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March 6, 2018

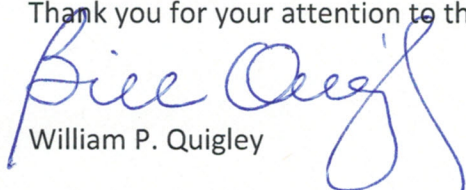
TO: Laura W. Johnson, Clerk of City Council, 1300 Perdido Street, New Orleans, LA

Re: Violation of Louisiana Open Meetings Law, LSA, R.S. 42:11 and the following, by City Council Utility Committee February 21, 2018 – Application of Entergy New Orleans for Approval to Construct New Orleans Power Station, Docket UD-16-02.

Attached please find a letter dated March 6, 2018 indicating pending litigation because of violations of the Louisiana Open Meetings Law at the meeting referenced above.

Copies of these documents are being served on all parties by electronic mail and or US First Class mail.

Thank you for your attention to this matter.

  
William P. Quigley



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March 6, 2018

TO: Members of the New Orleans City Council:

Council Member and Mayor Elect Latoya Cantrell [lcantrell@nola.gov](mailto:lcantrell@nola.gov)  
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Re: Violation of Louisiana Open Meetings Law, LSA, R.S. 42:11 and the following, by City Council Utility Committee February 21, 2018 – Application of Entergy New Orleans for Approval to Construct New Orleans Power Station, Docket UD-16-02.

Dear City Council Members:



Please be advised that numerous people and organizations have complained of violations of the Louisiana Open Meetings Law by the New Orleans City Council Utility Committee in its meeting on February 21, 2018.

Because of those complaints, we are collecting affidavits in preparation for litigation to void the results of that meeting due to violations of the Open Meeting Law. We bring this to your attention in case you would rather do the meeting over and do it legally, saving the City and everyone involved the time and trouble and uncertainty of litigation over the process.

Under the Open Meetings Law, "It is essential to the maintenance of a democratic society that public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy. Toward this end, the provisions of this Chapter shall be construed liberally." R.S. 42:12.

On February 21, 2018, the Utility, Telecommunications and Technology Committee ("UTTC") of the New Orleans City Council held a public meeting to consider a resolution and order regarding the Application of Entergy New Orleans, Inc. for Approval to Construe New Orleans Power Station and Request for Cost Recovery and Timely Relief, Docket UD-16-02.

The manner in which the UTTC conducted this meeting violated the Louisiana Open Meetings Act. ("OMA"), thus violating the rights of 350-New Orleans as well as other citizens of New Orleans. Therefore, the actions taken by the UTTC on February 21, 2018 are voidable by the court and the City Council must require the UTTC to consider the Entergy Application at a properly conducted open meeting.

Pursuant to the Louisiana Constitution, "No person shall be denied the right to observe the deliberations of public bodies . . . except in cases established by law." La. Const. art. XII, § 3. To effectuate this provision, the Louisiana Legislature adopted the OMA. The purpose of the OMA is to allow the public to observe and evaluate public officials, public conduct and public institutions. *Courville v. La. Recreational and Used Motor Vehicle Commission*, 21 So.3d 340 (2009). A public body means city governing authorities, including any committee or subcommittee of that authority. LA RS 42:13 (A) (2). A meeting is covered where a quorum of a public body convenes "to deliberate or act on a matter which the public body as an entity has supervision, control, jurisdiction, or advisory power." LA RS 42:13 (A) (1). Unquestionably, the OPA applies to the UTTC Committee Meeting held on February 21, 2018.

On February 21, 2018, the UTTC held its monthly meeting at the Pan American Conference Center Auditorium. At the start of the meeting, the doors to the auditorium were closed. Approximately 50-60 community members who arrived at 9:30 to attend the meeting were prevented from entering the auditorium by security.

Consider the experience of just one person, Renate Heurich, who, as a cofounder of 350-New Orleans, was a representative of a party to UD-16-02. Ms. Heurich was one of the many New



Orleans residents who were denied their right to observe the UTTC meeting. After waiting for about 90 minutes, a limited number of people were allowed access. However, even as more people left the auditorium, no one else was allowed to enter.

At approximately 12:30, 2 1/2 hours after the meeting began, people were still waiting outside the auditorium. After someone exited, Ms. Heurich entered the room and observed at least 20 empty seats. Security approached Ms. Heurich and informed her that she was not allowed in. However, Ms. Heurich proceeded down the steps, pointing to the many empty seats. Subsequently, security motioned a second security guard to escort Ms. Heurich out of the auditorium. Ms. Heurich informed security that she intended to sit in one of the numerous empty seats, but security insisted that she leave the room. Ms. Heurich complied with this directive.

Clearly, Ms. Heurich's, and the other 50 or more citizens of New Orleans, right to observe the UTTC meeting was violated. Pursuant to the OMA, actions taken in violation of the OMA are void. As such, the UTTC vote on the resolution and order is void. Thus, the City Council must decline to consider the resolution and order.

The following specific violations of the Open Meetings Law are brought to your attention.

First, the Notice of the Agenda of the Meeting was changed within 24 hours of the meeting, a violation of RS. 42:19 A(1)(b)(ii)(aa).

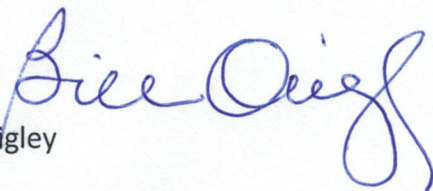
Second, many members of the public, including individuals who were official parties to the proceedings, and community organizations with deep stakes in the outcome, were not allowed into the meeting for hours, even when seats were available, in violation of RS 42:14 A.

Third, members of the public who waited outside the meeting room for hours with no expectation of being admitted to the meeting ultimately left. Conducting the meeting in this manner rendered the public's right to comment illusory, in violation of RS 42:14 D.

As a result, the action taken at the meeting of February 21, 2018 can be judicially declared void in accordance with RS. 42:24. Other remedies including penalties and attorney fees can be awarded.

Best,

/s Bill Quigley



William P. Quigley

Jill Tauber

Susan Stevens Miller

Cc:

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