



June 10, 2019

By Hand Delivery

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

**In Re: RESOLUTION AND ORDER ESTABLISHING A DOCKET AND OPENING A
RULEMAKING PROCEEDING TO CONSIDER THE PROCESS FOR HOW ANY
FUTURE REQUESTS FOR PROPOSALS FOR GENERATING RESOURCES OR
PURCHASE POWER AGREEMENTS ISSUED BY ENTERGY NEW ORLEANS,
LLC SHALL BE CONDUCTED
Docket No. UD-18-05**

Dear Ms. Johnson:

Please find enclosed an original and three (3) copies of the Alliance for Affordable Energy's Reply Comments on the draft Rules Applicable to Future Requests for Proposals Issued by Entergy New Orleans, LLC for Generation Resources or Purchase Power Agreement in the above mentioned docket. Please file the attached communication and this letter in the record of the proceeding and return one timestamped copy to our courier, in accordance with normal procedures. If you have any questions, please do not hesitate to contact me.

Thank you for your time and attention.

Sincerely,

Logan Burke
Executive Director
Alliance for Affordable Energy

REC'D
JUN 10 2019
BY:

JUN 21 2019

**Before the
Council of the City of New Orleans**

**RESOLUTION AND ORDER
ESTABLISHING A DOCKET AND
OPENING A RULEMAKING
PROCEEDING TO CONSIDER THE
PROCESS FOR HOW ANY FUTURE
REQUESTS FOR PROPOSALS FOR
GENERATING RESOURCES OR
PURCHASE POWER AGREEMENTS
ISSUED BY ENTERGY NEW ORLEANS,
LLC SHALL BE CONDUCTED**

Docket UD-18-05

**Alliance for Affordable Energy’s Reply Comments on Proposed rules for Requests for
Proposals for Generation Resources or Purchase Power Agreements**

The Alliance for Affordable Energy, (“the Alliance”) respectfully submits these comments and edits into this rulemaking docket considering future acquisition of energy resources to serve the customers of Entergy New Orleans, LLC (“ENO”). The Alliance believes the Advisors’ draft rules, with a few modifications, present an appropriate path forward to ensure New Orleans receives a cost-effective power supply.

Of greatest concern to the Alliance is the use of the word “generating.” As new resources that provide services and energy to customers become a greater part of a modern energy system, the word “generating” in this rule may limit proposals from resources that could cost-effectively solve a required need. For example, energy storage systems do not “generate” energy on their

own, but allow generated energy to be stored until needed. Increasingly, all-source solicitations¹²³are met with renewables paired with energy storage. In addition, if the request is for a solution that could be met with energy storage or a demand reduction alone, this RFP would preclude those resources from responding to the RFP. If this rule seeks to truly provide for “all source” solicitations, no sources should be disqualified simply by the inclusion of the word “generating” in this rule. Therefore, the Alliance recommends a change to the language to reflect a broader opportunity for all cost-effective resources.

In addition to the expansion of potential resources, further transparency to the public is warranted. In section III,D,3, pertaining to reports by the Independent Monitor, the Alliance recommends new language to ensure the public is made aware of reporting.

The changes described here are noted in the attached redline. The Alliance looks forward to the future of energy in New Orleans following the adoption of this set of rules.

¹ Xcel Energy (December 28, 2017). 2016 Electric Resource Plan, 2017 All Source Solicitation 30-Day Report (Public Version) CPUC Proceeding No. 16A-0396E.
[<https://assets.documentcloud.org/documents/4340162/Xcel-Solicitation-Report.pdf>]

² El Paso Electric (December 26, 2018) 2017 All Source Request for Proposals for Electric Power Supply and Load Management Resources
[<https://ir.epelectric.com/news/news-details/2018/El-Paso-Electric-Announces-Results-of-Competitive-Bid-for-New-Generation/default.aspx>]

³ NV Energy (January 2018) 2018 Renewable Energy Request for Proposals
[<https://www.nvenergy.com/about-nvenergy/doing-business-with-us/energy-supply-rfps/2018-renewable-energy-rfp>]

**RULES APPLICABLE TO FUTURE REQUESTS FOR PROPOSALS ISSUED BY
ENTERGY NEW ORLEANS, LLC FOR ENERGY GENERATION RESOURCES OR
PURCHASE POWER AGREEMENTS**

I. Scope of Rules

The rules provided herein shall govern the process for how any future Requests for Proposals (“RFP”) issued by Entergy New Orleans, LLC (“ENO” or “Company”) for **energy generating** resources or purchase power agreements (“PPA”), regardless of the technology sought, shall be conducted.

II. Purpose of Rules

The purpose of these rules is to increase transparency, efficiency, and public confidence in the manner in which ENO conducts RFPs for **energy generating** resources and purchase power agreements.

III. Pre-Draft RFP Process and Documents

A. Notice of Intent to Issue RFP

Upon determining that the acquisition of an additional **energy generating** resource(s) or purchase power agreement(s) is necessary for the Company to fulfill its obligation to provide reliable, safe electric and gas service to its customers at the lowest reasonable cost, ENO shall inform the New Orleans City Council (“Council”), its utility Advisors, and the Council’s Utilities Regulatory Office (“CURO”) in writing of its intent to

develop and issue an RFP for a new resource(s) or PPA(s). A public version of ENO's Notice of Intent to Issue an RFP ("NOI") shall be posted on the Company's website and CURO shall cause the NOI to be posted on the Council's website. ENO shall also circulate the public version of the NOI to the Official Service List in Council Docket No. UD-18-05.

B. Content of NOI

ENO's NOI shall include the following:

1. A clear and thorough explanation of the Company's stated resource needs and specific goals to be outlined in the draft RFP. The proposed scope of the RFP shall be clearly described and an explanation supporting the RFP's scope shall also be provided. This explanation shall include all specifically defined **energy generating** characteristics required (i.e. peak, baseload, geographic location, etc.) for resource proposals and should also specifically identify the interconnection and/or delivery points that would most benefit the transmission and distribution systems in terms of reliability. ENO shall also identify a reasonable range of capacity (in megawatts) that it intends to include as the range sought in the RFP.

The Company shall also explain whether the RFP will contain sufficient flexibility in the eligibility of resources to meet the capacity and energy need and whether the capacity and energy need could be met through one or more resources without pre-determined limitations on locations, fuel source, technologies, project structures or other constraints, in order to attract competitive options that allow the lowest reasonable cost resource(s) to be selected. If it is anticipated that the RFP will not contain sufficient flexibility to meet ENO's identified need, then the Company shall explain, in detail, why the RFP should be drafted more narrowly to attract resources that would meet ENO's need.

An all-source RFP should be utilized if there is a general need for additional capacity and there are no specific resource characteristics identified by ENO that would prohibit the use of an all-source solicitation. The Company shall state in the NOI whether an all-source solicitation may be made in the proposed RFP. If an all-source solicitation cannot or should not be made, then ENO shall provide a detailed explanation to the Council and its Advisors as to why certain resources will not meet ENO's needs for new **generating** capacity.

2. A clear and thorough explanation as to how ENO intends to achieve wide participation by potential respondents, including a description of the specific methods to be used for publicizing and distributing the RFP notice and draft RFP documents.
3. A detailed proposed schedule of milestone events and dates including a reasonable time period for the Company to conduct the RFP process and for ENO to perform its due diligence and negotiations with the selected bidder(s). This proposed schedule, beginning upon public issuance of the RFP and ending upon the filing of an application by ENO seeking Council approval of the selected resource(s), shall not exceed a period of twelve (12) months except for extraordinary or unforeseen circumstances. If the Company is unable to make a filing at the Council seeking approval of a selected resource(s) within this 12-month period as a result of extraordinary or unforeseen circumstances, ENO shall notify the Council, immediately upon learning that a filing within the 12-month period cannot be made and provide a detailed explanation to the Council and its Advisors, subject to any material designated by the Company as Highly Sensitive Protected Material (“HSPM”). ENO shall also circulate a public version of the written detailed explanation to the Official Service List in Council Docket No. UD- 18-05.

C. Compliance with the New Orleans’ DBE Goals

Future RFPs for new resources shall contain a provision that requires a comprehensive narrative from all respondents detailing the respondent’s plan to comply with provisions of Article IV of Chapter 70 of the Code of the City of New Orleans pertaining to local and disadvantaged business enterprises (“DBE”) goals for the City of New Orleans. A copy of this Code provision shall be included in the RFP. ENO shall consider each bidder’s response as part of the overall evaluation criteria in its selection of the winning bid(s).

D. Independent Monitor

1. After the Council adopts these rules and prior to the issuance of ENO’s next RFP for either an **energy generating** resource or PPA, the Council shall issue a Request for Qualifications (“RFQ”) for the purpose of determining one or more qualified respondents who could perform the duties of an Independent Monitor (“IM”)

consistent with the criteria outlined in the RFQ. Once the qualified respondent(s) have been identified by the Council, through its RFQ process, the Council, or its designee, shall create a list of qualified potential IMs from whom ENO shall request bids through its RFP process for the selection of an IM. The Council may, in its discretion, conduct subsequent RFQs every five (5) years to update the list of qualified respondents who could perform the duties of the IM. Once bids are received by the Company, ENO shall make the selection of the IM. ENO shall inform the Council, in writing, within seven (7) days of its selection of the IM.

In a subsequent RFP conducted pursuant to these rules, ENO shall solicit bids from the list of qualified respondents (IMs) which will have already been determined by the Council through the above RFQ process and any updates thereto.

2. The IM shall be responsible for performing duties such as oversight, review, monitoring and reporting throughout several phases of the RFP (for future resources) process as specifically defined in the scope of work for IM services, including but not necessarily limited to the following phases and activities:
 - (a) RFP Development
 - (b) Proposal Solicitation (RFP Issuance, Bidder Registration and Proposal Submission)
 - (c) Receipt of Proposals
 - (d) Proposal Evaluation and Selection
 - (e) Due Diligence and Contract Negotiations
3. The IM and the Council's Advisors may communicate with each other on matters relating to the RFP process without restriction. Such communications may be confidential as needed and do not require the participation of Entergy Services, LLC ("ESL") or ENO. The IM shall make public, periodic written reports to ENO and the Council, subject to any confidentiality agreements between ESL or ENO and the IM, as part of and at the conclusion of each phase of the RFP process. The IM will also provide a public final report to the Council subject to any confidentiality agreements between ESL or ENO and the IM, stating the IM's

analysis of and conclusions regarding the RFP process, including any suggestions for improvement. The confidential versions of the periodic reports and the final report shall be provided to the Council's Advisors contemporaneously with the public versions provided to the Council. **Public versions provided to the Council shall be filed through the Clerk of Council's office, to be posted as correspondence in the Council's official meeting agenda.**

E. Periodic Status Reporting by ENO

Subsequent to ENO's issuance of the NOI, the Company shall provide a written update to the Council's Advisors and all other parties to Docket No. UD-18-05 that have properly executed ENO's Non-Disclosure Certificate (pursuant to the Council's approved Protective Order) every sixty (60) days regarding the status of the RFP process. These periodic status reports shall be held confidential in accordance with the Council's approved Protective Order for utility regulatory proceedings. The status reports shall be submitted throughout the entire RFP process and shall provide the current status of the process, including a detailed explanation of any meaningful developments in the process within the prior 60-day period. The status reports shall also include an explanation of any delays or events that could cause a delay in the overall RFP process.

IV. Development of Final RFP Documents

A. Draft RFP Comment Process

ENO shall post all draft RFP documents to a public website for the purpose of allowing the Council, the Council's Advisors, potential bidders, and other members of the public the opportunity to comment on the documents.

1. Draft RFP documents posted to the public website shall include:

- (a) a description of the need to be met;
- (b) a general description of the criteria used to evaluate bids, including "non-price" factors;
- (c) a link to the most recent Integrated Resource Plan ("IRP") documents;
- (d) a description of any requirements or preferences for transmission arrangements and deliverability, including a description of how transmission issues will be incorporated into bid evaluations;

(e) information about the requirements of resources sought, including dispatchability requirements;

(f) draft model contracts, term sheets, and scope books outlining the technical requirements resources must meet, to inform potential contract negotiations; and

(g) a draft confidentiality agreement to be used for the process.

2. A period of thirty (30) days after the draft documents have been posted to the public website shall be established for the Council, the Council's Advisors, potential bidders, and other members of the public to submit written questions to ENO regarding the draft documents. Answers shall be posted on a rolling basis but not later than 15 days after the conclusion of the 30-day period for submission of written questions. Questions may be submitted related to a variety of topics, including ENO's proposed timeline, the RFP's scope, technical aspects of the RFP, proposal requirements and evaluation criteria. Other inquiries regarding non-price factors such as locational value, reliability, transmission/distribution impacts, and resource diversity may also be submitted.

B. Public Meeting and Technical Conference

ENO shall host a minimum of one public meeting and one technical conference for the purpose of allowing the Company to further explain the draft documents and receive additional questions, concerns and feedback from the Council, the Council's Advisors, stakeholders and members of the public.

V. Issuance and Post Issuance of the RFP

A. Safeguard Provisions

1. Safeguard provisions are necessary in the RFP process to assure a fair and competitive solicitation. ENO has participated as a self-bidder in prior RFP processes and may participate as a bidder in future RFPs. The following safeguards shall be implemented and maintained throughout the solicitation, selection and negotiation processes:

(a) separation of the self-build team from the evaluation team;

(b) application of a Code of Conduct and Affiliate Rules;

- (c) designation of an RFP Administrator as a single point of contact with bidders;
- (d) submission and lock-down of the self-build several days before other proposals were submitted;
- (e) requirement that all bidders, including the self-build, submit the same proposal information to ensure each proposal was consistently evaluated;
- (f) use of bidder, proposal, and project ID numbers to eliminate any potential bias in the evaluation;
- (g) blinding of bid information and redaction of bidder names, by the IM, of other non-pertinent information when distributing information to the bid evaluation teams;
- (h) protection of the confidentiality of non-public information received from bidders in connection with the RFP;
- (i) inclusion of an active role for the IM, as specified in section III.D.2.

B. Periodic Reporting by the IM

At the conclusion of each phase in the RFP process, as listed in section III, D, 2 above, the IM will prepare one or more interim reports and a final report (including confidential and public versions) at the conclusion of the RFP process stating the IM's analysis of and conclusions regarding each phase of the RFP process, including any expected delays in the schedule, reasons for the delays and any suggestions for improvement. These reports shall be subject to the Council's approved protective order and any other confidentiality agreements that may be executed by the negotiating parties. The confidential versions of the reports shall be provided to ENO, the Council's Advisors and any stakeholder that has affirmatively demonstrated no affiliation with any (i) for-profit companies that either compete with bidders or are themselves bidders in RFPs for ~~energy generating~~ energy resources, (ii) trade organizations that are composed of and represent the interests of such for-profit entities, and/or (iii) accept direct financial contributions from and, at times, directly advocate for the interest of such entities. The public versions of these interim reports and the public final report shall be provided to the Council, the Council's Advisors and the Official Service List in Docket No. UD-18-05. The public reports shall also be posted on ENO's public RFP website and the Council's website upon release by the IM.

VI. Effectuation of Rules

ENO shall include any and all contractual provisions in its agreements or contracts with bidders, counterparties, or IMs to effectuate compliance with these rules.

In Re: RESOLUTION AND ORDER ESTABLISHING A DOCKET AND OPENING A RULEMAKING PROCEEDING TO CONSIDER THE PROCESS FOR HOW ANY FUTURE REQUESTS FOR PROPOSALS FOR GENERATING RESOURCES OR PURCHASE POWER AGREEMENTS ISSUED BY ENTERGY NEW ORLEANS, LLC SHALL BE CONDUCTED

I hereby certify that I have this 10th day of June, 2019, served the required number of copies of the foregoing correspondence upon all other known parties of this proceeding, by USPS or electronic mail.



Logan Atkinson Burke
Alliance for Affordable Energy

ORDER ESTABLISHING A DOCKET AND OPENING A RULEMAKING PROCEEDING TO CONSIDER THE PROCESS FOR HOW ANY FUTURE REQUESTS FOR PROPOSALS FOR GENERATING RESOURCES OR PURCHASE POWER AGREEMENTS ISSUED BY ENTERGY NEW ORLEANS, LLC SHALL BE CONDUCTED

DOCKET NO. UD-18-05

Lora W. Johnson, lwjohnson@nola.gov

Clerk of Council
City Hall - Room 1E09
1300 Perdido Street
New Orleans, LA 70112
(504) 658-1085 - office
(504) 658-1140 - fax
Service of Discovery not required

Erin Spears, espears@nola.gov

Chief of Staff, Council Utilities Regulatory Office

Bobbie Mason, bfmason1@nola.gov

Connolly A. F. Reed, careed@nola.gov

City Hall - Room 6E07
1300 Perdido Street
New Orleans, LA 70112
(504) 658-1110 - office
(504) 658-1117 - fax

Andrew Tuozzolo, CM Moreno Chief of Staff, avtuozzolo@nola.gov

1300 Perdido St. Rm. 2W40
New Orleans, LA. 70112

David Gavlinski, 504-658-1101, dsgavlinski@nola.gov
Council Chief of Staff
City Hall - Room 1E06
1300 Perdido Street
New Orleans, LA 70112

Sunni LeBeouf, Sunni.LeBeouf@nola.gov
Law Department
City Hall - 5th Floor
New Orleans, LA 70112
(504) 658-9800 - office
(504) 658-9869 - fax
Service of Discovery not required

Norman White, Norman.White@nola.gov
Department of Finance
City Hall - Room 3E06
1300 Perdido Street
New Orleans, LA 70112
(504) 658-1502- office
(504) 658-1705 – fax

ADMINISTRATIVE HEARING OFFICER

Hon. Jeffrey S. Gulin, judgegulin@gmail.com
3203 Bridle Ridge Lane
Lutherville, MD 2109
(410) 627-5357

NEW ORLEANS CITY COUNCIL CONSULTANTS

Clinton A. Vince, clinton.vince@dentons.com
Presley Reed, presley.reedjr@dentons.com
Emma F. Hand, emma.hand@dentons.com
1900 K Street NW
Washington, DC 20006
(202) 408-6400 - office
(202) 408-6399 – fax

Basile J. Uddo (504) 583-8604 cell, buddo@earthlink.net
J. A. “Jay Beatmann, Jr. (504) 256-6142 cell, (504) 524-5446 office direct,
jay.beatmann@dentons.com
c/o DENTONS US LLP

650 Poydras Street
Suite 2850
New Orleans, LA 70130

Joseph W. Rogers, jrogers@legendcgl.com

Victor M. Prep, vprep@legendcgl.com

Byron S. Watson, bwatson@legendcgl.com

Legend Consulting Group

6041 South Syracuse Way, Suite 105

Greenwood Village, CO 80111

(303) 843-0351 - office

(303) 843-0529 – fax

Errol Smith, (504) 284-8733, ersmith@btcpas.com

Bruno and Tervalon

4298 Elysian Fields Avenue

New Orleans, LA 70122

(504) 284-8296 – fax

ENTERGY NEW ORLEANS

Brian L. Guillot, 504-670-3680, bguill1@entergy.com

Entergy New Orleans, Inc.

Vice-President, Regulatory Affairs

Polly S. Rosemond, 504-670-3567, prosemo@entergy.com

Derek Mills, 504-670-3527, dmills3@entergy.com

Keith Woods, kwood@entergy.com

Seth Cureington, 504-670-3602, scurein@entergy.com

Kevin T. Boleware, 504-670-3673, kbolewa@entergy.com

1600 Perdido Street, L-MAG 505B

New Orleans, LA 70112

504-670-3615 fax

Tim Cragin (504) 576-6523 office, tcragin@entergy.com

Alyssa Maurice-Anderson (504) 576-6523 office, amauric@entergy.com

Harry Barton (504) 576-2984 office, hbarton@entergy.com

Entergy Services, Inc.

Mail Unit L-ENT-26E

639 Loyola Avenue

New Orleans, LA 70113

(504) 576-5579 - fax

Joe Romano, III (504) 576-4764, jroman1@entergy.com

Suzanne Fontan (504) 576-7497, sfontan@entergy.com

Therese Perrault (504-576-6950), tperrau@entergy.com

Entergy Services, Inc.

Mail Unit L-ENT-4C
639 Loyola Avenue
New Orleans, LA 70113
(504)576-6029 – fax

ALLIANCE FOR AFFORDABLE ENERGY

Logan Atkinson Burke, logan@all4energy.org
Sophie Zaken, regulatory@all4energy.org
4505 S. Claiborne Ave.
New Orleans, LA 70115

AIR PRODUCTS AND CHEMICALS, INC.

Katherine W. King, Katherine.king@keanmiller.com
Randy Young, randy.young@keanmiller.com
400 Convention St. Suite 700
Baton Rouge, LA. 70802
Or
P.O. Box 3513
Baton Rouge, LA 70821-3513

Carrie R. Tournillon, carrie.tournillon@keanmiller.com
900 Poydras St., Suite 3600
New Orleans, LA 70112

Maurice Brubaker, mbrubaker@consultbai.com
16690 Swigly Ridge Rd., Suite 140
Chesterfield, MO 63017
Or
P.O. Box 412000
Chesterfield, MO. 63141-2000