. Hand; Basile J. Uddo; Beatmann, Jay (jay.beatmann@dentons.com); Jeff Wilkerson; Kelley R. Bazile (kbazile@wilkersonplc.com); Joseph Vumbaco; Joseph W. Rogers (jrogers@ergconsulting.com); Victor M. Prep (vprep@ergconsulting.com); Byron S. Watson (bwatson@ergconsulting.com); Errol Smith; HUNTLEY, GARY E; Cureington, Seth; LICHTENBERG, KATHRYN J; tcraigin@entergy.com; Guillot, Brian; MAURICE-ANDERSON, ALYSSA; Barton, Harry M; Romano III, Joseph J; Fontan, Suzanne M; Burleigh, Danielle; Perrault, Therese; regulatory@all4energy.org; Forest Bradley-Wright; logan@all4energy.org
Subject: Docket 17-04_Petition of Intervention_The Louisiana Resiliency Project
Attachments: 2017_08.25_TLRP_Petition of Intervention.pdf

EXTERNAL SENDER. DO NOT click links, or open attachments, if sender is unknown, or the message seems suspicious in any way. DO NOT provide your user ID or password.

Attached is the Petition of Intervention filed by the Louisiana Resiliency Project in the above referenced docket.

--
Thomas W. Milliner
Anzelmo, Milliner & Burke LLC
3636 S. I-10 Service Road W.
Suite 206
Metairie, Louisiana 70001
(504) 835-9951 (Voice)
(504) 835-9984 (Fax)

(https://www.sos.la.gov/Pages/default.aspx)
(https://www.sos.la.gov/Pages/default.aspx)



Louisiana
**SECRETARY
OF STATE**
TOM SCHEDLER

Search for Louisiana Business Filings

(https://www.sos.la.gov/Pages/default.aspx)

[Buy Certificates and Certified Copies](#) | [Subscribe to Electronic Notification](#) | [Print Detailed Record](#)

Name	Type	City	Status
THE LOUISIANA RESILIENCY PROJECT	Non-Profit Corporation	METAIRIE	Active

Previous Names

Business: THE LOUISIANA RESILIENCY PROJECT
Charter Number: 42781172N
Registration Date: 8/25/2017

Domicile Address

3636 S I 10 SERV RD W
SUITE 206
METAIRIE, LA 700016418

Mailing Address

3636 S I 10 SERV RD W
SUITE 206
METAIRIE, LA 700016418

Status

Status: Active
Annual Report Status: In Good Standing
File Date: 8/25/2017
Last Report Filed: N/A
Type: Non-Profit Corporation

Registered Agent(s)

Agent: THOMAS MILLINER
Address 1: 3636 S. I-10 SERV. RD W
Address 2: SUITE 206
City, State, Zip: METAIRIE, LA 700016418
Appointment Date: 8/25/2017

Officer(s)

Additional Officers: No

Officer: THOMAS MILLINER
Title: President
Address 1: 3636 S. I-10 SERV RD W
Address 2: SUITE 206
City, State, Zip: METAIRIE, LA 700016418

Amendments on File

No Amendments on file

[Back to Search Results](#) | [New Search](#) | [View Shopping Cart](#)

GET HELP



August 30, 2017

Via Electronic Mail

Mr. Thomas W. Milliner
Anzelmo, Milliner & Burke, LLC
3636 S. I-10 Service Rd., Suite 206
Metairie, LA 70001

Re: In Re: Resolution Directing Entergy New Orleans, Inc. to Investigate and Remediate Electric Service Disruptions and Complaints and to Establish Minimum Electric Reliability Performance Standards and Financial Penalty Mechanisms – CNO Docket No. UD-17-04

Dear Mr. Milliner:

I am writing concerning the Louisiana Resiliency Project's ("LRP") Petition of Intervention and Inclusion on Service List (the "Petition") that you served on Entergy New Orleans, Inc. ("ENO") and other parties to Docket UD-17-04 on Sunday, August 27, 2017. Specifically, I am requesting that you provide information necessary for ENO to assess whether it will make a formal objection to the LRP's Petition.

Section 158-287 of Chapter 158 of the City Code of Ordinances provides that appearances of any party "shall be subject to a motion to strike upon a showing that the party has no justiciable or administratively cognizable interest in the proceeding." Based on the Petition, ENO is unable to discern whether LRP actually possesses such an interest in the above captioned Docket. As shown in the attached search results from the Louisiana Secretary of State's Corporations Database, it appears that you registered the LRP with the Louisiana Secretary of State on the same day you filed the Petition on LRP's behalf. You also are listed as the only Officer of and the Registered Agent for LRP. LRP also appears to be domiciled in Jefferson Parish, not Orleans Parish.

In order to fully assess the LRP's standing as an intervenor in this Docket, and the veracity of your representation to the Council for the City of New Orleans that the LRP "has members served by Entergy New Orleans, Inc.," ENO will need additional information. Please provide (i) a full list of the LRP members¹ who are served by ENO, (ii) the dates on which any

¹ Note that La. R.S. § 12:201 (16) and (17) define membership in a Louisiana Non-Profit Corporation as follows: "(16) "Member" means each natural or artificial person admitted to membership in a corporation, and, unless the context indicates otherwise, includes shareholders. (17) "Membership" means an interest in a corporation entitling

such individuals became members of the LRP, (iii) copies of stock or membership certificates issued to the LRP's members that are served by ENO,² (iv) a list of the LRP's Board of Directors,³ (v) the LRP's Articles of Incorporation and, if applicable, Bylaws, and (vi) a copy of the Certificate of Incorporation issued by the Louisiana Secretary of State evidencing the LRP's existence.⁴ Please also feel free to provide any additional documents that you believe provide evidence of the LRP's interest in the above-captioned Docket.

As you may know, Council Resolution R-17-407 requires objections to interventions be made within seven days. Since ENO received the LRP's Petition on Sunday August, 27, 2017, and due to Monday September 4, 2017 being a legal holiday, ENO's possible objection would be due on Tuesday September 5, 2017. As such, I ask that you provide the requested information no later than 5 p.m. on Friday September 1, 2017.

Thank you in advance for your prompt attention to this matter.

Sincerely,



Harry M. Barton

HMB/bkd

cc: Tim Cragin

the holder thereof to participate in the control of the corporation or to a pro rata share of its net assets upon dissolution.”

² See La. R.S. § 12:210.

³ See La. R.S. § 12:224(B) (“Subject to any limitations, restrictions, or reservations in the articles, the bylaws, or this Chapter, the affairs of the corporation shall be managed by a board of directors of not less than three natural persons, except that if there are fewer than three members, there need be only as many directors as there are members.”)

⁴ See La. R.S. § 12:205.

CERTIFICATE OF SERVICE

Docket No. UD-17-04

I hereby certify that I have served the required number of copies of the foregoing report upon all other known parties of this proceeding, by the following: electronic mail, facsimile, overnight mail, hand delivery, and/or United States Postal Service, postage prepaid.

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

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

David Gavlinski
Interim Council Chief of Staff
New Orleans City Council
City Hall, Room 1E06
1300 Perdido Street
New Orleans, LA 70112

Rebecca Dietz
Bobbie Mason
City Attorney Office
City Hall, Room 5th Floor
1300 Perdido Street
New Orleans, LA 70112

Beverly Garipey
Department of Finance
City Hall, Room 3E06
1300 Perdido Street
New Orleans, LA 70112

Hon. Jeffery S. Gulin
3203 Bridle Ridge Lane
Lutherville, GA 21093

Clinton A. Vince, Esq.
Presley R. Reed, Jr., Esq.
Emma F. Hand, Esq.
Dentons US LLP
1900 K Street, NW
Washington, DC 20006

Basile J. Uddo, Esq.
J.A. "Jay" Beatmann, Jr.
c/o Dentons US LLP
The Poydras Center
650 Poydras Street, Suite 2850
New Orleans, LA 70130-6132

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.
Victor M. Prep
Joseph W. Rogers
Cortney Crouch
Legend Consulting Group
8055 East Tufts Avenue
Suite 1250
Denver, CO 80237-2835

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

Timothy S. Cragin, Esq.
Harry M. Barton, Esq.
Entergy Services, Inc.
Mail Unit L-ENT-26E
639 Loyola Avenue
New Orleans, LA 70113


Logan Atkinson Burke
Forest Wright
Sophie Zaken
Alliance for Affordable Energy
4035 Washington Avenue
New Orleans, LA 70125

Gary E. Huntley
Entergy New Orleans, Inc.
Mail Unit L-MAG-505B
1600 Perdido Street
New Orleans, LA 70112

Seth Cureington
Polly S. Rosemond
Derek Mills
Entergy New Orleans, Inc.
Mail Unit L-MAG-505B
1600 Perdido Street
New Orleans, LA 70112

Joseph J. Romano, III
Suzanne Fontan
Therese Perrault
Danielle Burleigh
Entergy Services, Inc.
Mail Unit L-ENT-4C
639 Loyola Avenue
New Orleans, LA 70113

New Orleans, Louisiana, this 5th day of September 2017.



Harry M. Barton