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June 28, 2019

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

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:

Please find enclosed for your further handling an original and three copies of Entergy New Orleans, LLC's ("ENO") Rebuttal Comments in Response to the Advisors' Comments on ENO's Response to ENO Filing in Prudence Investigation, including the Rebuttal Testimony of Melonie P. Stewart and Tad S. Patella, P.E, with exhibits on CD. Please file an original and two copies into the record in the above referenced matter, and return a date-stamped copy to our courier.

Thank you for your assistance with this matter.

Sincerely,

Timothy S. Cragin

Timothy S. Cragin

TSC\rdm

Enclosures
cc: Official Service List (UD-17-04 *via electronic mail*)

RECEIVED
JUN 26 2019
BY:

BEFORE THE

COUNCIL OF THE CITY OF NEW ORLEANS

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	))))))))	**DOCKET NO. UD-17-04**

REBUTTAL COMMENTS OF ENTERGY NEW ORLEANS, LLC IN RESPONSE TO THE ADVISORS' COMMENTS ON ENO'S RESPONSE TO ENO FILING IN PRUDENCE INVESTIGATION

NOW BEFORE THE COUNCIL OF THE CITY OF NEW ORLEANS (the "Council"), through undersigned counsel, comes Entergy New Orleans, LLC ("ENO" or the "Company"), which respectfully submits its Rebuttal Comments in response to the Advisors' Comments on ENO's Response to ENO Filing in Prudence Investigations (the "Advisors' Comments").

I. Introduction

This Docket began as a rulemaking proceeding designed to provide information to the Council for the "evaluation and recommendation of appropriate minimum reliability performance standards for ENO taking into consideration the urban nature of ENO's service territory within Orleans Parish, and recommending appropriate financial penalties for non-compliance for consideration by the Council."[1] To date, however, the Advisors have not recommended to the Council, and the Council has not adopted, either minimum reliability performance standards for ENO or a reasonable enforcement mechanism for any such standards. Instead, this Docket has

[1] Resolution (As Corrected) No. R-17-427 (August 10, 2017), 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 ("Resolution No. R-17-427"), at 7.

morphed into a "prudence investigation" to determine whether ENO's "inaction and omissions in mitigating and remediating electric service disruptions and complaints and addressing the performance of the distribution system were imprudent and whether financial and/or other penalties should be imposed by the Council."[2]

In their April 25, 2019 Comments, the Advisors recommend that the Council impose a penalty between $1.5 and $2 million on ENO. Rather than relying on any previously-announced performance standard and enforcement mechanism established by the Council (because none exist), the Advisors conclude that imposing such a penalty on ENO is supported by a finding of "imprudence" as it relates to ENO's maintenance of its distribution system and the resulting impacts on reliability. But, as discussed below, the conclusion of the Advisors as to any imprudence on the part of ENO is grounded purely in hindsight and on the fact that ENO had unfavorable reliability results in 2016 and 2017. This approach by the Advisors is improper under the very prudent investment standard that they purport to apply. The Advisors have not identified any reliability maintenance program, process, or decision on the part of ENO that was unreasonable or imprudent in the light of the knowledge that ENO had or should have had at the relevant time. The information provided by ENO in this Docket reveals, instead, that ENO acted reasonably, responsibly, and consistent with industry practice in its efforts to maintain and improve its distribution system. Accordingly, and as discussed below, there is no basis to penalize ENO on the basis of imprudence or otherwise.

[2] See Resolution No. R-18-475, Docket No. UD-1704, In Re: Directing Entergy New Orleans 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 (October 31, 2018) ("Resolution No. R-18-475"), at 13. The "prudence investigation" resolution was presented and considered at the same meeting as Resolution No. R-18-474, the Council's show cause resolution relating to allegations of paid actors in the New Orleans Power Station approval process.

II. Background

On June 8, 2017, Councilmember Jared Brossett submitted a letter to ENO voicing his concerns over then-recent power outages and reliability issues. This letter was discussed at the June 28, 2017 Council Utility Cable Telecommunications and Technology Committee ("UCTTC") meeting, and ENO submitted a response on July 10, 2017, providing requested reliability statistics for ENO's distribution system.

After its Advisors' analysis of these statistics, on August 10, 2017, the Council established the instant Docket No. UD-17-04 via Resolution No. R-17-427, "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."[3] In that Resolution, the Council noted that a significant number of state utility regulators, including the Louisiana Public Service Commission ("LPSC"), have established minimum reliability performance standards and financial penalty mechanisms for failure to meet those standards.[4]

In conformity with the stated purpose of the Docket, ENO and the Advisors were directed to make certain filings to report and analyze outage data,[5] which was to culminate with a filing by

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[3] *See* Resolution No. R-17-427.

[4] *Id.* at 4-5. The Resolution expressly referenced the LPSC's 1998 General Order, which requires all utilities under the LPSC's regulatory jurisdiction to design and maintain a program to improve the reliability of electric distribution systems to achieve an annual System Average Interruption Frequency Index ("SAIFI") of 2.84 or less and an annual System Average Interruption Duration Index ("SAIDI") of 3.58 hours (214.8 minutes) or less. Under that General Order, those SAIFI and SAIDI standards remained static for the first 2 years after adoption of the Order, and then became more stringent by an additional 5% per year until they reached a SAIFI standard of 2.28 and a SAIDI standard of 2.87 hours in year 7 (2005). These remain the LPSC reliability standards today. LPSC regulations give the LPSC discretion to impose a penalty of up to $500,000 if a utility fails to meet the minimum SAIFI or SAIDI standards for its entire service territory for a reporting year.

[5] Pursuant to Resolution No. R-17-474, ENO has been submitting its Bi-Monthly Reports on Customer Outages since December 12, 2017, and this first report contained information dating back to June 1, 2017. ENO has provided detailed outage data in this Docket on a bi-monthly basis since that time.

the Advisors by December 31, 2017, containing the "Advisors' evaluation and recommendation of appropriate minimum reliability performance standards for ENO taking into consideration the urban nature of ENO's service territory within Orleans Parish, and recommending appropriate financial penalties for non-compliance for consideration by the Council."[6] The Resolution then contemplated that a public hearing would be held before the UCTTC to consider establishing minimum reliability standards for ENO and submission of a formal recommendation to the Council for consideration.[7]

Pursuant to Resolution No. R-17-427, the Advisors filed their Initial Report to the Council containing their review of ENO's outages and reliability performance on October 31, 2017. In that report, the Advisors noted that "upon receipt of ENO's recommended SAIFI and SAIDI reliability standards, the Technical Advisors will evaluate ENO's proposed reliability standards in conjunction with reliability standards which have been adopted by other retail regulatory commissions throughout the country and provide their recommendations for the establishment of specific minimum reliability standards for the Council's consideration."[8] On November 10, 2017, ENO filed its Reliability Plan, providing formal plans and budgets for improving reliability performance and reliability target goals.[9] Specifically, at that time, ENO suggested that a distribution line SAIFI goal for 2018 of 1.587 and a distribution line SAIDI goal of 175.7 would

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6 Resolution No. R-17-427, at 7.

7 *Id.* at 8.

8 *See* Technical Advisors' Review of Entergy New Orleans, Inc.'s Outages and Reliability Performance submitted on October 31, 2017, at 7.

9 On January 31, 2018, ENO also filed its 2017 Annual SAIDI and SAIFI Indices with the Council, detailing its reliability data for the previous calendar year.

be reasonable, based on, among other things, historical SAIFI and SAIDI performance and the estimated impact of the reliability improvement programs utilized by ENO.[10]

Despite receiving this feedback from ENO, the Advisors did not make their required filing setting forth their recommendations for the establishment of specific minimum reliability standards by December 31, 2017, and did not seek an extension of that deadline. Instead, on April 5, 2018, the Council rejected the Reliability Plan filed by ENO, stating that it lacked sufficient detail, and issued Resolution No. R-18-98 requiring ENO to "show cause" why "ENO's inaction and omissions in mitigating and remediating electric service disruptions and complaints and unacceptable reliability performance should not be presumed imprudent."[11] The Honorable Jeffery Gulin was appointed the Hearing Officer and case deadlines were established.[12]

On June 6, 2018, ENO submitted its show cause response to Resolution No. R-18-98, containing the Direct Testimony of Melonie P. Stewart, Acting Vice President of Customer Service

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[10] *See* Entergy New Orleans, Inc.'s Reliability Plan Submitted Pursuant to Council Resolution R-17-427 on November 10, 2017, at 9. In its Reliability Plan, ENO emphasized that its suggested SAIFI and SAIDI values were goals and that any minimum standards should be higher than those proposed goals. *Id.* ENO also recommended that a technical conference be held prior to the Council imposing any minimum standard to allow for a candid discussion with stakeholders about the challenges and tradeoffs related to maintaining a reliable distribution system and to ensure that all parties understand the inherent limitations of SAIFI and SAIDI measures. *Id.*

[11] See Resolution No. R-18-98, Docket No. UD-1704, In Re: Directing Entergy New Orleans 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 (April 5, 2018) ("Resolution No. R-18-98"), at 8. Resolution No. R-18-98 also directed ENO to respond to discovery requests and explain any delay in responding to discovery; submit a revised reliability plan (containing more detailed information than the plan already submitted on November 10, 2017); and submit bi-monthly reports concerning reliability. On April 12, 2018, ENO provided its Response explaining any delayed discovery responses. Specifically, as noted above, Resolution No. R-17-427 had required the Advisors to submit their evaluation and recommendation on minimum reliability standards based on their review of ENO's supplemental information by December 31, 2017. See Resolution No. R-17-427, at 7. But there was no filing by the Advisors on that date. ENO assumed that the resolution must have contained a typo and the Advisors' deadline should have been December 31, 2018, since ENO's own annual SAIFI and SAIDI report was not due until January 31, 2018; the parties still were in the process of submitting and responding to discovery in this Docket in January 2018; and were engaged in several other active proceedings with impending deadlines. See ENO's April 12, 2018 Resp. to Resolution No. R-18-98, at 2. By April 12, 2018, ENO had responded to all outstanding discovery. Id. at 3.

[12] Resolution No. R-18-98, at 8-9.

for Louisiana, and Tad S. Patella, Senior Manager, Metro Region Customer Service for New Orleans, Louisiana.[13] Ms. Stewart's Direct Testimony discussed ENO's many programs and plans in place to operate and maintain the distribution system in New Orleans.[14] Specifically, Ms. Stewart provided an overview of ENO's Reliability Plan programs and an overview of ENO's Storm Hardening Plan that directly benefits the distribution system.[15] She further discussed ENO's planned Advanced Metering Infrastructure ("AMI") and Grid Modernization and described how technology would be used to improve distribution reliability.[16]

Mr. Patella's Direct Testimony discussed the actions taken by ENO to ensure that its customers receive quality, reliable electric service, and demonstrated that the distribution reliability programs and practices explained by Ms. Stewart are reasonable and in line with industry practices.[17] In particular, Mr. Patella discussed how ENO records and interprets its distribution SAIFI and SAIDI data to measure distribution reliability.[18] He explained how analysis of these metrics revealed an increase in outages in the first half of 2016, and how ENO responded with a "reliability blitz" that same year (*before* Councilmember Brossett's inquiry in June 2017), resulting in an estimated 46,998 net customer interruptions avoided for 2017.[19]

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13 As Mr. Patella explains in his Rebuttal Testimony, he assumed the position of Director, Gas Distribution Business in May of this year.

14 *See generally*, Dir. Test. of M. Stewart.

15 *Id.* at 4-16.

16 *Id.* at 16-19.

17 *See generally*, Dir. Test. of T. Patella.

18 *Id.* at 11-12.

19 *Id.* at 18-19. Mr. Patella's Direct Testimony was supported with eight exhibits containing detailed reliability information: ENO's November 10, 2017 Reliability Plan (Exhibit TSP-1); ENO's September 29, 2016 Supplement to its Final Storm Hardening Report (Exhibit TSP-2); detailed outage and outage cause data for all outages from 2013 through the 1st quarter of 2018 (Exhibit TSP-3); SAIFI and SAIDI analysis data by feeder for 2015–2017 (Exhibit TSP-4); ENO's Actual Spending Analysis from 2016 through May 31, 2018 (Exhibit TSP-5); a sample Job Jacket from the reliability blitz (Exhibit TSP-6); a list of reliability blitz devices serviced with data on Customer Interruptions

ENO also submitted a Revised Reliability Plan on July 5, 2018, detailing its plan for reliability spending and providing a root cause analysis of outages. As exhibits to this Plan, ENO submitted (1) a spreadsheet detailing the reliability projects and storm hardening projects already worked, and scheduled to be worked in 2018, with estimated budgets and quarterly expenditures by project; (2) its Grid Modernization and Smart Cities Report, filed with the Council on April 10, 2018; (3) a Root Cause Analysis for outages from 2013 to June 25, 2018; (4) its Remediation Plan for 2018 Devices; and (5) its Reliability Champion Guidebook, detailing the "R1 strategy," which provided a strategic, proactive approach to improving reliability at the ground level.[20]

ENO's comprehensive show cause response was discussed at the UCTTC meeting on June 28, 2018, and its Revised Reliability Plan was discussed at the UCTTC meeting on July 19, 2018. At the next UCTTC meeting on August 16, 2018, ENO's interim president, Rod West, addressed the Committee on the issue of reliability and advised that ENO would be engaging a national expert in distribution reliability to assist in addressing reliability concerns according to national best practice standards. Mr. West further addressed ENO's grid modernization plan and how those efforts would impact reliability. Shortly thereafter, ENO announced that it had engaged Quanta Technology, LLC ("Quanta")[21] to perform the requested assessment and report by the end of October 2018.[22] The Advisors filed an unopposed motion, which was granted by Judge Gulin, to

avoided in 2017 as a result of this work (Exhibit TSP-7); and Quanta Technology, LLC's July 17, 2013 Reliability Study of the Electric System in Orleans Parish (Exhibit TSP-8).

[20] *See* Entergy New Orleans, LLC's Revised Reliability Plan Submitted Pursuant to Council Resolution R-18-98 on July 5, 2018.

[21] Quanta had previously performed the July 17, 2013 Reliability Study of the Electric System in Orleans Parish, which was attached to Mr. Patella's Direct Testimony in this Docket as Exhibit TSP-8.

[22] *See* Ltr. of Sept. 7, 2018 from Tim Cragin to Councilmember Moreno.

modify the procedural schedule to allow for the filing of the Quanta report by October 31, 2018, and a status conference to reset deadlines after its submission.[23]

On the same date the Quanta report was due to be submitted, and despite that the instant Docket had been opened to establish minimum electric reliability performance standards and the mechanisms by which financial penalties could or should be imposed should ENO fail to meet such minimum standards, the Council abruptly initiated, within the existing Docket, a "prudence investigation" via Resolution No. R-18-475.[24]

ENO filed its response to Resolution No. R-18-475 on January 10, 2019 ("Prudence Review Response"), incorporating by reference:

1. ENO's original Reliability Plan, filed on November 10, 2017;

2. ENO's Response to the Show Cause Resolution, filed on June 6, 2018, including the Direct Testimony and Exhibit of Melonie P. Stewart and the Direct Testimony and Exhibits of Tad S. Patella;

3. ENO's Revised Reliability Plan, with Exhibits, filed on July 5, 2018;

4. Quanta Technology, LLC's Assessment of ENO's Distribution Reliability Improvement Initiatives, filed on October 31, 2018;

5. ENO's Reliability Progress Report as of October 31, 2018, filed on November 30, 2018;

6. ENO's Response to Comments of the Intervenors and the Council Advisors on the Quanta Technology Report, filed on December 27, 2018; and

7. ENO's 2019 Reliability Plan that would be filed with the Council on January 18, 2019.[25]

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[23] *See* Sept. 10, 2018 Order.

[24] *See* Resolution No. R-18-475, at 13.

[25] *See* Entergy New Orleans, LLC's Response Prudence Investigation Submitted Pursuant to Council Resolution R-18475, submitted on January 10, 2019.

ENO also supported its Prudence Review Response with the Supplemental Direct Testimony of Mr. Patella and the Direct Testimony of William L. Sones, Director of Grid Operations for Louisiana.[26] Mr. Patella's Supplemental Direct Testimony addressed actions taken by ENO in 2018 in addition to the measures discussed in his Direct Testimony, including the "Fix-It-Now" ("FIN") crew that was dedicated to focusing on immediate reliability concerns, the engagement of Quanta and ENO's response to the Quanta report, and reliability work performed in 2018.[27] Mr. Patella explained that, due to an increase in transmission/substation-related outages, overall reliability only improved approximately 3.5%, but that *distribution* reliability, by itself, had improved approximately 20% over 2017.[28] In his Direct Testimony, Mr. Sones addressed the causes of the 2018 increase in transmission-related outages and demonstrated that ENO's capital and Operation and Maintenance ("O&M") investments in its transmission system and transmission reliability programs have been reasonable and prudent, specifically describing and providing data on those programs and ENO's response to transmission outages, and that the outages experienced in 2018 were anomalous.[29]

In addition, and as noted above, other filings also were submitted in this Docket pursuant Resolution No. R-18-98, including (1) a 2018 Remediation Plan Progress Report filed on November 30, 2018, allowing for Intervenor and Advisor comments and ENO's reply; (2) Intervenor and Advisor comments on the Quanta report and ENO's reply to those comments; (3)

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26 Id.

27 *See generally*, Supp. Dir. Test. of T. Patella.

28 *Id.* at 10.

29 *See* generally, Dir. Test. of W. Sones.

ENO's Notification of 2019 Transition Projects; and (4) ENO's 2019 Reliability Plan filed on January 18, 2019, allowing for Intervenor and Advisor comments and ENO's reply.[30]

The Advisors were required to file any response to ENO's Prudence Review Response by March 12, 2019.[31] On March 14, 2019, the Advisors filed an unopposed motion to extend the deadline to file their testimony until April 11, 2019, which motion was granted on March 15, 2019.[32] The Advisors filed a second motion for extension until April 25, 2019, which motion also was granted.[33] The Advisors then submitted their Comments and the Direct Testimony of Joseph W. Rogers on April 25, 2019. Mr. Rogers's testimony opined that ENO's "reduction in distribution capital additions, lack of evidence of a reasonable decision-making process, decline in reliability and the failure to timely respond to mitigate that decline is evidence supportive of a Council determination of imprudence."[34] Based on Mr. Rogers's opinion, the Advisors recommended in their Comments that the Council find that ENO was imprudent and that a financial penalty be imposed between $1.5 and $2 million.[35]

As ENO discusses below and in the attached Rebuttal Testimonies of Ms. Stewart and Mr. Patella, Mr. Rogers's conclusory suggestions of potential imprudence on the part of ENO are not only erroneous, but are flatly inconsistent with both the law and the information that has been presented in this Docket. What that information does demonstrate is that ENO maintained and invested in its distribution system, and took reasonable steps to improve its reliability performance, in a manner consistent with Prudent Utility Practice. Moreover, because the Council has not yet

30 *See* Nov. 19, 2018 Order.

31 *See* Resolution No. R-18-475.

32 *See* March 15, 2019 Order.

33 *See* the Advisors' Unopposed Motion to Modify Procedural Schedule, filed April 11, 2019.

34 Dir. Test. of J. Rogers, at 20.

35 Advisors' Comments, at 16.

adopted reliability standards or a reasonable enforcement mechanism for such standards (as was the stated goal of this Docket when it was opened on August 10, 2017), the imposition of the financial penalty recommended by the Advisors is improper and would be unlawful.

III. The Advisors misstate and misapply the governing legal standards.

In the section of their Comments entitled "Legal Standard," the Advisors suggest that Louisiana's governing prudence standard and ENO's general commitment under its Service Regulations to use Prudent Utility Practice to provide safe, adequate, and continuous service allow the Council to penalize ENO simply because there have been outages on ENO's distribution system. That suggestion is both incorrect and fundamentally at odds with the prudence standard.

The Advisors state that the prudence standard "essentially applies an analog of the common law negligence standard . . . ."[36] But the full sentence that they quote from provides that the prudence standard "essentially applies an analog of the common law negligence standard ***for determining whether to exclude value from rate base***."[37] As demonstrated in the following cases *cited by the Advisors* in their Comments,[38] utility regulators apply the prudence standard to review the utility's decision-making process and determine how much of the costs incurred by a utility should be passed on to customers through the utility's rates:

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[36] *Id.* at 10 (quoting *Gulf States Utilities Co. v. Louisiana Pub. Serv. Comm'n ("GSU (1991)")*, 578 So. 2d 71, 84–85 (La. 1991)). Although the Advisors invoke "common law negligence," they ignore entirely the elements of such a standard and do not attempt to show that ENO's practices fell below industry standards based on the information that it had at any point in time.

[37] *GSU (1991)*, 578 So. 2d at, 84–85 (emphasis added).

[38] *See* Advisors' Comments, at 10.

Advisors' Cited Case	Utility's Decision	Rate Consequence
Gulf States Utilities Co. v LPSC, 578 So. 2d 71 (La. 1991)	GSU's decision to restart construction of the River Bend nuclear plant	Disallowing $1.4 billion of the $3 billion investment in the plant from GSU's Louisiana rate base
Appeal of Conservation Law Foundation, 127 N.H. 606, 507A 2d 652, 673 (1986)	Public Service Company of New Hampshire's decision to seek approval for financing to participate in completing construction of Unit I and "common facilities" at the Seabrook Nuclear Power Plant (discussing the prudence standard)	Finding that approval of the financing application would lead to a capital structure that could be supported by reasonable rates
Re Cambridge Electric Light Co., 86 P.U.R. 4th 574 (Mass. D.P.U. 1987)	Cambridge's and Commonwealth's decision to reimburse Canal for costs to construct the terminated Seabrook 2 nuclear power plant under the companies' Agreement.	The Commission's investigation was deferred until FERC review of the prudence of Canal's costs
Metzenbaum v. Columbia Gas Transmission Corp., Opinion No. 25, 4 FERC 61,277 (cited at 161,277)	Columbia Gas' decision to withdraw gas from storage rather than imposing curtailment	Disallowing $1,954,525 in unnecessary costs incurred in emergency purchase of gas
Union Electric Co., 40 F.E.R.C. 61,046 (FERC 1987);	Union's decision to commence and complete construction of Callaway 1 nuclear site	Allowing and disallowing recovery of certain categories of costs related to the Callaway 1 investment
Long Island Lighting Co. v. Public Serv. Comm'n of New York, 134 A.D. 2d 135, 523 N.Y.S.2d 615 (3d Dept.1987)	LILCO's decision to incur certain costs related to the Shoreham Nuclear Generating Facility	Disallowing excessive engineering costs of $140.8 million, construction labor costs of $399.8 million, and EDG repair and replacement costs tentatively set at $95 million; and remanding as to decision to allocate 50% of the delay costs to LILCO
Re Central Vermont Pub. Serv. Comm'n Corp., 83 P.U.R.4th 532 (Vt. P.S.B.1987)	Central Vermont's decision to invest in the Seabrook nuclear power station.	Disallowing $18,205,549 of the $46,310,199 investment and requiring the remainder to be shared equally between ratepayers and investors
Alliance. for Affordable Energy, Inc. v. Council of City of New Orleans, 578 So. 2d 949 (La. App. 4th Cir. 1991)	NOPSI's decision to participate in the construction of the Grand Gulf I nuclear power plant	Disallowing $476 million of imprudently incurred costs related to the Grand Gulf 1 nuclear power plant[39]
New England Power Co., 27 FERC # 63,037, at 65,157 (1984)	New England Power Company's decision to invest in the abandoned Pilgrim II nuclear plant	Permitting recovery of investment through September 1981, the point at which the decision to continue investing became imprudent

As is evident from this brief summary of the foregoing cases, in order to establish that ENO was not prudent, the Advisors must identify an investment decision by ENO that arguably was imprudent; however, the Advisors make no effort to identify an imprudent decision or to explain how such a decision contributed to a decline in ENO's reliability performance.

The Advisors also misconstrue the applicable burden of proof in a prudence review. The Supreme Court of Louisiana has made it clear that "a utility's investments are presumed to be prudent and allowable."[40] It follows that the utility has *no initial burden* to show that an investment was prudent.[41] The presumption of prudence is overcome only when "serious doubt [is raised] about the prudence of a particular investment."[42] Only at that point does the burden shift to the utility to demonstrate "that it went through a reasonable decision making process to arrive at a course of action and, given the facts as they were or should have been known at the time, responded in a reasonable manner."[43]

In Resolution No. R-18-475, the Council initiated this prudence investigation to determine whether ENO's "inaction and omissions in mitigating and remediating electric service disruptions and complaints and addressing the performance of the distribution system were imprudent and whether financial and/or other penalties should be imposed by the Council."[44] ENO was directed to file "such testimony, evaluations, analyses, workpapers, and other information" that ENO

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[39] This decision subsequently was vacated by the Louisiana Supreme Court upon the parties' reaching a settlement after that court's decision in *GSU (1991). See Alliance for Affordable Energy, et al. v. Council of the City of New Orleans, et al.*, 588 So. 2d 89 (La. 1991).

[40] *GSU (1991),* 578 So. 2d at 85.

[41] *See South Central Bell*, 594 So. 2d 357, 366 (La. 1992) (noting that "the utility is entitled to the presumption that the investments were prudent, unless the contrary is shown").

[42] *GSU (1991),* 578 So. 2d at 85.

[43] *Id.* (internal quotation omitted).

[44] *See* Resolution No. R-18-475, at 13.

believed would be of assistance to the Council.[45] In the course of that Resolution, however, the Council did not identify any specific decisions or actions on the part of ENO with which it took issue, nor did the Council identify a single investment or expenditure by ENO that it thought was imprudent. In other words, the Council did not raise serious doubt about the prudence of any such ENO actions, decisions, investments, or expenditures. Thus, all such ENO actions and decisions are presumed to be prudent. And, in keeping with the prudent investment standard, ENO had no initial burden in its Prudence Review Response to affirmatively prove that all of its actions and decisions that may fall within the broad scope of this prudence investigation were prudent.[46] That makes good sense; the presumption of prudence serves an important practical function of making prudence reviews manageable and focused.

Despite his awareness of the law governing prudence reviews, Mr. Rogers offers only unsupportable generalities instead of focusing on any specific actions, decisions, industry practices, or alternatives. In his Direct Testimony, he takes issue with ENO's Prudence Review Response – suggesting that ENO "largely ignores the essential question of whether ENO prudently maintained its system and made the necessary capital and O&M investments"[47] – which statement not only misapplies the applicable burden of proof under the prudent investment standard as discussed above, but also completely ignores the wealth of information previously provided by ENO in this Docket. That information demonstrates conclusively that ENO invested in, maintained, and operated its distribution system in accordance with industry standards and Prudent Utility Practice as defined in the Service Regulations cited by the Advisors.

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45 *Id.* at 14.

46 Even if serious doubt had been raised by the Council, ENO's Prudence Review Response sufficiently demonstrated the prudence of ENO's actions, decisions, investments, and expenditures relating to its distribution system.

47 Dir. Test. of J. Rogers, at 18.

In other words, there simply is no evidence in the record sufficient to rebut ENO's presumption of prudence, and, even if there were, ENO's Prudence Review Response was more than sufficient to demonstrate the prudence of ENO's actions, decisions, investments, and expenditures relating to its distribution system. And to make it even more clear that ENO has met any applicable burden, ENO has submitted the Rebuttal Testimonies of Ms. Stewart and Mr. Patella which (1) highlight the information that Mr. Rogers should have considered in his review, and (2) explain the reasons why Mr. Rogers's factually-erroneous conclusions do not support a finding of imprudence, much less the imposition of a penalty on ENO.

IV. The Council should not credit the conclusory opinions of Mr. Rogers.

The Advisors refer to Mr. Rogers as an "expert" who supports the legal conclusion that ENO "did not act prudently" in maintaining and improving its distribution system.[48] But such reliance is misplaced considering that Mr. Rogers purports to opine on matters in which he has no experience or expertise, and, accordingly, he offers no competent testimony or analysis that would support a finding by the Council of any imprudence on the part of ENO. Indeed, during his deposition in this matter, Mr. Rogers testified that:

- He has a degree in mechanical engineering, and not electrical engineering.[49]
- He has never worked as an electrical engineer.[50]
- He has never worked directly for an electric utility.[51]

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[48] Advisors' Comments, at 2. Mr. Rogers also refers to himself as "expert in the utility industry." Dir. Test. of J. Rogers, at 15.

[49] Deposition Transcript of Joseph W. Rogers, attached hereto as Exhibit A ("Dep. Tr. of J. Rogers"), at p. 13, ll. 7-8.

[50] *Id.* at p. 18, ll. 3-10.

[51] *Id.* at p. 18, ll. 11-16.

- He has never participated in the design or operation of an electric distribution system, nor has he performed any maintenance work on an electric distribution system.[52]
- He has never participated in vegetation management for a utility.[53]
- He did not inspect any of ENO's feeders on its distribution system in the course of preparing his testimony in this Docket.[54]
- He has never inspected an electric distribution system in an investigative manner.[55]
- The instant matter is his first and only engagement to analyze an electric distribution system and opine on whether its design, operation, and maintenance is consistent with industry standards.[56]

Mr. Rogers also admitted in his deposition that he *did not review* all of the relevant information submitted by ENO in this Docket that supports the prudence of ENO's actions and decisions with respect to the reliability of its distribution system (either because he did not understand the information that was provided, or understand that all such information was relevant to the prudence inquiry, or both):

> Q. Did you do an overall review of ENO's distribution maintenance practices?
>
> . . .
>
> A. No, I have not done a review of the company's distribution maintenance practices and it's not necessary for what I was asked to do in this docket with respect to reviewing the information that Entergy provided in support of their prudence.[57]

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52 *Id.* at p. p. 20, ll.14-24; p. 21, ll. 6-8.

53 *Id.* at p. 54, ll. 8-9.

54 *Id.* at p. 57, ll. 19-22.

55 *Id.* at p.58, ll. 14-16.

56 *Id.* at p. 26, ll. 15-22.

57 *Id.* at p. 72, ll. 1-6.

. . . .

> Q. Did you review any of ENO's programs to determine whether it was in compliance with prudent utility practice?
>
> A. Can you clarify what programs?
>
> Q. Sure. Any of its distribution, capital maintenance, planning, any of those programs to determine whether the company was in compliance with prudent utility practice?
>
> A. I'd have to say that the -- that ENO didn't provide any information in their response to the Council's request.[58]

These statements indicate that Mr. Rogers either has not reviewed or has not reviewed carefully the extensive information that ENO has filed in this Docket. As noted above and discussed below, ENO has provided detailed information about the reliability programs that it employs on a routine basis and other projects, efforts, and initiatives that are expected to improve distribution reliability (including efforts taken in response to the increase in outages in 2016). And ENO has provided specific information about project and program funding. Mr. Rogers simply does not address that information, which suggests that his testimony was more about providing something the Advisors could point to in support of their dubious recommendation of a multimillion-dollar penalty than presenting a genuine review of the information that ENO has provided in this Docket.

Aside from Mr. Rogers's lack of experience in the field and the uncertainty surrounding precisely what information Mr. Rogers's ultimate conclusions are based upon, Mr. Rogers also corroborated in his deposition that he has not raised any serious doubt about the prudence of any ENO actions or decisions, or otherwise identified any alternative decisions that ENO should have made based on what was known or reasonably knowable at the time:

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[58] *Id.* at p. 167, ll. 7-18.

- He has not set forth any action that he contends ENO should have taken once it became aware of a decline in distribution reliability.[59]
- He has not provided an example of a single action that he contends should have been taken or may have been taken as an alternative to a decision that ENO made.[60]
- He has not identified any specific capital investment project that he contends should have been completed in a given year.[61]

Mr. Rogers likewise confirmed that he has not found that any of the costs that ENO incurred to operate, maintain, and improve its distribution system during the period of 2013 through 2018 were imprudent, nor does he recommend a level of distribution spending that he contends would have prevented the increase in outages that occurred in 2016:

- He does not dispute the prudence of any of the expenditures for ENO's reliability blitz in 2016.[62]
- He has not determined that any of expenses related to storm hardening were imprudent.[63]
- He has not determined any level of spending that he contends that ENO should have made above and beyond what it spent in any year between 2013 and 2018.[64]
- He has not determined whether ENO should have spent more money on any particular program from 2013 to 2018.[65]

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59 *Id.* at p. 189, ll. 5-9.

60 *Id.* at p. 189, ll. 14-21.

61 *Id.* at p. 135, ll. 17-23.

62 *Id.* at p. 140, ll. 3-8.

63 *Id.* at p. 142, ll. 3-11.

64 *Id.* at p. 190, ll. 22-25; p. 191, ll. 1-15.

65 *Id.* at p. 191, ll. 16-22.

Despite the unsupported and erroneous factual foundations underlying his conclusion that ENO "may have acted imprudently,"[66] the Advisors recommend, based on Mr. Rogers's testimony, that the Council affirmatively "find that ENO was imprudent" and that a financial penalty of up to $2 million be assessed against ENO.[67] Considering that the Advisors make this penalty recommendation to the Council despite the fact that Mr. Rogers's "expert" testimony admittedly is silent as to the assessment of any penalty and the appropriate level thereof,[68] it is clear that such a penalty is not supported by any information in this Docket – especially not the testimony of Mr. Rogers, which testimony the Council should disregard.

V. The information provided in this Docket does not support imposition of an imprudence penalty.

Even if the Council or its Advisors had raised serious doubt about an action, decision, investment, or expenditure of ENO (and they have not), ENO has sufficiently demonstrated that it acted reasonably, responsibly, and consistent with industry standards in maintaining the reliability of its distribution system. To be sure, Mr. Rogers's analysis is focused on unfavorable reliability results – the outages that occurred in late 2016 and others in 2017 and 2018. He does not examine the causes of any of those outages or identify any ENO maintenance program, process, or decision that falls below what would be expected from a reasonable utility or, more importantly, what alternative decisions he believes ENO should have made based on what was known or reasonably knowable at the time. Instead, Mr. Rogers finds, incorrectly, that ENO drastically reduced distribution capital additions, and he suggests that the reduction in spending led to the decline in

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66 *See* Dep. Tr. of J. Rogers, at p. 79, ll. 22-23. In his deposition, Mr. Rogers confirmed that he has not made an affirmative finding of imprudence on the part of ENO. *Id.* at p. 79, ll. 7-11 (explaining his opinion that "there could be imprudence").

67 Advisors' Comments, at 16-17.

68 Dep. Tr. of J. Rogers, at p. 152, ll. 1-8.

reliability.[69] But the Supreme Court of Louisiana has made clear that hindsight and the mere fact of unfavorable results do not justify a prudence disallowance (or, in this case, a "penalty"):

> [U]nder the prudent investment rule, a utility is compensated for all prudent investments at their cost when made, irrespective of whether they are deemed necessary or beneficial in hindsight. ***That is, the focus in a prudence inquiry is not whether a decision produced a favorable or unfavorable result, but rather, whether the process leading to the decision was a logical one, and whether the utility company reasonably relied on information and planning techniques known or knowable at the time***. Although a prudence review is necessarily retrospective in that it involves an examination of past circumstances, past information available, and past decisions, ***these factors may not be evaluated in light of subsequent knowledge***. Finally, the inquiry encompasses a public utility's continuation of an investment as well as its decision to enter into that investment, and requires the utility to respond prudently to changing circumstances or new challenges that arise as a project progresses.[70]

Thus, the Advisors' hindsight-based arguments in their Comments and in the testimony of Mr. Rogers about ENO's actions (which, as discussed point-by-point below, are not even accurate) cannot support the imposition of their proposed penalty on the basis of the prudent investment standard. And given the information already in the record, and as further confirmed in the Rebuttal Testimonies of Ms. Stewart and Mr. Patella, there can be no doubt that ENO's actions in maintaining and improving its distribution system were, in fact, prudent and consistent with industry standards.

A. Mr. Rogers's observation that ENO did not take proactive measures to mitigate the number and duration of outages before the Council "forced action" is wrong.

First, Mr. Rogers, with the benefit of hindsight, argues that ENO should have been aware of a "decline" in reliability from 2013 to 2014 and should not have significantly reduced distribution capital additions in 2015.[71] But this argument ignores that ENO did recognize and

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69 Dir. Test. of J. Rogers, at 3.

70 *GSU (1991)*, 578 So. 2d at 85 (internal citation omitted) (emphasis added).

71 Dir. Test. of J. Rogers, at 9-11.

respond to declining distribution reliability in a reasonable manner when such information became available to ENO.

To explain, it is undisputed that ENO achieved its best distribution reliability results in 2013.[72] ENO did see a decline in distribution reliability in 2014 and 2015, but the reliability fluctuations between 2013 and 2015 were within normal and expected ranges based on ENO's historical performance between 2010 and 2012.[73] In other words, based on the information available at the time, ENO's 2014 and 2015 distribution system data did not indicate that ENO was in a negative reliability trend, and, as discussed by Ms. Stewart in her Rebuttal Testimony, ENO could not have foreseen, in the 2014/2015 time frame, the level at which outages would increase beginning in 2016.[74] When, in mid-2016, ENO became aware of a negative reliability trend,[75] it planned and conducted a "reliability blitz," bringing in a number of outside contractor crews to assist in executing targeted reliability projects involving approximately $11.6 million of incremental investment in the distribution system over the last half of 2016 and into early 2017.[76] In other words, ENO already was in the process of proactively addressing reliability *before* this Docket was opened in 2017.[77] Therefore, the Advisors' representation that ENO "largely ignor[ed]

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72 *See* Dir. Test. of T. Patella, at Exhibit TSP-3, NO Outage Cause Analysis, Tab 8-Storms & SAIDI-SAIFI; Dir. Test. of J. Rogers, at 9.

73 *See* Dir. Test. of T. Patella, at 13. In fact, examining ENO's distribution reliability data from the years 2010-2018, the slight increase in distribution SAIFI that ENO saw in 2014 and 2015 still placed it in a better reliability performance position than from 2010-2012. Reb. Test. of T. Patella, at 7.

74 Reb. Test. of M. Stewart, at 24-25.

75 In his deposition, Mr. Rogers acknowledged that such a trend is "more important than the absolute value for one year versus another year." Dep. Tr. of J. Rogers, at p. 122, ll. 2-5. Mr. Rogers noted that the only indicators of a negative trend were the "annual numbers showing SAIDI going up from its 2013 levels to its 2016 and 2017 levels." *Id.* at p. 125, ll. 9-13. Therefore, by his own description, it was not until 2016 data became available that ENO would have been able to determine a negative reliability trend.

76 Dir. Test. of T. Patella, at 18-19; Reb. Test. of M. Stewart, at 14; Reb. Test. of T. Patella, at 36-38.

77 In other words, the suggestions that "the remediation work being accomplished by ENO in its Reliability Plans in 2018 and 2019 was only in response to the Council forcing ENO's hand in this docket" (*see* Advisors' Comments, at 9) and "[t]here is no evidence of any decision-making process, just references to actions taken much

the rising reliability deficiencies until forced to do so by the Council" is simply wrong.[78] ENO recognized an increase in outages in the first half of 2016, long before the Council took action, and took reasonable and prudent measures to address that issue.

B. ENO also was employing industry-standard maintenance practices and reliability programs throughout the period reviewed by the Advisors, and well before the Council initiated the instant rulemaking Docket.

Second, prior to and throughout the entire 2013-2018 time period that Mr. Rogers purported to review, ENO was employing reasonable maintenance practices and reliability programs (FOCUS, Backbone, Internal Projects, Pole Program, Equipment Inspection and Maintenance, URD/Cable Projects, and Sectionalization) as discussed in the Direct and Rebuttal Testimonies of Ms. Stewart. That such practices and programs were not just reasonable, but were industry-standard, was confirmed by Quanta in *2013*.

Indeed, as discussed in Mr. Patella's Direct Testimony,[79] Entergy had engaged Quanta in 2013 to perform a "Reliability Study of the Electric System in Orleans Parish" and Quanta found that "[o]verall the Companies' distribution maintenance practices are consistent with the industry."[80] Therefore, ENO's distribution maintenance practices leading up to 2016 (when there was a noticeable decline) had recently been evaluated and deemed to be consistent with industry standards. When Quanta was re-engaged in 2018, it again confirmed that ENO's distribution

after the fact and in response to the Council's insistence" (*see* Dir. Test. of J. Rogers, at 19) are incorrect. The information provided in this Docket demonstrates the exact opposite – that the 2016 reliability blitz began months before Councilmember Brossett's July 8, 2017 letter that initiated these proceedings.

78 *See* Advisors' Comments, at 16.

79 Dir. Test. of T. Patella, at 19-20.

80 *See id.* at Exhibit TSP-8, at 11. Quanta also found no obvious deficiencies in the design, type, and quality of ENO's distribution equipment in its 2013 Report, which conclusion Mr. Rogers does not dispute. Dep. Tr. of J. Rogers, at p. 67, ll. 4-9; p. 68, l. 4.

reliability programs are adequate to address its reliability needs.[81] All of this information was provided in this Docket in Mr. Patella's Direct and Supplemental Direct Testimony; Mr. Rogers simply ignored it.

Mr. Rogers also disregards the distribution system reliability benefits of ENO's storm hardening work and the additional long-term efforts that ENO is undertaking to improve the distribution system and the customer experience (Advanced Metering Infrastructure and Grid Modernization) as discussed in the Direct and Rebuttal Testimonies of Ms. Stewart. Thus, Mr. Rogers's suggestion that, only after numerous outages, complaints, and the initiation of this Docket, did ENO "adopt the use of best distribution management practices"[82] is categorically untrue and completely disregards Quanta's findings in both 2013 and in 2018.

C. ENO's distribution system maintenance and capital spending was reasonable and in line with the reliability data available to ENO at the time.

Third, with respect to distribution O&M, Mr. Rogers populates Table 4 of his Direct Testimony with data from ENO's annual FERC Form 1 filings. As an initial matter, he does not explain how ENO's reliability programs fit into the larger basket of distribution O&M expense, nor does he attempt to draw any connection between the 2015 O&M expense and the 2016 increase in outages. Nevertheless, without any explanation of how the information is relevant to the Council's prudence inquiry, Mr. Rogers highlights a decrease in distribution O&M expense of approximately $1.1 million from 2014 to 2015.[83] As a practical matter, however, according to Mr.

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81 Supp. Dir. Test. of T. Patella, at 5-8; 2018 Quanta Report, at 74 ("ENO's distribution reliability program includes adequate components to continue addressing these pressing needs."); Reb. Test. of T. Patella, at 25, 28-29, 39, 42.

82 Dir. Test. of J. Rogers, at 18.

83 *Id.* at 10. Although Mr. Rogers is quick to note a decrease of $1.1 million in distribution O&M between 2014 and 2015 as reported on the FERC Form 1, he does not address more specific information provided in this Docket

Rogers's own Table 4, the total ENO distribution O&M expense of $10.5 million for 2015 was still *higher* than the 2009-2013 average of $10.1 million, and the expense level increased to $12.6 million in 2016.[84] Therefore, while there may have been a decrease in ENO's distribution O&M spending between 2014 and 2015, there is no basis to find that ENO's distribution O&M spending in 2015 was imprudent in the light of data available at the time, considering that such spending was in excess of spending levels in 2013 that led to ENO's best reliability results.

And as for his observations regarding ENO's distribution capital additions, Mr. Rogers, again relying on FERC Form 1 data, states that ENO recorded a decrease in distribution capital additions from 2014 to 2015 of approximately $20.8 million. But his calculations are based on a misreading of that data as explained by Ms. Stewart in her Rebuttal Testimony.[85] ENO's distribution capital additions actually *increased* between 2014 and 2015.[86]

The bottom line is that Mr. Rogers cannot show that the spending fluctuations between 2014 and 2015 were (1) unreasonable based on the information that ENO had at the time or (2) causally related to the trend that emerged in 2016. Accordingly, the O&M expense level for 2015 and the increase in distribution capital additions between 2014 and 2015 do not indicate any imprudence by ENO. To be sure, ENO's routine spending on reliability (capital and O&M) was relatively constant from 2013 through 2016 (excluding incremental "reliability blitz" spending in 2016).[87]

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about ENO's reliability programs. For example, Mr. Rogers does not address the $1.8 million increase between 2014 and 2015 in Substation – Distribution Equipment asset management spending. *See* Dir. Test. of W. Sones, at 18.

84 Reb. Test. of M. Stewart, at 27.

85 *Id.* at 27-28.

86 *Id.* at 28.

87 *Id.* at 29-30.

D. Mr. Rogers's argument that ENO should have engaged Quanta when the reliability problems began rather than in 2018 after the Council "forced action" ignores the fact that Quanta had reviewed and reported favorably on ENO's maintenance practices in 2013.

As noted above and in ENO's Direct and Rebuttal Testimonies, Quanta had reviewed ENO's distribution system, maintenance practices, and vegetation management in 2013 in the aftermath of Hurricane Isaac in 2012. As Mr. Patella discusses further in his Rebuttal Testimony, Quanta found in 2013 that ENO's distribution maintenance practices were consistent with the industry and that the population of ENO's legacy facilities that withstood extended punishment from Hurricane Isaac was a "testament to the integrity of the original design as well as the proper maintenance of the facilities."[88] Considering that Quanta had confirmed ENO's compliance with industry practices in 2013, the modest variations in ENO's SAIFI and SAIDI in 2014 and 2015 did not suggest at the time that ENO was heading for a significant increase in outages in 2016.[89]

Moreover, in a report to the Council dated July 25, 2013, the Advisors themselves observed that ENO had in place "comprehensive transmission and distribution inspection and maintenance programs" that were "similar in scope and design to those being employed by electric utilities having transmission and distribution systems of comparable complexity" and were "supportive of system reliability."[90] Given that, during the period of 2013 through 2018, ENO continued to employ, fund, and improve on the reliability programs discussed above and in the Direct and Rebuttal Testimonies of Ms. Stewart,[91] ENO's decision to continue to employ those same programs and practices supports that ENO acted prudently at all relevant times.

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88 Reb. Test. of T. Patella, at 15.

89 Reb. Test. of M. Stewart, at 25.

90 *See* Advisors' Interim Report to City Council of New Orleans, Council Docket No. UD-12-04 (7/25/13), at 16. Mr. Rogers does not dispute those observations as of July 2013. Dep. Tr. of J. Rogers, at p. 87, ll. 3-19.

91 Dir. Test. of M. Stewart, at 4-10; Reb. Test. of M. Stewart, at 4-13.

E. Mr. Rogers's allegation that ENO consistently blamed outages on causes other than equipment failures until forced to accurately account for causes by Council direction is both unsupported and incorrect.

It is categorically untrue that "ENO chose not to be candid about equipment failures being a primary cause of fair-weather outages, not balloons or animals."[92] Mr. Rogers has not cited to a single example of this alleged lack of candor, or of ENO's blaming an equipment failure on another cause category. The fact is that for ENO, as well as electric utilities all over the country, some outages each year are caused by animals and foreign objects,[93] but the record does not support Mr. Rogers's suggestion that ENO blamed outages on those causes to avoid noting an equipment failure.[94]

In fact, Quanta determined that, if anything, ENO has been *over-reporting* "Equipment Failure" as a cause code when the outage could have been caused by external factors beyond ENO's control.[95] Quanta further found that ENO's data reporting practices were "resulting in a higher number of outage events than what actually occurred."[96] To the extent there have been any reporting errors in ENO's reliability data, they have resulted from *over*-reporting of the level of equipment failures and outages. And, as Quanta recognized, ENO has taken steps to improve and standardize outage coding generally, which steps will be enhanced by anticipated technological

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92 Dir. Test. of J. Rogers, at 20.

93 *See*, e.g., Dir. Test. of T. Patella , at Exhibit TSP-3, Tab 4 (providing the number of outages per cause category and subcategory each year). Mr. Rogers also admits that not every outage reflects imprudence by a utility. *See* Dep. Tr. of J. Rogers, at p. 118, l. 25; p. 119, ll. 1-2).

94 In his deposition, Mr. Rogers agreed that he does not actually believe that ENO ever reported that an outage was caused by an animal when that did not, in fact, occur. *Id.* at p. 185, ll. 22-25; p. 186, l. 1.

95 *See* 2018 Quanta Rept. at 22; Reb. Test. of T. Patella, at 33-34.

96 2018 Quanta Rept. at 22.

advancements.[97] Therefore, there is no truth to Mr. Rogers's suggestion that ENO has avoided coding equipment failures in order to blame another cause.

Furthermore, and importantly, Mr. Rogers disregards the impact that weather can have on distribution reliability. As discussed in Mr. Patella's Direct Testimony (and illustrated in the charts provided in Exhibit TSP-3 to that testimony), both 2016 and 2017 were significantly hotter and wetter than the average of the preceding years.[98] As noted by Quanta, "weather parameters such as temperature, lightning flash density, precipitation and relative humidity have a direct effect on various aspects of distribution reliability performance."[99] In his deposition, Mr. Rogers agreed that such environmental factors can result in an increase in outages and, in turn, affect a utility's SAIDI and SAIFI indices,[100] and he noted that ENO provided information indicating that weather patterns experienced in 2016 and 2017 were atypical. But Mr. Rogers chose not to verify that information or address it in any way,[101] which further supports that the Council should disregard his testimony altogether.

In sum, ENO has demonstrated that it acted prudently in maintaining its distribution system in conformity with prudent utility practice and has taken reasonable steps to improve reliability performance. In fact, based on its comprehensive reliability efforts, ENO's distribution line system saw a 20% overall reduction (improvement) in SAIFI in 2018 as compared with 2017.[102] Accordingly, any imposition of a penalty based on "imprudence" cannot be supported by the record in this matter or by the hindsight-based analysis suggested by the Advisors.

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97 Reb. Test. of T. Patella, at 17.

98 *See* Dir. Test. of T. Patella, at Exhibit TSP-3, Tab 6; Reb. Test. of T. Patella, at 17-18.

99 2018 Quanta Rept. at 39; Reb. Test. of T. Patella, at 18.

100 Dep. Tr. of J. Rogers, at p. 112, ll. 2-5.

101 *Id.* at p. 113, ll. 23-25; p. 114, ll. 1-18.

102 Reb. Test. of T. Patella, at 42.

VI. The Advisors' recommendation that the Council penalize ENO up to $2 million also is improper because it is not based on a pre-existing regulatory standard or penalty structure.

A. The proposed penalty is not based on a pre-existing regulatory standard.

First, under Louisiana law, a utility regulator does not have unfettered discretion to penalize or impair property rights in the absence of articulated policies, standards, or guidelines.[103] *Bowie v. Louisiana Public Service Commission* is instructive on this point.[104] *Bowie* involved the sale of 100% of the capital stock of two LPSC-jurisdictional water and sewerage service corporations.[105] The LPSC disallowed the sale, but the Louisiana Supreme Court reversed on appeal. The Court found that while the LPSC possessed regulatory power to adopt and enforce reasonable rules and procedures to govern the regulation of public utilities' corporate stock transfers and prohibit these kinds of sales, those rules must "afford a sufficient basis for the Commission's action in prohibiting the transfer."[106] Otherwise, the Commission would be acting with "virtually unfettered discretion" to affect private property interest.[107] Applying *Bowie*, even when a regulatory body is acting in an area within its regulatory powers, before it can take actions that affect private property, due process requires it "to articulate policies and to establish standards or guidelines to implement those policies, either through rulemaking or by precedent, to direct the agency's discretion."[108]

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103 See Bowie v. Louisiana Public Service Commission, 627 So. 2d 164 (La. 1993).

104 *Id.* at 165-67.

105 *Id.*

106 *Id.* at 169.

107 *Id.* at 169-70.

108 *Id.*

Just as the LPSC possessed regulatory power to adopt and enforce reasonable rules and procedures to govern the regulation of public utilities' corporate stock transfers as discussed in *Bowie*, the Council possesses regulatory power to adopt and enforce reasonable rules and procedures providing for reliability performance standards.[109] But, as in *Bowie*, the Council may not act with "virtually unfettered discretion" to deprive a regulated utility of a private property right without advance regulatory guidance. Instead, it must "articulate policies" and "establish standards or guidelines to implement those policies."[110]

In his deposition, Mr. Rogers candidly acknowledged that the Council has not established minimum reliability standards that apply to ENO's distribution system.[111] Despite that acknowledgement, the Advisors nevertheless argue that the Council put ENO "on notice" that inadequate distribution system reliability could result in penalties under Section 3-130(7) of the City's Home Rule Charter through Resolution No. R-99-433 (issued in 1999),[112] but it is clear from the text of Resolution R-99-433 that the potential penalties contemplated in that Resolution were tied to the future achievement of *specific regulatory goals* provided in ENO's reliability plans and referenced in that Resolution. The goal of Resolution No. R-99-433 was to ensure "that ENO carries out its Plans to improve the electric service reliability of its distribution system on a timely basis as it has specifically proposed in its remediation plans."[113] Accordingly, the Council provided in Resolution No. R-99-433 that ENO's failure to complete the submitted remediation

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109 The City's Home Rule Charter § 3-130 grants the Council powers of supervisions, regulation, and control over electric utilities.

110 *Bowie*, 627 So. 2d at 169-170.

111 Dep. Tr. of J. Rogers, at p. 118, ll. 15-19.

112 *See* Advisors' Comments, at 13 (citing Resolution No. R-99-433).

113 Resolution No. R-99-433.

plans or achieve the SAIFI goals set in the remediation plans could, after ENO was given an opportunity to be heard, result in the imposition of "financial penalties, which penalties shall be in an amount the Council deems sufficient to constitute reasonable penalties and which assure the ultimate achievement by ENO of a reliable electric distribution system."[114] Notwithstanding that these unlimited "reasonable penalties" themselves may have presented constitutional concerns (as will be discussed below), the potential *future* penalties provided in Resolution No. R-99-433 were tied to ENO's failure to achieve specific *future* reliability goals as clearly set in ENO's reliability plans. Stated another way, in that case, the Council surely was not proposing that ENO could be penalized for *past* reliability performance based on reliability standards *that did not exist* at that time. And despite that the Council has vocalized its desire to establish enforceable reliability standards since at least 2010,[115] the Council never completed a rulemaking process to put reliability standards in place for ENO, and it has no financial enforcement mechanism in place to enforce reliability standards.

Moreover, and contrary to the Advisors' suggestion,[116] the customer rights provided in New Orleans City Code Section 158-1045(a) and/or Section 10 of the ENO Service Regulations are no substitute for the Council's responsibility (and acknowledged desire) to formulate, publish, and make available to ENO reliability standards that are sufficiently definite and clear so that ENO can understand and abide by them before a penalty can be imposed. Neither of those provisions

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114 *Id.*

115 *See, e.g.*, Resolution No. R-10-481 ("WHEREAS, as one method to ensure that ENO provides acceptable levels of reliability to its customers prospectively, it is prudent for the Council to consider the establishment of minimum reliability and performance standards . . . and . . . the establishment of financial penalty mechanisms for failure to meet . . . such standards;"); Resolution No. R-17-427 (same) (establishing the instant Docket for that purpose).

116 *See* Advisors' Comments, at 11.

provides a clear and definite reliability standard. Rather, those authorities indicate that ENO must strike a balance between reliability and cost to customers. Section 158-1045(a) sets forth a "bill of rights" for customers that provides for "safe and reliable service in accordance with industry standards."[117] And the Service Regulations provide for ENO's use of "Prudent Utility Practice" to provide safe, adequate, and continuous service, but also to accomplish the desired result *at the lowest reasonable cost*.[118] Distribution, transmission, generation, and customer service functions all play a role in providing reliable electric service, and ENO must consider all of those functions when it plans its spending and makes adjustments as circumstances warrant. The Advisors lose sight of the cost-minimization objective of Prudent Utility Practice in suggesting that ENO can be deemed imprudent simply because customer outages increased in 2016.[119]

In any event, the Advisors have not articulated any way that ENO deviated from industry standards or Prudent Utility Practice, and it is undisputed that the Council had not set certain reliability standards that ENO was required to meet through Prudent Utility Practice. Accordingly, until the Council provides ENO with definite and clear reliability standards, including guidance to direct the Council's discretion in enforcement of any such standards, the Advisors' suggested penalty is improper under Louisiana law.[120]

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117 *See* New Orleans City Code Secs. 158-1044; 158-1045(a).

118 ENO Service Regulations at 11. Prudent Utility Practice is defined as "practices, methods and acts, which, in the exercise of reasonable judgment in light of the facts (including but not limited to practices, methods and acts engaged in or approved by a significant portion of the utility industry) known at the time the decision was made, would have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition." *Id.* at 7.

119 The Advisors' reliance on Section 10 of the Service Regulations also ignores that "an electric company is not the insurer of the property of its customers, and is not legally bound to safeguard against occurrences that cannot be reasonably expected or contemplated." *Schulze v. Louisiana Power & Light Co.*, 551 So. 2d 22, 24 (La. App. 4th Cir. 1989).

120 *See Bowie*, 627 So. 2d at 169-70.

B. The recommended penalty is not based on a pre-existing penalty structure.

Second, the Advisors' recommended penalty also is improper because it is not based on a pre-existing penalty structure.[121] Substantive due process requires both certainty in the definition of what conduct could result in a penalty and "that the penalty portion of a statute be definite."[122] And the "Due Process Clause of the Fourteenth Amendment prohibits a State from imposing a 'grossly excessive' punishment. . . ."[123] The Excessive Fines Clause likewise "limits the government's power to extract payments, whether in cash or in kind, as punishment for some offense."[124] To be sure, "[e]lementary notions of fairness enshrined in our constitutional jurisprudence dictate that a person receive fair notice not only of the conduct that will subject him to punishment, but also of the severity of the penalty that a State may impose."[125]

ENO has not received fair notice of the severity of any penalty, much less the $1.5 million to $2 million penalty recommended by the Advisors. The Advisors argue that the Council may impose a "reasonable penalty," relying on Section 3-130(7) of the City's Home Rule Charter,[126]

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121 To the extent that the Advisors invoke general negligence principles in support of their recommended penalty, ENO pleads and asserts the protections of La. Civ. Code art. 3492 ("Delictual actions are subject to a liberative prescription of one year."). Furthermore, in the light of the procedural history of this Docket and uncertainty in the period under review by the Council, ENO objects to the imposition of any penalty or liability that is barred by prescription, peremption, laches, res judicata, prior orders of the Council, the filed rate doctrine, the rule against retroactive ratemaking, and/or constitutional due process.

122 *See State v. Piazza*, 596 So. 2d 817, 820 (La. 1992).

123 *BMW of N. Am., Inc. v. Gore*, 517 U.S. 559, 562 (1996).

124 *Austin v. United States*, 509 U.S. 602, 609–10 (1993) (internal quotation omitted); *see also State v. LeCompte*, 406 So. 2d 1300, 1304 (La. 1981) (holding a criminal statute was unconstitutional and an excessive punishment under La. Const. Ann. art. I, § 20 insofar as it provided no maximum fine, but only a minimum fine) ("[W]e cannot uphold a statute that permits an unlimited fine . . . .").

125 *Gore*, 517 U.S. at 574–75.

126 While Section 3-130(7) of the City's Home Rule Charter provides that, in the context of exercising its regulatory powers over utilities, "the orders of the Council shall be enforced by the imposition of such reasonable penalties as the Council may provide," the key phrase of this provision is "***as the Council may provide***." Advisors' Comments, at 12 (citing Home Rule Charter § 3-130(7) (emphasis added).

but they cite no cases providing that a body may impose a "reasonable penalty" in the absence of a pre-existing standard and enforcement mechanism.[127]

In *In re: Potomac Electric Power Company*,[128] cited by the Advisors,[129] the Public Service Commission of Maryland found that Potomac Electric Power Company ("Pepco") failed "to satisfy its legal obligation to provide its customers with reliable service,[130] because of "poor vegetative management practices."[131] The Maryland commission noted that Pepco's "imprudent mistake" was "in not committing adequate resources to vegetation management in order to attain an acceptable level of reliability."[132] Because of the "persistent problems" with Pepco's failure to perform adequate vegetation management of its electric distribution system, which led to "excessively high frequencies and long durations of electric outages,"[133] the commission imposed a monetary penalty of $1 million on Pepco.[134]

As an initial matter, unlike in the case of Pepco, it is undisputed that vegetation-related outages are not a "significant problem" on ENO's distribution system, and ENO's vegetation management practices are industry standard.[135] Moreover, as of 2010, Pepco's reliability had

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127 Advisors' Comments, at 12.

128 See Public Service Commission of Maryland, Order No. 84564 (Dec. 21, 2011), Case No. 9240, In the Matter of an Investigation into the Reliability and Quality of the Electric Distribution Service of Potomac Electric Power Company ("MPSC Order No. 84564").

129 *See* Advisors' Comments at 13-14 (citing same).

130 MPSC Order No. 84564, at 3.

131 *Id.* at 2.

132 *Id.* 44.

133 *Id.* at 1.

134 *Id.* at 3.

135 Indeed, the Advisors acknowledged the past reviews and discussions of ENO's vegetation management program in their response to the 2018 Quanta Report: "[B]ased upon the Advisors investigation as part of the Council's Storm hardening docket, we do not believe that vegetation related outages are a significant problem, and accordingly we do not believe an investigation of ENO's vegetation management practices is warranted." *See* Reb. Test. of M.

steadily deteriorated over a period of seven years, and had "remained stagnated in fourth quartile [SAIFI] or bottom half [SAIDI] performance, as measured by applicable reliability indices."[136] In contrast, while scores for 2016-2017 placed ENO in the fourth quartile among U.S. utilities for those years, ENO was generally in the second or third quartile among U.S. utilities for 2013-2015.[137]

Not only is Pepco's case factually at odds with the instant matter, but it also offers no legal support to the Advisors' suggestion that imposition of a penalty in the amount of $1.5 million to $2 million on ENO is appropriate under the current procedural posture in this Docket. The Maryland commission imposed a penalty on Pepco under the Public Utilities Article ("PUA") of the Maryland Code § 13-201(b)(1), which authorized it to impose a civil penalty of up to $10,000 per day per violation "against a person who violates a provision of this division, or an effective and outstanding direction, ruling, order, rule, or regulation of the Commission."[138] After considering all of the evidence in the case, the commission assessed a fine of $1 million as authorized by PUA §13-201(b)(1)[139] "based on recurring daily violations the Commission

Stewart, at 38-39 (citing Advisors' Report on Quanta Technology Assessment of ENO Distribution Reliability Improvement Initiatives, at 6).

136 MPSC Order No. 84564, at 1, 23.

137 Dir. Test. of T. Patella, at 13-14.

138 MPSC Order No. 84564, at 50-51.

139 The commission specifically noted that the $1 million was less than the maximum $10,000 per day per violation penalty authorized by PUA § 13-201(b)(1). *Id.* at 57. The commission also noted that it did *not* impose a higher penalty of $25,000 per day (as authorized by the Maryland Electricity Service Quality and Reliability Act adopted subsequent to the time of the utility's alleged violation) because it found that the $10,000 per day maximum "was the maximum available at the time of [the utility's] alleged violation." *Id.* at 51 n. 160; 61 n. 193. In other words, the penalty was limited to the mechanism existing at the time of the alleged violation.

determine[d] that Pepco committed in 2010 for inadequate vegetation management and insufficient inspections."[140]

Unlike the Maryland statutory penalty provision, Section 3-130(7) of the City's Home Rule Charter does not authorize the imposition of any defined penalty, nor does it provide any notification to the utility whatsoever of what amount may constitute a "reasonable penalty." Moreover, and importantly, the Advisors have not explained their proposed basis for a penalty in the amount of $1.5 million to $2 million.

The second case cited by the Advisors involved approval by the New York Public Service Commission of a $3.9 million "settlement" amount, not an adjudicated penalty.[141] More specifically, the $3.9 million settlement did not provide for the payment of a $3.9 million fine, but rather an agreement that the two utilities under investigation would make $3.9 million of investment in reliability that would not be funded by ratepayers. The show cause proceeding leading up to the settlement alleged twelve total violations of the two utilities' combined Emergency Response Plan (or "ERP") in responding to a 2017 windstorm. The specific deficiencies alleged in the companies' performance included, among other things, inadequate vegetation management, a reactive approach to storm events, late damage assessments, and excessively long outages.[142] The utilities were ordered to "show cause why the Commission

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140 *Id.* at 57. The Advisors note that the Maryland commission was concurrently engaged in rulemaking to establish "outage-related rules or standards," and that the Maryland commission rejected Pepco's contention that any penalty imposed would constitute retroactive imposition of proposed regulations in that rulemaking. Advisors' Comments, at 14. The Maryland commission made a point to note, however, that Pepco's reliability proceeding began "well before" the rulemaking began, which is yet another important distinction that undercuts the Advisors' reliance on Pepco's case. MPSC Order No. 84564, at 61.

141 *See* Case 17-E-0594, Proceeding on Motion of the Commission to Investigate the March 2017 Windstorm, Related Power Outages, and Rochester Gas and Electric and New York State Electric & Gas Restoration Efforts, Order Adopting Terms of Joint Proposals at 8 (N.Y. PSC Apr. 18, 2019).

142 *Id.* at 4 n.6.

should not pursue an administrative penalty pursuant to New York's Public Service Law ("PSL") § 25-a for the companies' apparent failure to follow their ERP."[143] PSL § 25-a authorized the commission to commence an administrative penalty proceeding to determine whether a utility violated the PSL or an order or regulation adopted pursuant to the PSL.[144] The commission expressly noted, when considering the agreed-upon settlement amount, that each alleged violation of the companies' ERP could be viewed as a violation of the corresponding commission Order adopting the companies' ERP. And pursuant to the PSL, the commission was authorized to assess a penalty in an amount up to $500,000.[145] "Therefore, if each and every one of the twelve alleged violations was fully litigated and the Commission determined that the maximum penalty was warranted for each violation, the financial penalty could have been approximately $6 million."[146] Thus, the New York commission found that the $3.9 million settlement amount was reasonable because it was within the maximum financial penalty amount of $6 million authorized by PSL § 25-a.[147] In other words, as was the case with Pepco, the settlement was approved because it complied with the amount that otherwise could have been imposed in a penalty proceeding under legislation that clearly provided notice to the affected utilities.

Accordingly, none of the cases cited by the Advisors supports the imposition of a penalty in this case when there has been no violation of an existing regulatory standard and there is no pre-existing enforcement mechanism to establish defined penalties for failure to meet that standard. Again, until the Council has adopted reliability standards to guide its discretion and provided a

143 *Id.* at 4.

144 *Id.* at 12.

145 *Id.*

146 *Id.* at 12-13.

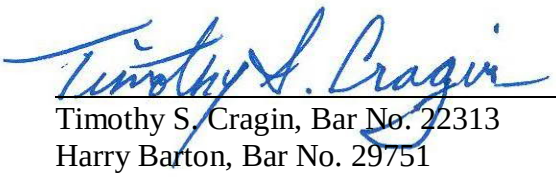
147 *Id.* at 12-13.

reasonable penalty mechanism, penalties for reliability performance may not be imposed as a matter of due process and fundamental fairness.

VII. Conclusion

As a matter of law, the Advisors' suggested penalty is improper, and the information in this Docket does not support that ENO has been imprudent. For these reasons, ENO respectfully suggests that the Council should reject the penalty suggested in the Advisors' Comments, find that there is no evidence of imprudence to justify any such penalty, and refocus this Docket on achieving the Council's stated goal to establish appropriate and enforceable reliability standards.

Respectfully submitted:

BY: 

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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.

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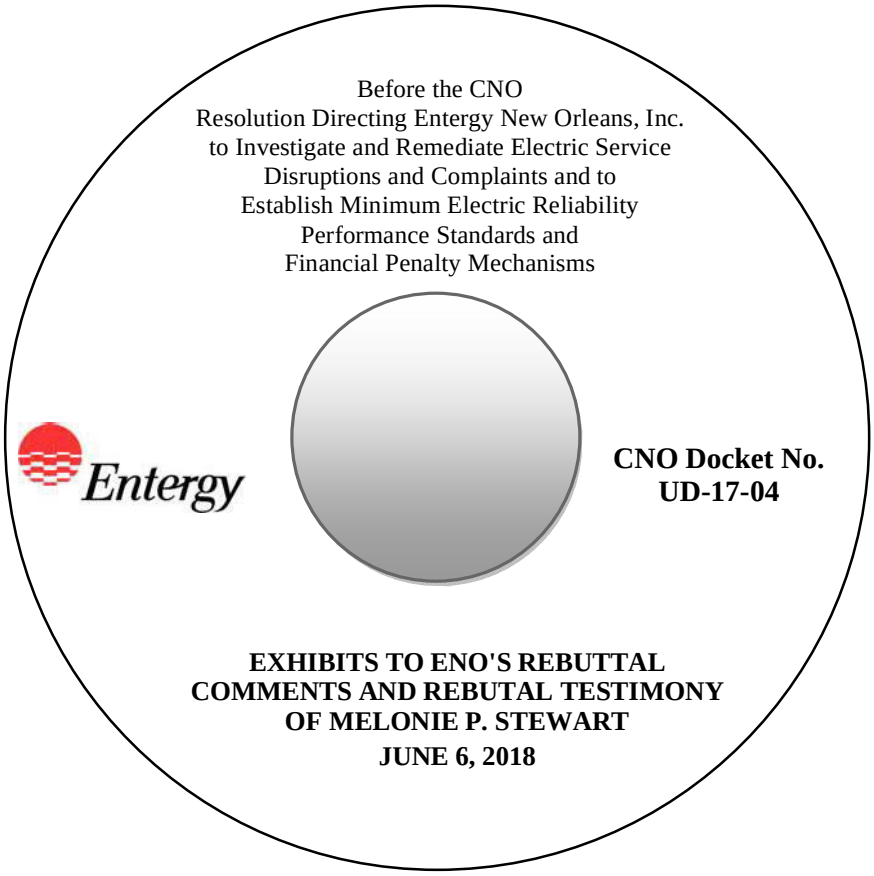
New Orleans, Louisiana, this 28th day of June 2019.

Timothy S. Cragin

Before the CNO
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

EXHIBITS TO ENO'S REBUTTAL COMMENTS AND REBUTAL TESTIMONY OF MELONIE P. STEWART

JUNE 6, 2018

BEFORE THE

COUNCIL OF THE CITY OF NEW ORLEANS

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	**)**	**DOCKET NO. UD-17-04**

REBUTTAL TESTIMONY

OF

MELONIE P. STEWART

ON BEHALF OF

ENTERGY NEW ORLEANS, LLC

JUNE 2019

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EXHIBITS

I. INTRODUCTION AND PURPOSE OF TESTIMONY

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

A. My name is Melonie P. Stewart. I am currently employed by Entergy Services, LLC ("ESL"),[1] as Vice President, Distribution Operations for Louisiana. My primary business address is 4809 Jefferson Highway, Jefferson, Louisiana 70121.

Q2. ON WHOSE BEHALF ARE YOU TESTIFYING?

A. I am testifying on behalf of ENO.

Q3. ARE YOU THE SAME MELONIE P. STEWART WHO FILED DIRECT TESTIMONY IN THIS DOCKET IN JUNE 2018 ON BEHALF OF ENO?

A. Yes.

Q4. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my Rebuttal Testimony is to respond to certain issues raised in the Direct Testimony of Joseph W. Rogers, P.E., which was submitted on behalf of the Advisors to the Council of the City of New Orleans (the "Advisors") and accompanied the Advisors' Comments on ENO's Response to ENO Filing in Prudence Investigation, filed in this Docket on April 25, 2019 (the "Advisors' Comments").

[1] ESL is a subsidiary of Entergy Corporation that provides technical and administrative services to all of the Entergy Operating Companies ("EOCs"), which include Entergy Arkansas, LLC; Entergy Louisiana, LLC ("ELL"); Entergy Mississippi, LLC; Entergy New Orleans, LLC ("ENO" or the "Company"); and Entergy Texas, Inc.

Q5. PLEASE SUMMARIZE THE POSITIONS SET FORTH IN MR. ROGERS'S TESTIMONY AND THE RESPONSES THAT YOU PROVIDE IN YOUR REBUTTAL TESTIMONY.

A. After purportedly reviewing the information that ENO has provided to the Council in this Docket, Mr. Rogers asserts that he cannot conclude that ENO acted prudently and consistently with industry practices in maintaining its electric distribution system: "I believe the reduction in distribution capital additions, lack of evidence of a reasonable decision-making process, decline in reliability and the failure to timely respond to mitigate that decline is evidence supportive of a Council determination of imprudence."[2] Despite this statement of his concluding belief, however, Mr. Rogers does not identify any ENO maintenance program, process, or decision that falls below what would be expected from a reasonable utility or, more importantly, what alternative decisions he believes ENO should have made based on what was known or reasonably knowable at the time.

In this Rebuttal Testimony, I address Mr. Rogers's conclusions on ENO's decision-making process and highlight the evidence in this Docket demonstrating that ENO has maintained its distribution system in accordance with Prudent Utility Practice and taken reasonable steps to improve reliability performance. I then address a major error underlying Mr. Rogers's testimony that ENO significantly reduced distribution capital additions in 2015 and discuss how ENO has invested in its distribution system

[2] Dir. Test. of J. Rogers, at 20.

in accordance with Prudent Utility Practice. Finally, I respond to Mr. Rogers's discussion of the accepted prudence standard in Louisiana.

II. ENO HAS MAINTAINED ITS DISTRIBUTION SYSTEM IN ACCORDANCE WITH PRUDENT UTILITY PRACTICE AND TAKEN REASONABLE STEPS TO IMPROVE RELIABILITY PERFORMANCE.

Q6. MR. ROGERS STATES ON PAGE 15 OF HIS TESTIMONY THAT "A PRUDENT UTILITY WOULD BE ABLE TO DEMONSTRATE THAT IT HAD AN ACTIVE CAPITAL PROJECT AND O&M PROGRAM IN PLACE TO MAINTAIN SYSTEM RELIABILITY." WHAT IS YOUR RESPONSE TO THAT TESTIMONY?

A. I agree with that statement, but I disagree with Mr. Rogers's conclusion that ENO has not demonstrated that it maintained its distribution system in accordance with Prudent Utility Practice. Mr. Rogers's suggestion that ENO did not have an "active capital project and O&M program in place to maintain system reliability" is both troubling and incorrect. ENO certainly had such programs in place throughout the 2013 to 2018 period that Mr. Rogers purported to review, and it has provided substantial information about those programs in this Docket. Because I believe that it is important that the Council not be misled about ENO's programs, I take the time below to point out the information that ENO has provided in this Docket and to demonstrate that Mr. Rogers's claims that ENO did not provide information in response to Council Resolution No. R-18-475 are not correct.

Q7. PLEASE DESCRIBE THE INFORMATION ENO HAS PROVIDED IN THIS DOCKET CONCERNING ITS EFFORTS TO MAINTAIN AND IMPROVE DISTRIBUTION RELIABILITY.

A. ENO has provided extensive information about several major reliability-focused efforts that were in place from 2013 to 2018 and will continue to be in effect (or will be improved upon) in 2019 and beyond.[3] Those efforts include the FOCUS Program, the Backbone Program, Internal Projects, the Pole Program, Equipment Inspection and Maintenance, URD/Cable Projects,[4] Sectionalization, and Vegetation Management.[5] As I explain later, many of these efforts are reactive, meaning that the actions taken are in response to devices that have failed and/or outages that have occurred, while others are proactive, meaning that the actions taken are an attempt to prevent devices from failing and/or outages from occurring. Thus, while some of the specific remedies and mitigation measures may be similar among the programs, the process for identifying issues is different.

Q8. PLEASE DESCRIBE THE FOCUS PROGRAM.

A. The FOCUS Program is a reactive program that uses historical outage data over the prior two-year period and an algorithm to identify devices (*e.g.*, breakers, reclosers,

[3] ENO submitted its Revised Reliability Plan on July 5, 2018. *See* Entergy New Orleans, LLC's Revised Reliability Plan Submitted Pursuant to Council Resolution R-18-98 (hereinafter, "Revised Reliability Plan"). ENO also submitted an updated 2019 Reliability Plan on January 18, 2019 (hereinafter, "2019 Reliability Plan").

[4] URD is the abbreviation for Underground Residential Distribution.

[5] *See* Dir. Test. of M. Stewart, at 4–10.

line fuses, and sectionalizers) where reliability has been adversely affected.[6] The FOCUS Program then creates a list of FOCUS devices, which is prioritized by customer interruptions and reviewed and updated on a quarterly basis. Using local knowledge and the algorithm rank, areas behind the devices are then selected to have work performed during the calendar year. The intent of the FOCUS Program is to improve the reliability performance of the selected FOCUS-identified devices.

The FOCUS Program addresses the reliability needs of each device through a Reliability Inspection process (*i.e.*, point by point) to identify repairs and improvements that have the potential of improving a line segment's performance and developing a remediation plan, which may include the following:

- installation of animal guards and/or protective covers to mitigate animal outages;
- replacement of cross-arms, insulators, conductors, arresters, switches, and other equipment;
- vegetation mitigation impacting the segment performance;
- shielding, installation, or relocation of lightning arresters, removing grounds from metal brackets in the primary zone, and/or the installation of Hendrix ground wire and ground rods to improve system Base Insulation Level ("BIL"); and

[6] *See id.* at 4–7 (describing the FOCUS Program); Revised Reliability Plan Exhibit 4, ENO Remediation Plan for 2018 Devices, at 1–27 (providing additional detail on the FOCUS Program algorithm, inspection form, types of work performed under this program, a 2018 remediation plan for FOCUS work, and data on performance of devices worked from 2011 to 2016).

- review of protective device coordination.

The following pictures illustrate a few of the components that are inspected in the FOCUS Program, from left to right: (1) lightning arrester; (2) cross-arm (including primary wires, secondary wires, a disconnect switch, and insulators); and (3) insulator close-up.

Figure 1 illustrates the overall FOCUS process.

Figure 1[7]

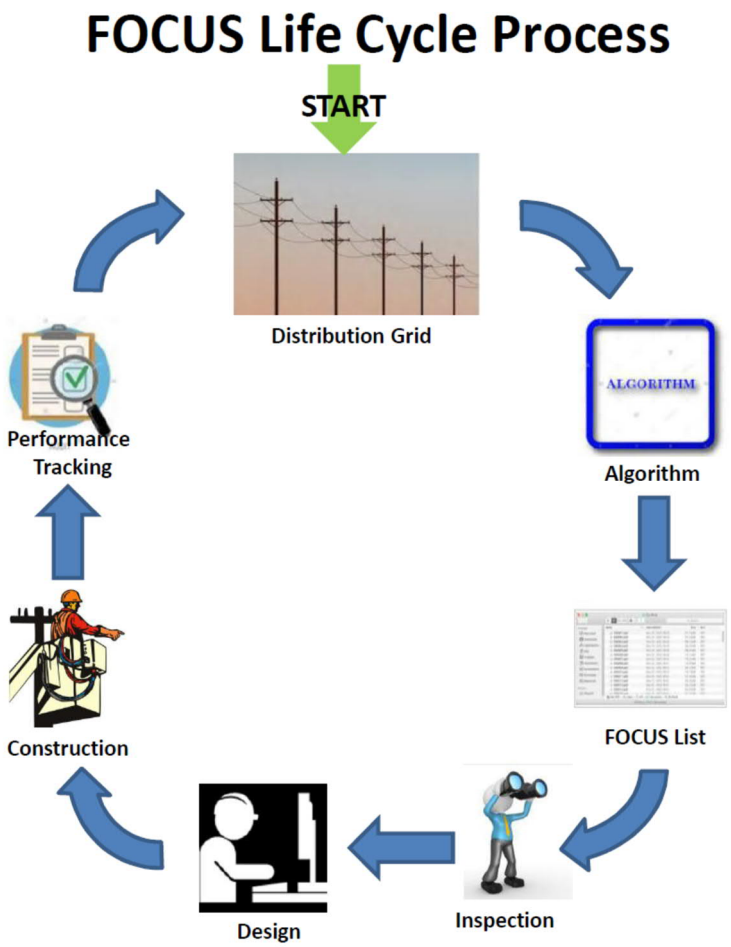


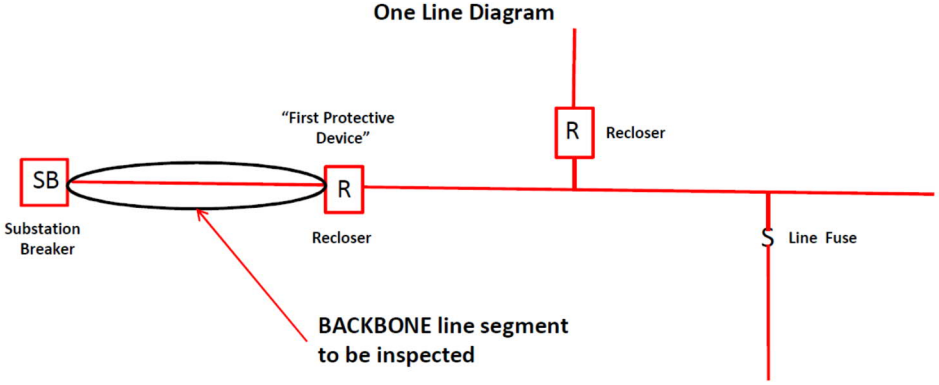
Exhibit 4 to ENO's July 5, 2018 Revised Reliability Plan provides additional detail on the FOCUS Program algorithm, inspection form, types of work performed under this program, a 2018 remediation plan for FOCUS work, and data on subsequent performance of devices worked from 2011 to 2016.

[7] Revised Reliability Plan, Exhibit 4, at 2.

Q9. PLEASE DESCRIBE THE BACKBONE PROGRAM.

A. The Backbone Program is a proactive (*i.e.*, not based on historical outages) infrastructure program designed to inspect and address the portion of selected circuits that have the largest potential for customer impact, which is the portion of the line from the substation breaker up to and including the first protective device that has the responsibility of isolating the remainder of the circuit.[8] If the first protective device falls within the first 15 spans of the circuit, inspection would continue past that point to the next protective device or to the end of the feeder, whichever is first. The intent of the Backbone Program is to proactively identify potential problems before they result in an outage. Figure 2 illustrates the line segment inspected in the Backbone Program.

Figure 2[9]
One Line Diagram



[8] *See* Dir. Test. of M. Stewart, at 7 (describing the Backbone Program); Revised Reliability Plan, Exhibit 4, ENO Remediation Plan for 2018 Devices, at 28–33 (providing additional detail on the Backbone Program, types of work performed under this program, a 2018 remediation plan for Backbone work, and data on performance breakers worked from 2011 to 2016).

[9] Revised Reliability Plan, Exhibit 4, at 28.

The Backbone Program addresses the identified potential reliability problems through the Reliability Inspection process (*i.e.*, point by point) described above for the FOCUS Program. The difference between the two programs is that FOCUS devices are identified because of outages, whereas Backbone devices are identified proactively in an attempt to prevent outages.

Exhibit 4 to ENO's July 5, 2018 Revised Reliability Plan also provides additional detail on the Backbone Program, types of work performed under this program, a 2018 remediation plan for Backbone work, and data on performance of past reliability work from 2011 to 2016.

Q10. PLEASE DESCRIBE THE INTERNAL PROJECTS CATEGORY.

A. The purpose of the activities in the Internal Projects category is to address National Electrical Safety Code ("NESC") compliance, Entergy Service Standards compliance, and other emergent critical infrastructure needs that arise and cannot be timely addressed in any other reliability program.[10] Examples of NESC compliance projects include adjusting the height of existing service and/or secondary cable over a roadway or existing communications cable to maintain prescribed clearance. An example of an Energy Service Standards compliance project is replacing bare wire leads on a recloser with insulated wire leads to help mitigate animal interference. An example of an emergent critical infrastructure need is when heavy rainstorms erode a ditch, and an

[10] *See* Dir. Test. of M. Stewart, at 7; 2019 Reliability Plan, at 10.

adjacent pole becomes in danger of collapse. Internal Projects can be initiated by Company personnel at any time during the year.

Q11. PLEASE DESCRIBE THE POLE PROGRAM.

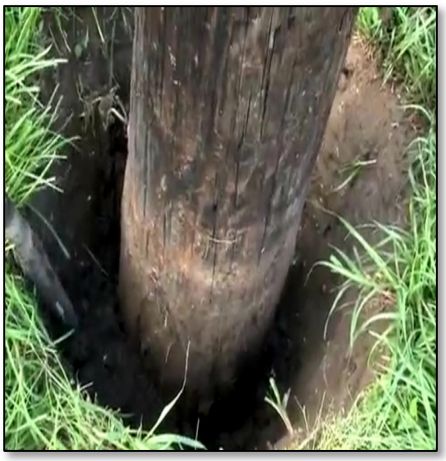
A. The Pole Program is a cyclical proactive inspection and preventive maintenance program.[11] The Program consists of a visual inspection of the pole and full excavation where possible or sounding and selective boring when full excavation is not possible.[12] The recommended actions depend on the findings of the inspection. Poles judged to be sound receive no further action. Those identified as needing additional attention are either treated in the field or reinforced, depending on the condition of the pole. Those that are deemed beyond treatment or reinforcement are prioritized for replacement.

For 2017 and 2018, ENO's Pole Program was focused on addressing poles identified in pole inspections as needing repair or replacement and on addressing joint use transfers. Joint use transfers are projects to provide additional clearances between the Company's facilities and joint use facilities; increase structure height or strength of poles containing joint use facilities; or transfer, purchase, or sell joint use facilities.

[11] Dir. Test. of M. Stewart, at 8; 2019 Reliability Plan, at 7–9.

[12] *E.g.*, the pole is surrounded by concrete in a sidewalk.

The following pictures illustrate excavating and treating a pole:



Q12. PLEASE DESCRIBE THE EQUIPMENT INSPECTION AND MAINTENANCE PROGRAM.

A. This program involves an annual inspection of all reclosers greater than 100 amps and line capacitors on the distribution line system.[13] Equipment problems identified during those inspections are also addressed. This category also includes inspections of the underground cable, network protectors, and other components in the New Orleans CBD underground network system.

[13] *See* Dir. Test. of M. Stewart, at 9; 2019 Reliability Plan, at 10.

Q13. PLEASE DESCRIBE THE URD/CABLE PROGRAM.

A. This program involves the splicing or replacement of failed primary URD cable.[14] Replacement of failed URD cable is performed in lieu of splicing when possible to prevent future outages.

Q14. PLEASE DESCRIBE THE SECTIONALIZATION PROGRAM.

A. The Company funds an annual sectionalization program that identifies opportunities to reduce customer exposure and customer outage minutes through the addition of automatic isolating devices (*i.e.*, an automated load transfer scheme ("ALT")) and upgrading existing sectionalizing locations to prepare for future ALTs.[15] An ALT is a group of multiple reclosers that communicate with each other to minimize the outage to as small of an area as possible, thus quickly restoring service to as many customers as possible. Proposals are planned, prioritized, and implemented based on their projected impact on reliability.

Q15. PLEASE DESCRIBE THE VEGETATION MANAGEMENT PROGRAM.

A. ENO's distribution line vegetation management program consists primarily of a cycle-based proactive element, but it also includes a reactive, customer-driven component and a selective herbicide program.[16] The proactive trim cycles are

[14] *See* Dir. Test. of M. Stewart, at 9; 2019 Reliability Plan, at 10.

[15] *See* Dir. Test. of M. Stewart, at 9, 14; *see also* 2019 Reliability Plan, at 9-10 (discussing sectionalization efforts have been enhanced by technology in the Distribution Automation ("DA") Program).

[16] *See* Dir. Test. of M. Stewart, at 9-10; 2019 Reliability Plan, at 11.

examined annually and are determined by a number of factors, including growth rates, type and density of side and floor vegetation, vegetation-related outage information, and time since last maintenance. Identified circuits or areas are maintained using a combination of both conventional side trimming and herbicides depending on the specific application. The reactive component of the program consists of investigating potential problem areas that are identified by Company personnel and/or the public and determining a remedial course of action when the problem involves the Company's facilities.

Q16. ARE ENO'S RELIABILITY EFFORTS SIMILAR TO THOSE EMPLOYED BY OTHERS IN THE INDUSTRY?

A. Yes. As ENO witness Tad S. Patella stated in his Direct Testimony, ENO participates in certain industry groups and is therefore able to discuss and compare its distribution reliability practices with others in the industry.[17] Mr. Patella's Rebuttal Testimony further explores Quanta Technology, LLC's ("Quanta") 2018 and 2013 reports concerning ENO's reliability programs, specifically describing how these programs were found to be similar to those used by others in the industry.

[17] *See* Dir. Test. of T. Patella, at 19.

Q17. WITH REFERENCE TO MR. ROGERS'S TESTIMONY AT PAGE 15, DID ENO TAKE "IMMEDIATE STEPS" TO ADDRESS AND CORRECT RELIABILITY ISSUES WHEN IT EXPERIENCED AN INCREASE IN OUTAGES IN 2016?

A. Yes, and ENO has provided substantial information in this Docket about the "reliability blitz" that it conducted in 2016. After experiencing a series of powerful thunderstorms in early 2016, ENO planned the reliability blitz and brought in a number of outside contractor crews to assist in executing targeted reliability projects involving approximately $11.6 million of incremental investment in the distribution system over the last half of 2016 and into early 2017.[18] In his Direct and Rebuttal Testimonies, Mr. Patella discusses further the planning and results of the reliability blitz.[19]

Q18. MR. ROGERS STATES ON PAGE 14 OF HIS TESTIMONY THAT ENO'S RECENT STORM HARDENING WORK "DOES NOT ADDRESS THE DAY-TO-DAY OPERATION OF THE DISTRIBUTION SYSTEM." DO YOU AGREE?

A. No. Although improving the resiliency of the system through storms and hurricanes may well have been the Council's primary objective when it approved ENO's proposed storm hardening plan in July 2017,[20] the benefits of that work to daily system reliability are more than mere "carryover," as Mr. Rogers opines. The focus of storm hardening

[18] *See* Dir. Test. of T. Patella, at 18-19; Exhibit TSP-2 (describing the planning process for the reliability blitz); and Exhibit TSP-5 (detailing actual spending on the reliability blitz).

[19] *See also id.* at Exhibit TSP-7 (providing the list of reliability blitz devices worked and customer interruptions avoided as a result).

[20] Council Resolution No. R-17-331 (July 13, 2017).

is to harden service to critical customers, which are, generally, customers whose services are most important in responding to a major storm event and maintaining or restoring service after a major storm event.[21] Measures to improve or harden the circuits that serve those customers certainly address the day-to-day performance of those circuits.[22] ENO's recent hardening measures involved approximately $30.3 million in spending in 2017 and 2018, including the following activities:

- Full excavation of a statistically significant sample of distribution poles and treatment or replacement of poles lacking satisfactory structural integrity with new Class 3 poles.
- Performing targeted reliability work (*e.g.*, replacing insulators; installing new wood or composite cross arms; and improving the facilities' BIL, which enhances distribution facilities' ability to withstand a lightning impulse, by installing lightning mitigation devices) on feeder lines that serve critical customers, large numbers of customers, or that historically have been more vulnerable to reliability-related outages.
- Grid sectionalization and automation (*e.g.*, installing additional reclosers and fault indicators) on specific circuits identified in a storm hardening analysis that focused on identifying hardening service to critical customers.

[21] *See* Dir. Test. of M. Stewart, at 10-16; Dir. Test. of T. Patella, at Exhibit TSP-2, ENO's Supplement To Final Storm Hardening Report filed September 29, 2016 (detailing the plans for this effort).

[22] Indeed, in their Review of Entergy New Orleans, Inc.'s Supplement to Final Storm Hardening Report in Council Docket UD-12-04, the Advisors note that storm hardening "should positively support and improve the reliability and storm resiliency of ENO's distribution system, and *should reduce the frequency and duration of outages to customers*." (emphasis added).

- Reconfiguring specific circuits in a manner that eliminates or reduces portions of the overhead infrastructure, which optimizes the circuit path and reduces exposure to storm damage.

As the above descriptions indicate, Mr. Rogers is incorrect to suggest that the storm hardening work does not improve system reliability. That work would be considered by any prudent industry expert in assessing ENO's distribution system.

Q19. MR. ROGERS STATES ON PAGE 16 OF HIS TESTIMONY THAT "ENO FAILED TO TAKE STEPS TO CORRECT AND IMPROVE ITS INFRASTRUCTURE PROMPTLY, CONSISTENTLY, AND AS A LONG-TERM PROGRAM." WHAT IS YOUR RESPONSE TO THAT STATEMENT?

A. The evidence and information presented by ENO in this Docket demonstrates that Mr. Rogers's statement is incorrect and unsupportable. I reviewed above the routine reliability programs (FOCUS, Backbone, Internal Projects, Pole Program, Equipment Inspection and Maintenance, URD/Cable Projects, and Sectionalization) that ENO has employed over the long-term. I also discussed the 2016 "reliability blitz" and the infrastructure improvements that resulted from the storm hardening program. Although Mr. Rogers does not acknowledge it, I also provided information in my June 2018 Direct Testimony about additional long-term efforts that ENO is undertaking to improve the distribution system and the customer experience – Advanced Metering Infrastructure ("AMI") and Grid Modernization.

Q20. PLEASE DESCRIBE BRIEFLY HOW AMI AND GRID MODERNIZATION CAN HELP WITH THE RELIABILITY OF THE DISTRIBUTION SYSTEM.

On October 16, 2016, ENO filed an Application to Deploy Advance Metering Infrastructure. AMI will enable ENO to more accurately identify outage locations, which will allow quicker and more accurate detection of service problems, improved outage and restoration communications with customers, and overall faster outage restoration.[23] AMI is the foundation of the modernized power grid and, among other benefits, will deliver significant reliability enhancements and will enable ENO to take advantage of future technological innovations to continue to improve the distribution system and the customer experience.[24]

The Company's Grid Modernization plan consists of specific projects that largely implement new technologies associated with two-way communications and automation and that are expected to serve as the foundation for numerous additional functionalities that will be developed in the future.[25] Grid Modernization can reduce the frequency and duration of outages with automated load transfer systems; reduce the number of customers affected during outages by sectionalizing distribution circuits into smaller segments; improve the utility's situational awareness and outage response

[23] Dir. Test. of M. Stewart, at 17.

[24] *See id.* at 16-17.

[25] Revised Reliability Plan, Exhibit 2, ENO's Grid Modernization and Smart Cities Report; Dir. Test. of M. Stewart, at 18-19.

times through real-time monitoring and remote control of data automation and smart devices; and improve resiliency and performance.[26]

AMI and Grid Modernization will improve distribution operations by enabling more robust proactive and preventive maintenance. In contrast to the largely reactive nature of maintenance today (although there are certainly proactive elements), after AMI deployment and Grid Modernization, Distribution Operations will remotely receive more detailed, reliable data from smart devices and sensors that will enable preventive maintenance and tracking capabilities, which has the potential to avoid equipment failures before they occur and improve safety. For example, today, crews must literally "walk the lines" to identify equipment (*e.g.*, capacitors, insulators, and reclosers) that is approaching failure or that has failed. With the more detailed information that can specifically identify the location and cause of failing or failed equipment that is provided by grid modernization, the need for such physical walk-downs would be diminished, if not eliminated. This enhances safety and reduces labor costs because crews spend less time in the field. It also improves service restoration times following outages because crews will know exactly where to go and what equipment they need. In addition, the predominantly reactive maintenance practices today typically replace failed equipment in kind. On the other hand, the data from smart devices and sensors deployed with Grid Modernization will allow engineers and planners to anticipate future distribution system needs, like incorporating distributed

[26] Dir. Test. of M. Stewart, at 18-19.

generation, and, when necessary, installing equipment that is designed to accommodate those additional demands.

III. ENO HAS INVESTED IN ITS DISTRIBUTION SYSTEM IN ACCORDANCE WITH PRUDENT UTILITY PRACTICE.

Q21. AMONG OTHER FACTORS, MR. ROGERS CITES A "REDUCTION IN DISTRIBUTION CAPITAL ADDITIONS" WHEN EXPLAINING WHY HE "CANNOT CONCLUDE THAT ENO ACTED PRUDENTLY, AND CONSISTENTLY WITH INDUSTRY PRACTICES."[27] OVER THE 2013 THROUGH 2018 PERIOD THAT MR. ROGERS PURPORTED TO REVIEW, DID ENO INVEST IN ITS DISTRIBUTION SYSTEM IN ACCORDANCE WITH PRUDENT UTILITY PRACTICE?

A. Yes. I note initially that Mr. Rogers's reliance on distribution capital additions appears to rest on the incorrect premise that ENO reduced those additions by $20.8 million between 2014 and 2015. As I discuss later in this section of my Rebuttal Testimony, based on the data that Mr. Rogers reviewed, ENO's distribution capital additions actually increased between 2014 and 2015 when an accounting adjustment related to Hurricane Isaac is properly considered.

For the period of 2013 through 2018, ENO sought to maintain its distribution system in a way that optimizes available resources while taking into account that the level of spending affects customer bills. The definition of "Prudent Utility Practice"

[27] Dir. Test. of J. Rogers, at 20.

that Mr. Rogers sets forth on page 15 of his testimony confirms that ENO is expected to provide safe, reliable service at the "lowest reasonable cost" to customers. Distribution, transmission, generation, and customer service functions all play a role in providing reliable electric service, and ENO must consider all of those functions when it plans its spending and makes adjustments as circumstances warrant. Throughout his testimony, however, Mr. Rogers loses sight of the cost-minimization objective of Prudent Utility Practice and suggests that ENO can be deemed imprudent simply because customer outages increased in 2016. But outages are a reality on any electric distribution system, and Mr. Rogers admits that not every outage reflects imprudence by the utility.[28] Importantly, as I explain further below, Mr. Rogers has cited no facts in his testimony that call into question the reasonableness of ENO's distribution investment decisions based on the information that ENO knew at the time any decision was made.

Q22. MR ROGERS STATES THROUGHOUT HIS TESTIMONY THAT ENO HAS PROVIDED NO EVIDENCE IN THIS DOCKET OF "ANY DECISION-MAKING PROCESS." IS HE CORRECT?

A. Absolutely not. Those statements indicate that Mr. Rogers either has not reviewed or has not reviewed carefully the information that ENO has filed in this docket. As I documented earlier in this Rebuttal Testimony, ENO has provided detailed information about the reliability programs that it employs on a routine basis and other projects,

[28] Dep. Tr. of J. Rogers, at p. 118, l. 25 through p. 119, l. 2.

efforts, and initiatives that are expected to improve distribution reliability (including efforts taken in response to the increase in outages in 2016). And ENO has provided specific information about project and program funding. To suggest that the deployment, execution, and funding of those programs and efforts occur without any underlying decision-making is absurd and incorrect.

Q23. AFTER DISCUSSING CERTAIN OF YOUR STATEMENTS AT THE UCTTC MEETING OF JUNE 28, 2018, MR. ROGERS CONCLUDES ON PAGE 10 OF HIS TESTIMONY THAT, "IN 2014, ENO WAS BOTH AWARE OF THE DECLINE IN SYSTEM RELIABILITY AND THE RELATIONSHIP BETWEEN INVESTMENT IN THE DISTRIBUTION SYSTEM AND THE RESULTING SYSTEM RELIABILITY." WHAT IS YOUR RESPONSE?

A. Mr. Rogers omits from his discussion important additional information that I also relayed at the June 28, 2018 UCTTC meeting, and, accordingly, his conclusion is potentially misleading in the context of this prudence investigation. First and foremost, at the June 28, 2018 meeting, I expressly advised the members of the UCTTC that it was in 2016 that ENO determined a negative reliability trend.[29] ENO's System Average Interruption Frequency Index ("SAIFI") for 2013 was a very respectable 1.04, and the slight increases in SAIFI to 1.209 in 2014 and 1.234 in 2015 were still below ENO's SAIFI average of 1.49 over the years 2010 through 2012. As I will explain

[29] Tr. of 6/28/18 UCTTC Mtg., at 75.

further, any suggestion that ENO was aware in 2014 of the negative reliability trend that has been discussed in connection with the increase in outages in 2016 is not correct.

Second, Mr. Rogers notes my estimate to the UCTTC on June 28, 2018, that ENO reduced investment in the distribution system by about $1 million in 2014 and my statement that "we didn't want to spend money on a system that was performing extremely well."[30] Mr. Rogers's isolation of that statement obscures the broader point that I was attempting to convey, which was that providing reliable service at the lowest reasonable cost to our customers inherently requires ENO to balance costs and reliability.[31] This point is not controversial; Mr. Rogers notes in his testimony the Council's expectation that ENO exercise reasonable judgment, in the light of the facts known at the time decisions are made, to provide service to customers "at the lowest reasonable cost consistent with reliability, safety and expedition."[32] By stressing this point, I did not mean to suggest that ENO had decided to reduce significantly its routine distribution reliability spending or to discontinue any of the industry-standard maintenance practices that were reviewed by Quanta in 2013. As I discuss further below, even with the reduction between 2013 and 2014, ENO's routine spending on reliability was relatively constant from 2013 through 2016, and, as Quanta confirmed in 2018, we continued to employ and improve on industry-standard maintenance practices.

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30 *Id.* at 74.

31 *See id.* at 78 ("We are always trying to balance cost and reliability.").

32 Dir. Test. of J. Rogers, at 15 (setting forth definition of "Prudent Utility Practice" from ENO's Service Regulations).

Third, Mr. Rogers quotes my following statement to the UCTTC on June 28, 2018: "As we backed off on that funding slightly, we did see the reliability go in the wrong direction."[33] This statement, made with the benefit of hindsight, relays (1) the modest decrease in routine reliability spending between 2013 and 2014, which I discuss further below; and (2) that ENO's SAIFI and System Average Interruption Duration Index ("SAIDI") indices increased after 2013. Although Mr. Rogers concludes correctly from my statement that ENO was and is aware that investment in the distribution system can be expected to improve system reliability, I did not mean to suggest that the modest year-to-year variations in routine reliability spending between 2013 and 2016 were the cause of the increases in ENO's reliability performance metrics (SAIFI and SAIDI) over that period or, more importantly, the increase in outages beginning in 2016 that the Council noted on August 10, 2017, when it adopted Resolution No. R-17-427 and established this Docket No. UD-17-04.[34] I did not and do not believe that to be the case, and I discuss further below the challenges in determining the exact reason why a SAIFI or SAIDI score in a particular year goes up or down and in using those scores to make investment decisions.

[33] Tr. of 6/28/18 UCTTC Mtg., at 75.

[34] In explaining the circumstances that caused the Council to initiate this prudence investigation, Mr. Rogers notes in his testimony that "[a]n increasing number of distribution system outages were being brought to the attention of Councilmembers during the latter part of 2016." Dir. Test. of J. Rogers, at 4.

Q24. BASED ON THE INFORMATION IT HAD IN 2014 AND 2015, COULD ENO HAVE FORESEEN THE INCREASE IN OUTAGES BEGINNING IN 2016?

A. No. Even if ENO's reliability performance in 2013 were an anomaly, the slight increases in ENO's SAIFI and SAIDI scores in 2014 and 2015 did not bring those indices above where they were in 2012. Importantly, to this day, the Council has not set any reliability standards that would indicate that ENO was not striking the appropriate balance between cost and reliability in 2014 and 2015. Furthermore, there is no single factor that drives changes in reliability, and it can be difficult to isolate the exact reason that a SAIFI or SAIDI score in a particular year goes up or down in relation to the prior year. We do know, however, that variations in weather can have a major impact on SAIFI and SAIDI. In his Direct Testimony in this Docket, Mr. Patella discussed that 2016 and 2017 were significantly hotter and wetter than the average of the preceding years. Mr. Rogers does not and cannot suggest that ENO could know in 2014 and 2015 precisely how the weather in 2016 and 2017 would be extreme or atypical.

What ENO did know in 2014 and 2015 is that Quanta had reviewed ENO's distribution system, maintenance practices, and vegetation management in 2013 in the aftermath of Hurricane Isaac in 2012. Hurricane Isaac was a large, slow-moving storm that exposed ENO's infrastructure to strong winds for nearly twice the duration of prior major hurricanes and resulted in over $44 million in distribution-level storm recovery

costs.[35] As Mr. Patella discusses further in his Rebuttal Testimony, Quanta found in 2013 that ENO's distribution maintenance practices were consistent with the industry and that the population of ENO's legacy facilities that withstood extended punishment from Hurricane Isaac was "testament to the integrity of the original design as well as the proper maintenance of the facilities."[36] Considering that Quanta had confirmed ENO's compliance with industry practices in 2013, the modest variations in ENO's SAIFI and SAIDI in 2014 and 2015 did not suggest at the time that ENO was heading for a significant increase in outages in 2016.

Q25. DID ANYONE OTHER THAN QUANTA DETERMINE IN 2013 THAT ENO WAS MAINTAINING ITS DISTRIBUTION SYSTEM CONSISTENT WITH INDUSTRY PRACTICES?

A. Yes. In a report to the Council dated July 25, 2013, the Advisors observed as follows:

> Based upon our review of the information provided to the Advisors, the Companies [(ENO and ELL)] have in place comprehensive transmission and distribution inspection and maintenance programs, similar in scope and design to those being employed by electric utilities having transmission and distribution systems of comparable complexity. The design and predictive nature of the Companies inspection and maintenance programs are generally supportive of system reliability.[37]

[35] For Hurricane Isaac, the National Hurricane Center reported sustained winds of over 39 mph (tropical storm force) for 54 hours in the greater New Orleans area, compared to 21 hours for Hurricane Katrina in 2005 and 27 hours for Hurricane Gustav in 2008.

[36] 2013 Quanta Rept., at 4.

[37] Advisors' Interim Report to City Council of New Orleans, Council Docket No. UD-12-04 (7/25/13), at 16.

Even though he was a member of the Advisors in 2013 and has purported to review ENO's distribution system reliability beginning in 2013, Mr. Rogers does not address these observations of the Advisors in his testimony. And Mr. Rogers does not suggest that ENO discontinued any of the industry-standard maintenance practices that Quanta and the Advisors reviewed in 2013. Nor could he; during the period of 2013 through 2018, ENO continued to employ, fund, and improve on the reliability programs that I discussed above in detail.

Q26. ON PAGES 10 AND 11 OF HIS TESTIMONY, MR. ROGERS QUESTIONS WHETHER ENO INCREASED DISTRIBUTION O&M EXPENSE AND CAPITAL ADDITIONS IN 2015 "IN RESPONSE TO DECLINING RELIABILITY." WHAT IS YOUR RESPONSE?

A. As an initial matter, I disagree with the premise underlying his questions. Mr. Rogers suggests that ENO should have increased distribution O&M and capital spending in 2015 in response to the changes in ENO's SAIFI and SAIDI scores in 2014 and 2015. But this suggestion is purely the product of hindsight. Mr. Rogers cites no facts or information that would have indicated to ENO in 2014 or 2015 that the 2016 increase in outages would occur without a different level of spending in 2015. As I discussed above, the modest increases in ENO's SAIFI and SAIDI scores in 2014 and 2015 (after the much larger decrease in 2013) did not establish a discernable negative trend or make the 2016 increase in outages foreseeable. Mr. Patella discusses in his Rebuttal Testimony Quanta's recommended practice of analyzing the values of reliability

metrics over multiyear periods (3 to 5 years) to address the potential impact of weather or randomness on year-to-year variations.

With respect to distribution O&M, Mr. Rogers populates Table 4 of his Direct Testimony with data from ENO's annual FERC Form 1 filings. But he doesn't explain how ENO's reliability programs fit into the larger basket of distribution O&M expense, nor does he attempt to draw any connection between the 2015 O&M expense and the 2016 increase in outages. Nevertheless, without any explanation of how the information is relevant to the Council's prudence inquiry, Mr. Rogers highlights a decrease in distribution O&M expense of approximately $1.1 million from 2014 to 2015. According to Mr. Rogers's own Table 4, however, the total ENO distribution O&M expense of $10.5 million for 2015 was still higher than the 2009-2013 average of $10.1 million, and the expense level increased to $12.6 million in 2016. Thus, the O&M expense level for 2015 does not indicate any imprudence by ENO.

Mr. Rogers's discussion of distribution capital additions on page 11 of his Direct Testimony is also unhelpful; indeed, it is misleading. Mr. Rogers, again relying on FERC Form 1 data, states that ENO recorded a decrease in distribution capital additions from 2014 to 2015 of approximately $20.8 million.[38] But ENO's 2015 FERC Form 1 has a negative value in one of the lines that Mr. Rogers used to populate his Table 5, and a note accompanying that form advised that negative project additions include certain "reversal credits from prior year additions." If Mr. Rogers had followed up on that note, he would have learned that the 2015 data reflected an adjustment in an

[38] Dir. Test. of J. Rogers, at 11.

amount over $22.2 million that related to Hurricane Isaac storm costs. Without that adjustment, the form would have reflected distribution capital additions of over $32.6 million in 2015. Mr. Rogers's suggestion that ENO reduced distribution capital additions by $20.8 million in 2015 is incorrect. Accordingly, contrary to Mr. Rogers's testimony, ENO's actual distribution capital additions were higher in 2015 than they were in 2014.

Finally, in the course of his discussions of the FERC Form 1 data, Mr. Rogers states twice that ENO did not report any "remarkable increases" in distribution spending until 2017 and 2018.[39] Because Mr. Rogers ignores entirely the information that ENO has provided in this Docket about the "reliability blitz" it conducted in 2016, those statements are potentially misleading (although, in fairness, Mr. Rogers does not define what he considers "remarkable").

Q27. HAS ENO PROVIDED INFORMATION BEYOND THE FERC FORM 1 DATA ABOUT ITS DISTRIBUTION RELIABILITY SPENDING FROM 2013 THROUGH 2018?

A. Yes. In the Revised Reliability Plan that it filed in this Docket on July 5, 2018, ENO provided historical spending information for 2013 through 2017 and estimated spending information for 2018 about its routine distribution reliability programs and

[39] *See id.* at 10, 11.

vegetation management.[40] That information is more specific to reliability programs than the FERC Form 1 data.

Q28. WHAT DOES THAT INFORMATION SHOW ABOUT ENO'S ROUTINE RELIABILITY SPENDING OVER 2013 THROUGH 2018?

A. As shown in Figure 4 below, routine spending on reliability was relatively constant from 2013 through 2016 (excluding "reliability blitz" spending in 2016). There was a significant ramp up in routine spending beginning in 2017 in response to the negative reliability trend discussed above. As I explained above, the FOCUS Program, Backbone Program, Pole Program, and URD/Cable efforts were significant drivers of the increased reliability spending.

Figure 4
Routine Reliability Spending 2013-2018[41]
(Capital and O&M)
($000s)

2013	2014	2015	2016	2017	2018
$3,727	$2,989	$2,699	$3,363	$7,330	$16,429

Exhibit MPS-2A shows the breakdown between capital and O&M for ENO's routine reliability spending for each program and in total. Exhibit MPS-2B provides additional

[40] *See* Revised Reliability Plan, at 3. I note that I also provided this information, along with exhibits containing detailed spending breakdowns by reliability program, in my testimony in Council Docket No. UD-18-07. Mr. Rogers filed testimony in that Docket and even responded to my testimony on reliability issues.

[41] Figure 4 includes actual spending information for 2018.

detail showing activities performed under ENO's various reliability programs and efforts.

Q29. DO THE AMOUNTS SHOWN IN FIGURE 4 INCLUDE THE STORM HARDENING AND "RELIABILITY BLITZ" YOU DESCRIBED EARLIER?

A. No. Those programs were in addition to the routine spending shown in Figure 4. Figure 5 shows the incremental spending for the reliability blitz and storm hardening initiative.

Figure 5
Reliability Blitz and Storm Hardening 2016-2018
($000s)

	2016	2017	2018
Reliability Blitz	$10,471	$1,117	
Storm Hardening		$14,567	$16,610

Q30. DO THE AMOUNTS SHOWN IN FIGURE 4 INCLUDE THE VEGETATION MANAGEMENT SPENDING YOU DESCRIBED EARLIER?

A. No. Figure 6 shows the annual vegetation management spending for 2013-2018. Note that the increase shown between 2016 and 2017 is primarily driven by two things. First, an approximate $800,000 budget increase for: (i) increasing the line miles trimmed each year to get all of ENO on a one and one-half to two-year trim cycle; (ii) danger tree removals (*i.e.*, trees in bad condition outside the right-of-way that could result in significant damage if one were to fall into the right-of-way); (iii) the skyline program (trims everything above the conductor); and (iv) reactive trimming (*e.g.*, customer

request or trees identified as growing faster than a two-year cycle). The second driver is increased contractor costs for the 2017-2018 contract period versus the 2015-2016 contract period.

Figure 6
Vegetation Management Spending 2013-2018
($000s)

2013	2014	2015	2016	2017	2018
$975	$1,187	$1,263	$1,576	$3,110	$3,267

Q31. DO YOU HAVE ANY COMMENTS TO MR. ROGERS'S CLAIMING THAT ENO DID NOT PROVIDE SUFFICIENT INFORMATION IN RESPONSE TO COUNCIL RESOLUTION NO. R-18-475?

A. Yes. Although Mr. Rogers has never worked for an electric distribution utility or designed, operated, or maintained an electric distribution system, the relevance of the information provided by ENO in this docket should be apparent to any "expert in the utility industry."[42] ENO clearly set forth information about its reliability programs and spending during 2013-2018, the extreme weather that preceded the increase in outages in 2016, and ENO's response to the increase in outages.[43] Mr. Rogers simply does not address that information.[44] Indeed, he goes so far as to assert that "ENO did not initiate an accelerated distribution capital spending program when its reliability performance

[42] Dir. Test. of J. Rogers, at 15.

[43] *See* Dir. Test. of M. Stewart, at 4–10; Revised Reliability Plan, at 3; Dir. Test. of T. Patella, at 15, 18-19, and Exhibit TSP-2, at 21–22.

[44] *See, e.g.*, Dir. Test. of J. Rogers, at 12-13, 15, 19-20.

subsequently declined and before the Council initiated an investigation."[45] But this assertion is simply not true; ENO conducted a "reliability blitz" in 2016 when outages increased and ENO determined that a negative reliability trend had emerged. And ENO has provided detailed information about the "reliability blitz" in this docket. Mr. Rogers does not dispute the prudence of the sums invested by ENO in that program, and, by ignoring it entirely in his testimony and suggesting incorrectly via FERC Form 1 data that ENO reduced distribution capital additions by over 65 percent in 2015, Mr. Rogers has indicated that his testimony was more about providing something for the Advisors to cite in support of their recommendation of a multimillion dollar penalty than presenting a genuine review of the information that ENO has provided in this Docket.

Q32. HOW DOES MR. ROGERS ADDRESS THE INFORMATION THAT ENO PROVIDED IN THIS DOCKET ABOUT ITS TRANSMISSION RELIABILITY PROGRAMS?

A. He largely disregards that information, apparently on the assumption that those programs do not concern the performance of ENO's distribution system.[46] I agree that Council Resolution No. R-18-475 appears to focus primarily on ENO's distribution system, but it also addresses ENO's alleged "inaction and omission in mitigating and

[45] *Id.* at 18.

[46] *See id.* at 13.

remediating electric service disruptions and complaints."[47] Information about ENO's investment in transmission reliability programs is certainly relevant to demonstrating that there was no such "inaction and omission." Indeed, the full statement from ENO witness William L. Sones that Mr. Rogers deceptively shortens on page 13 of his Direct Testimony was as follows: "While these projects do not specifically address the causes of outages recently experienced by ENO, *they address reliability issues from a broader system perspective by increasing transmission capacity and ENO's ability to reliably serve customers*."[48]

The projects that Mr. Sones discussed in his Direct Testimony involved over $52.8 million in reliability-focused capital investment between 2013 and 2018.[49] Mr. Sones also discussed proactive asset-renewal programs, including one for Substation – Distribution Equipment that addresses and replaces equipment in the *distribution* portion of substations.[50] Indeed, between 2014 and 2015, ENO increased Substation – Distribution Equipment asset management spending by $1.8 million.[51] These reliability investments are relevant to the overall balance that ENO must strike between cost to customers and reliability. Furthermore, all outages, regardless of whether they occur on the transmission system, at a substation, or on a distribution line, affect customers. Accordingly, I believe that Mr. Rogers was too quick to dismiss the

47 *See* Resolution No. R-18-475, at 13.

48 Dir. Test. of W. Sones, at 14 (emphasis added).

49 *Id.* at 12-14.

50 *See id.* at 17-18.

51 *See id.* at 18.

information that ENO has provided in this Docket concerning transmission and substation planning and reliability investments.

IV. THERE IS NO BASIS IN THIS DOCKET TO PENALIZE ENO FOR IMPRUDENCE.

Q33. ARE YOU FAMILIAR WITH THE "ACCEPTED PRUDENCE STANDARD IN LOUISIANA" THAT MR. ROGERS REFERENCES ON PAGE 19 OF HIS TESTIMONY?

A. Yes, I am. It is my understanding that, under the governing Louisiana standard, hindsight and the mere fact of unfavorable results do not permit a finding of imprudence. Furthermore, as Mr. Rogers admits, under the prudence standard, the utility's decisions are presumed to be prudent.

Q34. DOES MR. ROGERS CORRECTLY APPLY THE PRUDENCE STANDARD IN HIS TESTIMONY?

A. No, he does not. Mr. Rogers's analysis is focused on unfavorable results – the outages that occurred in late 2016 and others in 2017 and 2018. He does not examine the causes of any of those outages or identify any ENO maintenance program, process, or decision that falls below what would be expected from a reasonable utility or, more importantly, what alternative decisions he believes ENO should have made based on what was known or reasonably knowable at the time. Instead, Mr. Rogers finds, incorrectly, that ENO drastically reduced distribution capital additions, and he suggests that the

reduction in spending led to the decline in reliability. This hindsight-based, outcome-focused review is inconsistent with Louisiana's prudence standard.

Q35. EVEN WITH THE BENEFIT OF HINDSIGHT, DOES MR. ROGERS SET FORTH A LEVEL OF DISTRIBUTION SPENDING THAT HE CONTENDS WOULD HAVE PREVENTED THE INCREASE IN OUTAGES IN 2016?

A. No, he does not.

Q36. DOES MR. ROGERS FIND THAT ANY OF THE COSTS THAT ENO INCURRED TO OPERATE, MAINTAIN, AND IMPROVE ITS DISTRIBUTION SYSTEM DURING THE PERIOD OF 2013 THROUGH 2018 WERE IMPRUDENT?

A. No, he does not. And because he does not assert or attempt to show that any of ENO's decisions were imprudent when made, Mr. Rogers does not identify any alternatives that were available to ENO. Under these circumstances, there is no basis to calculate or impose a prudence disallowance.

Q37. DOES MR. ROGERS'S TESTIMONY REVEAL ANY PROBLEMS WITH IMPOSING THE PENALTY THAT THE ADVISORS HAVE RECOMMENDED?

A. Yes. The Advisors' recommendation is inconsistent with the cost-minimization objective of the Prudent Utility Practice definition that Mr. Rogers himself cites in his testimony. To penalize ENO for diminished reliability without explaining what alternatives a reasonably prudent utility under similar circumstances would pursue

based on the information known at the time would disrupt the balance that ENO must strike between cost to customers and reliability. The frequency of outages that ENO experienced in 2016 and 2017 was not was acceptable, which is why ENO planned and executed the "reliability blitz" when it noticed a negative reliability trend and took subsequent prudent steps to improve reliability. But the level of those outages also was not foreseeable before 2016. In addition to considering the cost impact to customers of its decisions, ENO's management also must consider its obligations to ENO's shareholders. If ENO were forced to pay a penalty for unfavorable results that are not foreseeable or are beyond ENO's control, its shareholders would rightfully expect ENO's management to err on the side of over-investing to avoid future penalties. Louisiana's accepted prudence standard seeks to avoid putting utility management in that position by prohibiting disallowance or penalties based on hindsight and the mere fact of unfavorable results.

Q38. MR. ROGERS STATES ON PAGE 20 OF HIS TESTIMONY THAT "REACTION TO SIGNIFICANT REGULATORY PRESSURE IS NOT PRUDENCE." WHAT IS YOUR RESPONSE TO THAT STATEMENT?

A. This is another example of Mr. Rogers's losing sight of the very definition of Prudent Utility Practice that he sets forth on page 15 of his testimony.[52] "Regulatory pressure" may be a "fact" that is directly relevant to a utility's decision-making process.

[52] Mr. Rogers states or suggests at several places in his testimony that ENO did not act in response to declining reliability in 2016 until after the Council opened this Docket. As I have discussed, however, Mr. Rogers is mistaken on that point.

Standards and policy determinations by regulators and governmental bodies also may be relevant when making an objective determination of whether a utility acted reasonably under the circumstances.

In this matter, the Council has never set reliability standards to advise how it expects ENO to strike the balance between cost and reliability. Indeed, this Docket began as a rulemaking investigation to consider the establishment of minimum reliability performance standards, including the establishment of financial penalty mechanisms for failure to meet such minimum reliability performance standards as established by the Council.[53] When it opened the Docket, moreover, the Council noted that, over twenty years ago, the Louisiana Public Service Commission ("LPSC") set minimum distribution reliability performance standards consisting of an annual maximum SAIFI standard of 2.28 and an annual maximum SAIDI standard of 2.87 hours, or 172.2 minutes.[54] ENO's SAIFI and SAIDI scores during the period of 2013 through 2018 were largely well below those maximum LPSC standards.[55] But, as the Council has indicated, it may want to set different standards considering the "specific nature of ENO's urban service territory."[56]

Contrary to the suggestions of Mr. Rogers and the Advisors, I find it appropriate for ENO and the Council to communicate on reliability issues and expectations.

[53] Council Resolution No. R-17-427.

[54] *See id.* at 4-5 (discussing LPSC Order No. U-22389).

[55] In 2016, ENO's SAIDI score was about 7 minutes higher than the LPSC SAIDI standard of 2.87 hours, or 172.2 minutes.

[56] Council Resolution N. R-17-427, at 5.

Indeed, even if ENO took certain steps only after the Council "intervened," "initiated action," or "initiated an investigation," it is not uncommon or indicative of imprudence for a regulated utility to act upon receiving direction, guidance, or approval from its regulator. The punitive regulatory environment that the Advisors' unsupported penalty recommendation encourages – in which penalties are recommended before the standards and penalties for not meeting those standards have even been promulgated – is unfair, counterproductive, and not in the best interest of the utility, its customers, or the City.

Q39. ASIDE FROM MINIMUM PERFORMANCE STANDARDS, CAN YOU GIVE ANY OTHER EXAMPLES OF PUBLIC POLICY DETERMINATIONS THAT IMPACT DISTRIBUTION SYSTEM RELIABILITY?

A. Certainly. Among many other things, the City of New Orleans is famous for its oak trees and urban canopy. Rules promulgated by the City's Department of Parks and Parkways restrict ENO from clearing more than four feet between the City's trees and ENO's overhead lines. Over the years, the Council, the Advisors, and ENO have discussed potentially increasing the clearance distance to improve reliability, but the City has not been open to drastically altering the urban canopy.

In its 2018 report, Quanta identified vegetation as one of the leading contributors to an overall increase in ENO customer interruptions that it noted upon comparing 2013 and 2017 data.[57] In response to that report and Quanta's observations

[57] 2018 Quanta Rept., at 72.

about the City's clearance requirements, the Advisors acknowledged the past reviews and discussions of ENO's vegetation management program: "[B]ased upon the Advisors investigation as part of the Council's Storm hardening docket, we do not believe that vegetation related outages are a significant problem, and accordingly we do not believe an investigation of ENO's vegetation management practices is warranted."[58]

As the information in this Docket shows, vegetation has been responsible for around 9% of ENO's outages in recent years.[59] As a matter of public policy, however, the City has determined that a potential reduction in outages does not warrant changes to rules designed to preserve the City's urban canopy. That such determinations form part of the circumstances under which ENO's decisions are made is just one example of why it is inappropriate to disregard, as Mr. Rogers has, such standards and policy determinations by regulators and governmental bodies when reviewing the prudence of a utility's actions and decisions.

V. CONCLUSION

Q40. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

A. Yes, at this time.

[58] Advisors' Report on Quanta Technology Assessment of ENO Distribution Reliability Improvement Initiatives, at 6.

[59] *See* Dir. Test. of T. Patella, at Exhibit TSP-3 (providing the number of outages caused by vegetation each year); *see also* 2018 Quanta Rept., at 22 (describing how this amount might be even higher given that many events were being coded as equipment failure when a deeper look into the outage records "revealed that the root cause was something external to the infrastructure, such as weather or tree interference").

AFFIDAVIT

STATE OF LOUISIANA

PARISH OF ORLEANS

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

That the above and foregoing is her sworn testimony in this proceeding and that she 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, she verily believes them to be true.

Melonie P. Stewart

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 21st DAY OF JUNE, 2019.

NOTARY PUBLIC

My commission expires: at death

SANDRA DIGGS-MILLER, Notary ID #57834
NOTARY PUBLIC
For the State of Louisiana
My Commission Is Issued For Life

BEFORE THE

COUNCIL OF THE CITY OF NEW ORLEANS

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	**)**	**DOCKET NO. UD-17-04**

REBUTTAL TESTIMONY

OF

TAD S. PATELLA

ON BEHALF OF

ENTERGY NEW ORLEANS, LLC

JUNE 2019

TABLE OF CONTENTS

I. INTRODUCTION AND PURPOSE

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

A. My name is Tad S. Patella. I am employed by Entergy Services, LLC ("ESL")[1] as Director, Gas Distribution Business. My business address is 3700 Tulane Avenue, New Orleans, Louisiana 70119.

Q2. ON WHOSE BEHALF ARE YOU FILING THIS REBUTTAL TESTIMONY?

A. I am filing this Rebuttal Testimony before the Council of the City of New Orleans (the "Council") on behalf of Entergy New Orleans, LLC ("ENO" or the "Company").

Q3. DID YOU PREVIOUSLY FILE DIRECT TESTIMONY IN THIS DOCKET IN JUNE 2018 AND SUPPLEMENTAL DIRECT TESTIMONY IN THIS DOCKET IN JANUARY 2019?

A. Yes. I note that my position when I previously filed testimony in this Docket was Senior Manager, Metro Region Customer Service for New Orleans, Louisiana. I assumed my current position in May of this year.

Q4. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my Rebuttal Testimony is to respond to the Direct Testimony of Joseph W. Rogers, P.E., filed in April 2019 on behalf of the Advisors to the Council of the

[1] ESL is a subsidiary of Entergy Corporation that provides technical and administrative services to all of the Entergy Operating Companies ("EOCs"), which include Entergy Arkansas, LLC; Entergy Louisiana, LLC ("ELL"); Entergy Mississippi, LLC; Entergy New Orleans, LLC ("ENO" or the "Company"); and Entergy Texas, Inc.

City of New Orleans (the "Advisors"). Mr. Rogers concludes that ENO has failed to demonstrate, through the materials he purportedly reviewed in this Docket, that it acted prudently in the maintenance of its distribution system and in its response to the declining reliability of its distribution system.[2]

In this Rebuttal Testimony, I explain how ENO has demonstrated in this Docket that it identified and responded to declining reliability on the distribution system in a manner consistent with Prudent Utility Practice. First, I respond to Mr. Rogers's discussion of ENO's distribution reliability metrics. Next, I describe how the information and data submitted in this Docket demonstrate that ENO maintained its distribution system in accordance with industry norms and expectations from 2013 to 2018. I then describe the ways in which Mr. Rogers's testimony concerning the sufficiency of ENO's response in this Docket is incorrect and/or misleading. Finally, I describe how ENO's decision-making and actions to address distribution reliability were reasonable, effective, and well-documented in this Docket.

II. RESPONSE TO TESTIMONY OF JOSEPH W. ROGERS

A. Distribution Reliability Metrics

Q5. MR. ROGERS ADDRESSES IN HIS TESTIMONY ENO'S DISTRIBUTION SYSTEM RELIABILITY DURING THE PERIOD OF 2013 THROUGH 2018 AND REFERENCES ENO'S SAIFI AND SAIDI INDICES GOING BACK TO 2010.[3]

[2] *See* Dir. Test of J. Rogers, at 3.

[3] *See id.* at 9.

PLEASE EXPLAIN THOSE INDICES AND SET FORTH ENO'S SCORES FROM 2010 THROUGH 2018.

A. As I explained in my Direct Testimony, ENO uses industry standard reliability indices to monitor its annual performance. The System Average Interruption Frequency Index ("SAIFI") is used to measure the number of outages or interruptions per customer per year. Most electric utilities use this measurement in reviewing the reliability of their electrical system, excluding major outage events that cause interruptions to a significant portion of their customer base. SAIFI is calculated by adding up the number of customers experiencing a sustained outage longer than 5 minutes during the reporting period and then dividing it by the average annual number of electric customers.[4]

The System Average Interruption Duration Index ("SAIDI") measures the number of outage minutes per customer per year. Again, most utilities use this measurement in reviewing the reliability of their electrical system, excluding outage events that cause interruptions to a significant portion of their customer base due to extreme weather or unusual events. SAIDI is calculated by adding up the outage minutes of all the customers that have been without power during a sustained outage longer than 5 minutes and then dividing by the average annual number of electric customers.[5]

[4] My Direct Testimony in this Docket states erroneously that sustained outages of "60 seconds or longer" are used to calculate SAIFI. *See* Dir. Test. of T. Patella, at 11. As recommended by the industry standard IEEE-1366 (Guide for Electric Power Distribution Reliability Indices), ENO uses sustained outages longer than 5 minutes to calculate SAIFI.

[5] *See also* Dir. Test. of T. Patella, at 11–12 (providing these descriptions of SAIFI and SAIDI).

SAIDI is similar to SAIFI, but SAIDI measures the duration of customer interruptions, while SAIFI measures the number of customer interruptions. Because SAIFI specifically measures the number of outages, it is the most appropriate measure of the effectiveness of ENO's reliability improvement efforts. The fewer outages occurring on a system, the lower the SAIFI value. That means that the electric service experienced by the average customer is more reliable. The other industry standard metric, SAIDI, captures outage duration as well as frequency. While there should be a positive impact on outage duration as a result of reliability programs, there are other circumstances that drive the duration of an outage that fall outside of targeted reliability program objectives. These circumstances include crew location and availability, time to locate the failed device and gain access, and, importantly, performing the restoration work safely. Because these other circumstances are not directly tied to the execution of a targeted reliability program, and SAIFI is one of the variables used in calculating SAIDI, SAIFI is a better measure of the effectiveness of ENO's efforts to improve reliability.

Table 1 shows ENO's SAIFI and SAIDI scores for the period 2010 through 2018, as have been historically reported in annual filings with the Council. These scores represent what is referred to as the "Distribution Line" view, meaning they do not include transmission- or substation-related outages.

Table 1:[6]

Year	SAIFI	SAIDI
2010	1.574	128.3
2011	1.413	111.9
2012	1.479	138.6
2013	1.04	92
2014	1.209	121.3
2015	1.234	128
2016	1.61	167.9
2017	1.584	179.8
2018	1.258	123.5

If we look back at SAIFI for the distribution system from 2010 to 2018, we see that the metrics in 2013 through 2015 were respectable. In 2013, ENO's SAIFI was at a very respectable 1.04. SAIFI then crept up slightly to 1.209 in 2014 and to 1.234 in 2015. In 2016, ENO's customer outages began increasing more significantly, and its SAIFI was 1.61. SAIFI improved slightly for 2017 to 1.584, and ENO's SAIFI for 2018 was 1.258. This demonstrates a 20% improvement from the prior year and is more consistent with performance levels from 2013 through 2015.[7]

[6] *See also* Dir. Test of T. Patella, at Exhibit TSP-3, NO Outage Cause Analysis, Tab 8-Storms & SAIDI-SAIFI (providing this data for the years available at that time, 2010–2017). Table 1 has been updated here to include ENO's SAIDI and SAIFI scores for 2018.

[7] Although final numbers for 2018 were not yet available when my Supplemental Direct Testimony was filed in January 2019, I also reported at that time that "[b]ased on preliminary numbers as of the end of 2018, ENO distribution line system saw an approximately 20% overall reduction in customer interruptions in 2018 as compared with 2017." Supp. Dir. Test. of T. Patella, at 10.

Q6. MR. ROGERS PURPORTS TO COMPARE ENO'S RELIABILITY WITH THAT OF OTHER UTILITIES.[8] WHAT IS YOUR RESPONSE TO THAT TESTIMONY?

A. In purporting to compare ENO's reliability with that of other utilities, Mr. Rogers relies exclusively on annual SAIDI and SAIFI data as reported on U.S. Energy Information Administration ("EIA") Form EIA-861. Mr. Rogers compares ENO's EIA-reported data to that of all other utilities who reported their SAIDI and SAIFI data via this form for each reporting year (about 480–650 utilities throughout the country, depending upon the year in question). He divides the reporting utilities into quartiles and examines where ENO's reported SAIFI and SAIDI fall within each quartile. His conclusion is similar to what I advised the Council in my June 2018 testimony—for 2013–2015, ENO was generally in the second or third quartile among U.S. utilities, and scores for 2016–2017 placed ENO in the fourth quartile among U.S. utilities for those years.[9]

Looking at nation-wide quartile comparisons, however, does not necessarily allow for meaningful conclusions about ENO's distribution maintenance practices.[10] In its October 31, 2018 Assessment of Distribution Reliability Improvement Initiatives (the "2018 Quanta Report"), Quanta Technology, LLC ("Quanta") gave the following warning about comparing reliability indices results between utilities:

> Reliability reporting is sometimes used to compare performance among utilities, here it is important to consider discrepancies regarding reliability analysis assumptions and practices, and differences in intrinsic features of each utility's service territory and

[8] *See* Dir. Test. of J. Rogers, at 7–8.

[9] Dir. Test. of T. Patella, at 13–14.

[10] That is not to say that such comparisons are irrelevant. As I noted in my Direct Testimony, ENO believes it should be aware of how other utilities are performing and how it roughly stacks up. But SAIFI and SAIDI scores are not directly comparable between utilities. *See id.* at 12–13.

> distribution system that affect reliability performance. Examples of differences in reliability assumptions include major event exclusion methodology used in analysis, momentary interruption threshold, consideration of planned interruptions, etc. Examples of important geographic and distribution system features to take into account include lightning flash density, precipitation, temperature, percentage of overhead and underground lines, customer density, etc. It is important to take these factors into account when benchmarking performance to ensure conclusions are relevant and applicable to the reality of the utility under analysis.[11]

I note that Mr. Rogers does not purport to consider the differences in reliability assumptions and geographic and distribution features between ENO and any of the utilities that reported information to the EIA.

In making its own benchmark comparisons, which I discuss in greater detail later in this Rebuttal Testimony, Quanta found that "ENO's distribution system and service territory features are unique, consequently, it is difficult to identify utility peers to make a one-to-one comparison."[12] For example, "the percentage of ENO's distribution grid that is underground is smaller than that of the majority of peer utilities [and t]hese features, combined with the unique weather patterns and physical vulnerabilities of the area, make reliability improvement at ENO a challenging and complex task."[13] Quanta also observed that "New Orleans is the wettest city in the U.S. and has a tree cover of over 30%."[14]

[11] 2018 Quanta Report, at 8.

[12] *Id.* at 37–38, 40.

[13] *Id.* at 40.

[14] *Id.* at 74 n. 57.

Still, Mr. Rogers purports to compare ENO's reliability to others by looking only at nation-wide SAIFI and SAIDI quartiles for hundreds of utilities, many of which bear little to no resemblance to ENO, are from completely different climates (including Alaska and Hawaii), have a different percentage of overhead and underground lines, different customer density, and different average electricity price. This surface-level comparison is easy to perform even for a non-expert, but it is of limited value in drawing meaningful conclusions or comparisons about ENO's reliability.

Quanta's own benchmarking study, by contrast, used EIA data and other publicly available data to identify potential peer utilities for comparison to ENO, but that was only the beginning of Quanta's study.[15] Quanta then looked beyond that raw data to conduct a survey of practices of the sufficiently-similar peer utilities that it identified, examined ENO's reliability practices, and ultimately concluded that, "[o]verall, ENO's distribution reliability practices are similar to the other utilities included in the survey."[16] Quanta's benchmarking study is far more helpful in comparing ENO with other utilities than the cursory quartile comparisons set forth in Mr. Rogers's testimony.

[15] *Id.* at 37-51.

[16] *Id.* at 51.

Q7. MR. ROGERS NOTES ON PAGE 7 OF HIS TESTIMONY THAT "ENO'S SAIDI AND SAIFI INDICES AS RECORDED BY EIA ARE DIFFERENT THAN THE NUMBERS ENO HAS REPORTED TO THE COUNCIL." WHY ARE THERE DIFFERENCES IN THE REPORTED INDICES?

A. ENO has traditionally reported to the Council a Distribution Line view of SAIDI and SAIFI,[17] which view does not include transmission- or substation-related outages. The EIA data used by Mr. Rogers includes both distribution line- and substation-related data.[18] The EIA data was reported on lines 3 and 5 of Form EIA-861, which the form instructions indicate excludes major event days, but does not exclude interruptions caused by loss of supply or any other cause code. The data reported to the Council also excludes major event days, but further excludes shed events due to load or voltage, outages mandated by local authority, and customer equipment outages.

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[17] Dir. Test. of T. Patella, at 12–13 (discussing and presenting data on distribution view, transmission view, and customer view SAIFI and explaining that the table presented in my Direct Testimony represents distribution line view).

[18] *See* 2014 Form EIA-861 Instructions at 8, providing as follows:

> 5. On lines 3 through 6 report the values that you calculate.
> a. Report the Annual Distribution SAIDI Including Major Event Days on line 3,
> b. Report the Annual Distribution SAIDI Excluding Major Event Days on line 3,
> c. Report the Annual Distribution SAIDI Including Major Event Days excluding events where the reliability event was initiated from loss of supply (i.e. exclude interruptions caused by a failure in the transmission system, including the transmission portion of the substation, or loss of a generation source) on line 4.
> d. Report the Annual Distribution SAIFI Including Major Event Days on line 5,
> e. Report the Annual Distribution SAIFI Excluding Major Event Days on line 5,
> f. Report the Annual Distribution SAIFI Including Major Event Days excluding events where the reliability event was initiated from loss of supply (i.e. exclude interruptions caused by a failure in the transmission system, including the transmission portion of the substation, or loss of a generation source) on line 6.

Mr. Rogers's analysis uses the data from instruction 5(b) and 5(e), excluding major event days, but not excluding loss of supply events.

In the context of the issue raised in Mr. Rogers's testimony, the differences between the Distribution Line view and the EIA scores are not material. As Mr. Rogers concludes from the EIA data, and as I set forth in my Direct Testimony, ENO's scores dropped from second quartile performance in 2013 to third and then fourth quartile performance in 2016 and 2017.[19] As I discuss further below, however, the EIA data provided by other utilities does not provide a basis for concluding that ENO's distribution reliability practices are out of step with industry practices.

Q8. HOW DO YOU RESPOND TO MR. ROGERS'S STATEMENT THAT ENO "WAS DEFINITELY AWARE OF ITS DECLINE IN RELIABILITY PERFORMANCE BY MAY OF 2015, WHEN ITS REPORT TO EIA WAS DUE"?[20]

A. ENO was aware in 2015 that the 2014 EIA reliability metric (SAIFI of 1.222) it was reporting was higher than the same metric in 2013 (SAIFI of 1.032), but this variation did not establish a negative reliability trend.[21] In the context of the previous years of distribution reliability data (2010–2015), metrics from 2013 to 2015 were respectable and were lower than scores from 2010 to 2012. In its 2018 report, Quanta observed that

[19] *Compare* Dir. Test. of T. Patella, at 13-14 *with* Dir. Test. of J. Rogers, at 7.

[20] *See* Dir. Test. of J. Rogers, at 9.

[21] SAIDI and SAIFI metrics were not reported on form EIA-861 until 2014 for the reporting year 2013. *See* Annual Electric Power Industry Report, Form EIA-861 detailed data files (available at https://www.eia.gov/electricity/data/eia861/). Thus, the May 2015 EIA report was only the second time ENO had submitted its SAIDI and SAIFI results through that form. Two reporting years demonstrate a consecutive year variation, but not necessarily a trending decline in system reliability.

"[p]rior to 2016 the company's reliability indices were considerably better as compared to the industry. A notable decline occurred in 2016-17."[22]

Q9. DO YOU AGREE WITH MR. ROGERS THAT ENO "SHOULD HAVE BEEN AWARE OF ITS DECLINE IN LATE 2014 BASED ON THE NEED TO RESPOND TO CUSTOMER OUTAGES AS COMPARED TO 2013?"[23]

A. No. To be clear, we are aware when outages increase or decrease from a previous year, but consecutive year variations in reliability indices do not necessarily indicate that the system itself is in decline. Weather, for example, can explain an increase in outages from one year to the next. Quanta explained the problems with Mr. Rogers's reliance on consecutive year variations:

> It is also important to recognize that reliability indices are the outcome of a combination of numerous internal and external distribution system variables. Due to the unpredictability of these variables (e.g., future weather patterns), it is not possible to forecast the exact value of distribution reliability indices for upcoming years. Instead, techniques used by utilities aim at estimating trends, range of likely values, or expected values of reliability indices. In the specific case of reliability improvement programs, it is expected that reliability indices will show an improving (decreasing) trend for upcoming years after implementation begins. However, these metrics may exhibit noticeable variations in consecutive years. For instance, reliability indices may improve significantly in a year and then only moderately (or even worsen) in the next one, because part of the improvement is due to the implementation of the reliability program, and the rest is the effect of the inherent randomness of reliability variables. When that randomness leads to "good years" (e.g., years with fewer storm days and/or cool summers) the benefits of improvement programs are likely to become more evident than during "bad years". For this reason, a recommended

[22] 2018 Quanta Report, at 12 (also noting that the decline "is now showing evidence of having been arrested and reversed").

[23] *See* Dir. Test. of J. Rogers, at 9.

> practice is to analyze the values of reliability metrics over multiyear periods (e.g., 3 to 5 years), rather than over consecutive years. This approach allows [the utility] to capture the expected mid/longterm improvement trends (instead of focusing on potential consecutive year variations) and to a certain extent account for the effect of randomness.[24]

Simply put, ENO's SAIFI and SAIDI scores in 2014 did not bring those metrics above where they were in 2010–2012 or indicate a trending reliability decline.

B. Maintenance of ENO's Distribution System

Q10. AT MULTIPLE PLACES IN HIS TESTIMONY, MR. ROGERS MENTIONS "FAIR WEATHER OUTAGES,"[25] AND THE ADVISORS STATE THAT BECAUSE OUTAGES IN 2016 AND 2017 OCCURRED MOSTLY DURING FAIR WEATHER CONDITIONS, "THE CONDITION OF ENO'S DISTRIBUTION SYSTEM EQUIPMENT WAS IMPLICATED AS A PRIMARY CAUSE."[26] DOES AN INCREASE IN THE NUMBER OF OUTAGES THAT OCCUR DURING FAIR WEATHER INDICATE PROBLEMS WITH A UTILITY'S MAINTENANCE OF ITS SYSTEM?

A. Not necessarily. Fair weather outages have generally made up about 60% of the outages ENO experiences, and this figure has been fairly constant from 2013-2018. There were more fair weather outages in 2016 and 2017 than in other years, but there were also more outages in total in those years, meaning that outages in other weather

[24] 2018 Quanta Report, at 8.

[25] *See* Dir. Test. of J. Rogers, at 3-4, 20.

[26] Advisors' Comments, at 7.

conditions also increased. In the year leading up to this increase, 2015, ENO experienced its lowest percentage of "fair weather outages" at 52%.[27]

Table 2
Summary of Exhibit TSP-3, Tab 3 data
on % frequency of fair weather outages

Year	2013	2014	2015	2016	2017	Q1 2018	Totals
Fair weather outages	1450	1364	1495	1800	1949	396	8454
Total outages	2277	2435	2887	3144	3221	642	14606
Percentage of outages in fair weather	64%	56%	52%	57%	61%	62%	58%

In 2013, the percentage of fair weather outages was at its highest, but reliability indices were at their best for the period 2013 through the first quarter of 2018. We also know that ENO's distribution equipment was well-maintained throughout this period.

For its 2013 report prepared in the aftermath of Hurricane Isaac and attached as Exhibit TSP-8 to my Direct Testimony, Quanta conducted a field review of the distribution system in Orleans Parish and reported as follows:

> A field review was made by Quanta Technology personnel to determine the general condition and design of the system and to observe other items such as tree conditions in comparison to similar cities and service territories in North America. The majority of the overhead distribution system in the City of New Orleans is typical of systems found in any well-established city in North America. There is a wide variety in style and age of poles, hardware, conductors and equipment spread across the entire city. Configurations appeared common for the installation era. No obvious deficiencies in design, type and quality of equipment were noted across a wide age range of materials and devices such as poles, crossarms, transformers, switches, etc. The mere existence of the

[27] *See* Dir. Test. of T. Patella, at Exhibit TSP-3, Tab 2.

> population of aged facilities that withstood extended punishment from Hurricane Isaac is testament to ***the integrity of the original design as well as the proper maintenance of the facilities***.[28]

Quanta's 2013 conclusion that the system was properly maintained was based on an actual field review of the distribution system in Orleans Parish during the year of ENO's highest recent percentage of fair-weather outages and lowest SAIFI and SAIDI scores. Thus, the higher percentage of fair-weather outages in 2013 did not establish that ENO was not properly maintaining its system.

Quanta's 2018 Report, submitted in this Docket on October 31, 2018, further examined data on two classes of assets from 2013 to the date of the report—transformers and wood poles—to determine if ENO's failure rates were beyond those typically seen in the industry.[29] Quanta found that failure rates for both of these classes of equipment were "within the industry norms."[30] Quanta noted that the 5-year failure rate of 4% or average annual rate of 0.8% for transformers was "within industry norms for this class of equipment."[31] Quanta further noted that the ENO wood pole failure rate of approximately 0.04% was "within industry expectations despite the high hazard area."[32] Quanta's analysis indicated that ENO's distribution system equipment has performed within industry expectations and standards. Thus, despite the Advisors' implication, there is no evidence that increases in the number of fair weather outages

[28] *Id.* at Exhibit TSP-8 ("2013 Quanta Report"), at 8 (emphasis added).

[29] 2018 Quanta Report, at 16-19.

[30] *Id.* at 19.

[31] *Id.* at 16.

[32] *Id.* at 18.

in 2016 or 2017 resulted from failure to maintain the system in accordance with industry norms and expectations.

Finally, it is important to keep in mind the human element of outage coding. Some outages occurring on the hottest days of the year may have been coded as "fair weather" when the most appropriate code would have been "heat." Furthermore, six percent of lightning-caused outages from 2013 to mid-2018 were coded as occurring in "fair weather."[33] As Quanta recognized, ENO has taken steps to improve and standardize outage coding generally,[34] which steps will be enhanced by anticipated technological advancements. But there still will be instances in which reasonable minds could differ over the appropriate code, and that fact counsels against assuming that a fair weather outage indicates utility imprudence.

Q11. MR. ROGERS ASSERTS ON PAGE 12 OF HIS DIRECT TESTIMONY THAT, IN RESPONSE TO THE COUNCIL'S PRUDENCE INQUIRY, ENO DID NOT PROVIDE INFORMATION TO ADDRESS "THE CRITICAL TIMEFRAME LEADING UP TO THE INCREASE IN OUTAGES AND COMPLAINTS THAT

[33] *See* Entergy New Orleans, LLC's Revised Reliability Plan Submitted Pursuant to Council Resolution R-18-98 (hereinafter, "Revised Reliability Plan"), at Exhibit 3, at 4.

[34] *See* 2018 Quanta Report, at 22, 30.

LED TO THE COUNCIL'S DIRECT INVOLVEMENT IN MID-2017." IS THAT ASSERTION CORRECT?

A. No, it is not. ENO has provided extensive information about the weather during that "critical timeframe." As I stated in my Direct Testimony and illustrated in the charts provided in Exhibit TSP-3 to that testimony, both 2016 and 2017 were significantly hotter and wetter than the average of the preceding years.[35] For example, the number of days in which the temperature reached 90 degrees or above in 2016 was approximately 46% higher than the average for 2013 through 2015. Similarly, the average rainfall for 2015 through 2017 was approximately 20% higher than the average of the five previous years. Finally, lightning data that ENO receives from its subscription to the Fault Analysis and Lightning Location System ("FALLS") service shows that ENO's service area experienced approximately 149,000 lightning strikes in 2016 and 101,000 lightning strikes in 2017. This represents an increase of 141 percent and 65 percent, respectively, over the approximately 62,000 strikes experienced in 2015.[36]

In its 2018 report, Quanta observed that ENO's service territory "is very vulnerable to weather events."[37] Quanta also noted that "weather parameters such as temperature, lightning flash density, precipitation and relative humidity have a direct

[35] *See* Dir. Test. of T. Patella, at Exhibit TSP-3, Tab 6.

[36] *Id.* at 15.

[37] 2018 Quanta Report, at 74.

effect on various aspects of distribution reliability performance."[38] Consistent with these observations, as reported in Exhibit 3 to its July 5, 2018 Revised Reliability Plan, ENO saw increased equipment failures in 2016 and 2017 for several categories of equipment including primary conductors, crossarms, and transformers.[39]

Figure 1-A[40]

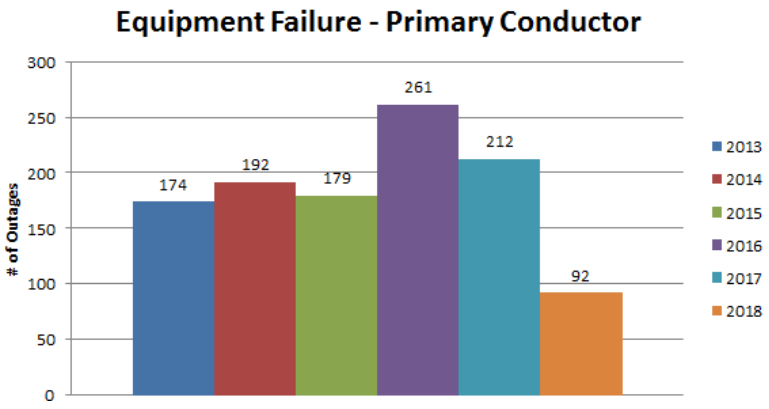
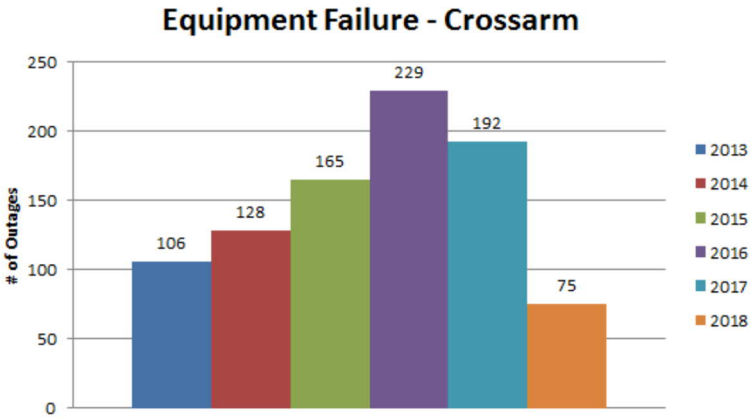


Figure 1-B[41]



[38] *Id.* at 39.

[39] *See* Revised Reliability Plan, at Exhibit 3, at 4–5, 7, 9.

[40] *Id.* at 7 (2018 data includes outage data through June 25, 2018).

[41] *Id.* at 9 (2018 data includes outage data through June 25, 2018).

Figure 1-C[42]

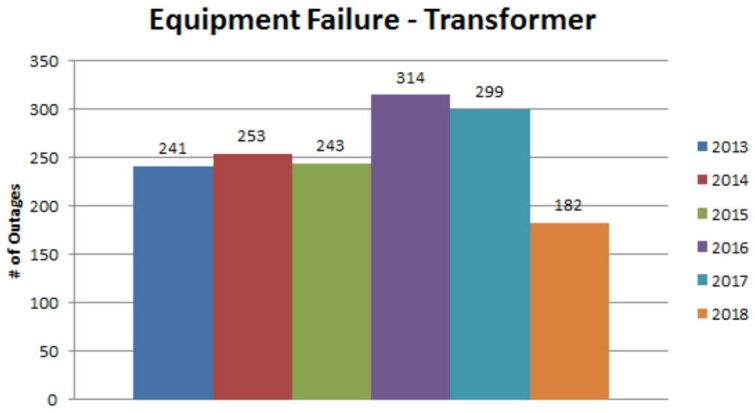
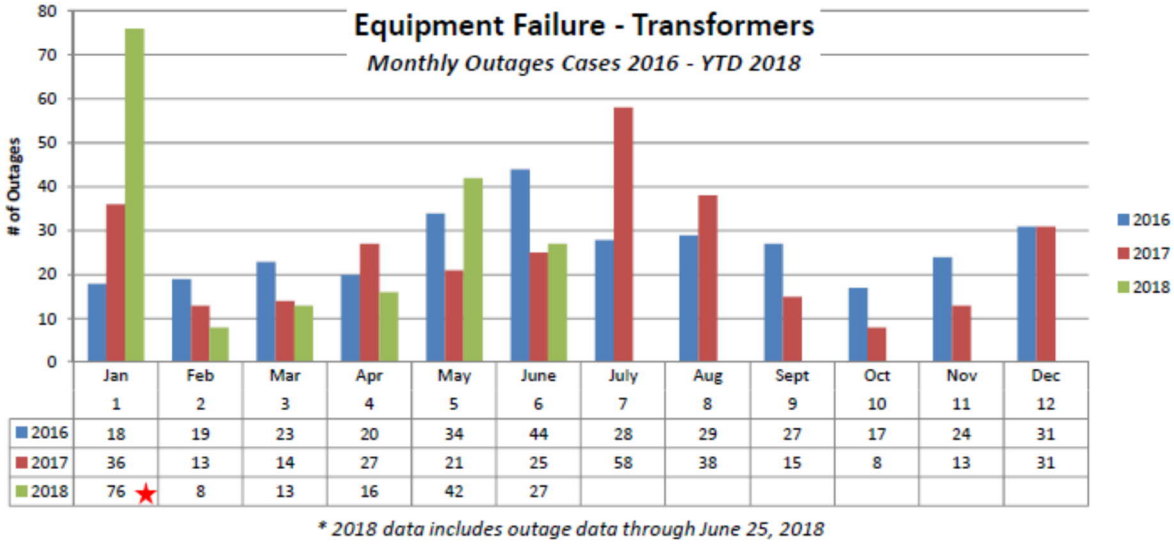


Figure 2[43]



	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
	1	2	3	4	5	6	7	8	9	10	11	12
2016	18	19	23	20	34	44	28	29	27	17	24	31
2017	36	13	14	27	21	25	58	38	15	8	13	31
2018	76 ★	8	13	16	42	27						

** 2018 data includes outage data through June 25, 2018*

★*Transformer Failures had a significant increase in January 2018 due to extreme freezing temperature days. Customer's Electric Water Heaters/Heaters consume higher loads than historically expected. When these overload failures occur the replacement transformer is upgraded in size capacity to prevent future failures.*

Looking at when transformer failures occurred during the years from 2016 to mid-2018, we saw increases in transformer failure during months with more extreme

[42] *Id.* at 4 (2018 data includes outage data through June 25, 2018).

[43] *Id.* at 5.

temperatures, December–January and May–August, and less failures in the more temperate months. Weather appears to be a factor in transformer outages, even though 63% of these outages occurred during fair weather conditions.[44]

Q12. HOW CAN ADVERSE WEATHER CONDITIONS RESULT IN MORE FREQUENT OUTAGES ON THESE "FAIR WEATHER" DAYS?

A. Periods of extreme weather weaken equipment that is exposed to the elements, which may then lead to structural failure on fair weather days. For example, as described in Exhibit 3 to ENO's Revised Reliability Plan, a primary conductor becomes structurally weakened over time when exposed to the elements (in overhead infrastructure, this component is located at the top of a pole) and constant current.[45] Mechanical damage from prior events (*i.e.*, storm, vegetation, vehicles, etc.) may lead to structural failure from the structural deficiencies that were introduced that did not result in a failure at that time.[46] 57% of primary conductor outages from 2013 to mid-2018 still occurred in fair weather.[47] Figure 3 depicts the location of various kinds of equipment and their relative exposure to the elements.

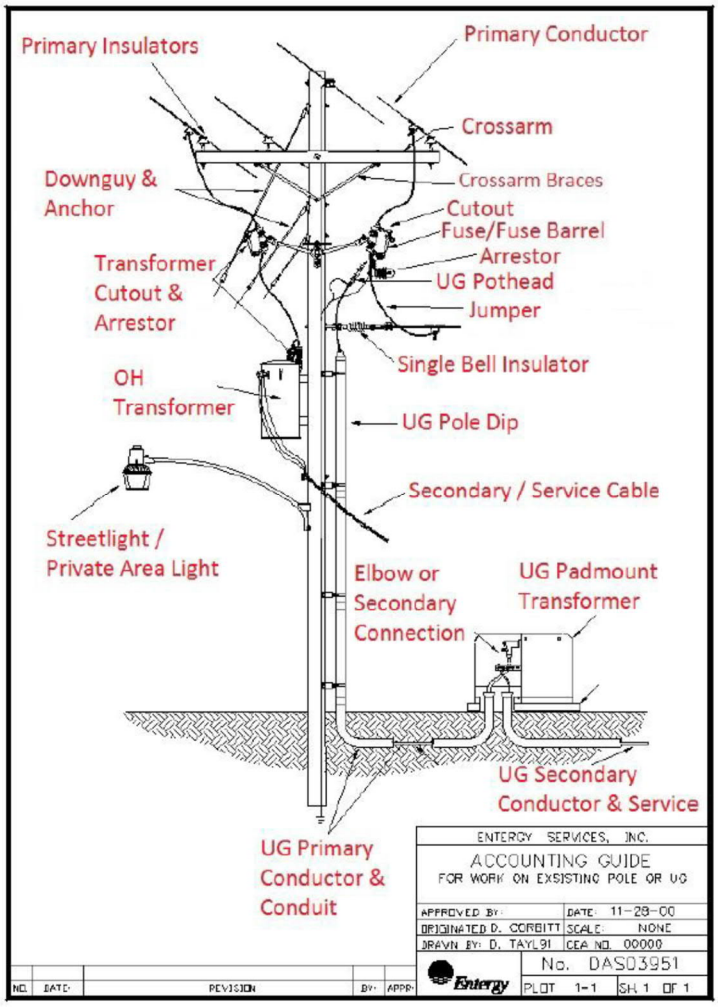
[44] *Id.* at 4.

[45] *Id.* at 7.

[46] *Id.*

[47] *Id.*

Figure 3[48]



Quanta found that the primary cause for CI[49] increases since 2013 was related to "infrastructure issues such as crossarms, conductors, and poles."[50] Still, as noted

[48] *Id.* at 2.

[49] CI is an abbreviation for Customer Interruptions.

[50] 2018 Quanta Report, at 66.

previously, Quanta also concluded that the ENO wood pole failure rate was "within industry expectations despite the high hazard area," and that although failure data on crossarms alone was not obtained, "it is reasonable to expect similar rates, or lower rates, than poles."[51] ENO's distribution territory is very vulnerable to weather events, and SAIFI can be expected to fluctuate in times of adverse weather conditions, but there is no evidence that ENO's equipment failures were outside industry expectations.

Q13. MR. ROGERS SUGGESTS ENO HAS USED AGING INFRASTRUCTURE AS AN "EXCUSE" FOR ITS DECLINING PERFORMANCE; IS THAT SUGGESTION CORRECT?

A. No. ENO's aging infrastructure is a fact that ENO thoroughly addresses in its system planning and maintenance efforts, and ENO has not forgone any such efforts on the "excuse" that its system is aging. As Mr. Rogers himself notes, "[l]egacy construction, no matter how aged, in and of itself is not unreliable if adequately maintained on an ongoing and prudent basis."[52] It also is a fact that ENO has maintained its system in accordance with industry practices, and Mr. Rogers does not attempt to show that ENO fell short of any industry standard or practice.

In her Direct Testimony, Ms. Stewart described each of ENO's distribution maintenance programs, and, in my Supplemental Direct Testimony, I addressed the

[51] *Id.* at 18.

[52] Dir. Test. of J. Rogers, at 16.

"Fix-it-Now" program.[53] These programs are designed to take on the challenge of maintaining ENO's legacy equipment at the lowest reasonable cost consistent with reliability, safety, and expedition, in accordance with prudent utility practice. In reviewing ENO's system, Quanta confirmed both that ENO's legacy design features are a contributing factor in customer interruptions and that ENO has taken reasonably prudent steps to address those features in its reliability improvement programs:

> The electric distribution grid in New Orleans is made up of aged facilities built to a design standard from many decades ago . . . . Areas of the system date to the 1920s and while age does not equate to a lack of functionality, there are certain aspects of the legacy system that do not contribute positively to reliability performance.[54]
>
> * * *
>
> Entergy's reliability improvement programs . . . are aimed at addressing many of the issues created by the legacy design and aged infrastructure.[55]
>
> * * *
>
> Implementing new design standards is the right approach and has already had positive effects in arresting the trend of declining reliability.[56]
>
> * * *
>
> ENO is challenged with an aging infrastructure in an urban environment that experiences deterioration risk from environmental factors as well as age. Failure rates do not seem excessive at this time but the legacy design features of the system along with high

[53] Dir. Test. of M. Stewart, at 4-10; Supp. Dir. Test. of T. Patella, at 2-5.

[54] 2018 Quanta Report, at 14.

[55] *Id.* at 15.

[56] *Id.* at 16.

customer density and a congested urban environment do, in many cases, contribute to higher CI and CMI.[57]

As the information that ENO has provided in this Docket also demonstrates, ENO is taking reasonable steps to modernize its system to address the legacy design features over the long term.[58]

Q14. MR. ROGERS ASSERTS THAT ENO DID NOT INVESTIGATE OR ADOPT THE USE OF "BEST DISTRIBUTION MAINTENANCE PRACTICES" OR TAKE "PROACTIVE MEASURES" TO IMPROVE RELIABILITY PERFORMANCE.[59] DO QUANTA'S FINDINGS SUPPORT MR. ROGERS'S ASSERTION?

A. No, and I note that Mr. Rogers does not explain what he considers to be "best distribution maintenance practices" or "proactive measures." In its 2018 Report, Quanta found that ENO was employing common industry practices that address reliability performance: "Common efforts to improve reliability include: modern reclosers, fusing, FLISR, circuit reconfiguration, aging infrastructure replacement, vegetation clearance, hardware inspection and replacement. This includes ENO."[60] Quanta further found that ENO was using proactive measures, consistent with the high-performing utilities it surveyed: "Reliability improvement is largely proactive but also

[57] *Id.* at 19.

[58] *See* Revised Reliability Plan, at 5-6, Exhibit 2, ENO's Grid Modernization and Smart Cities Report.

[59] Dir. Test. of J. Rogers, at 18.

[60] *Id.*

poor performing circuits are identified for improvement. ENO is both proactive and reactive."[61]

Q15. HOW DID QUANTA GO ABOUT DETERMINING OTHER UTILITIES' DISTRIBUTION MAINTENANCE PRACTICES AND COMPARING THEM TO ENO'S PRACTICES?

A. Importantly, Quanta first recognized that "ENO's distribution system and service territory features are unique, consequently, it is difficult to identify utility peers to make a one-to-one comparison."[62] After recognizing the challenges and limitations of the benchmarking exercise, Quanta set out to identify a group of high-performing peer utilities that were "sufficiently similar, so their distribution reliability practices, success stories, and lessons learned can be relevant for ENO."[63] Those utilities were selected using a similarity metric for each utility, based on the following variables:

- Reliability indices (SAIFI and SAIDI)
- Customer density (customers/square-mile)
- Average electricity price ($/kWh)
- Grid design (percentage of overhead and underground lines)
- Weather (average temperature, lightning flash density, precipitation, and relative humidity)

[61] 2018 Quanta Report, at 51.

[62] *Id.* at 37-38, 40.

[63] *Id.* at 38.

Quanta noted that "[t]he variables customer density, average electricity price, grid design, and weather were selected due to their evident impact on reliability performance."[64] Quanta compared ENO's metrics with 28 of the selected utilities based on customer density, percentage of underground distribution and average electricity price. Twenty of these utilities were invited to participate in a benchmarking of distribution reliability practices survey. Five of the selected utilities answered the survey and provided information that Quanta used to compare ENO's practices to those of the responding utilities.

By sharp contrast, Mr. Rogers relied solely on EIA SAIDI and SAIFI data in his purported comparison of ENO's reliability to that of other utilities. He did not examine the distribution reliability practices of any utility or attempt to present data only from utilities that are fairly comparable to ENO.

Q16. DOES MR. ROGERS PROVIDE ANY EXAMPLES OF ELECTRIC UTILITIES THROUGHOUT THE COUNTRY THAT OPERATE SYSTEMS WITH "AGING LEGACY CONSTRUCTION, BUT STILL ACHIEVE ACCEPTABLE LEVELS OF RELIABILITY"?[65]

A. No, and this lack of specific comparison makes his conclusory opinions far less helpful than the study of actual utility practices in the 2018 Quanta Report. Because Mr. Rogers did not examine the service territory features of the "numerous electric utilities"

[64] *Id.* at 38.

[65] *See* Dir. Test. of J. Rogers, at 16.

that supposedly have both "aging legacy construction" and "acceptable levels of reliability," any differences in reliability between ENO and those unidentified utilities could be due to external factors and not any particular approach to maintaining legacy construction.

Q17. DID QUANTA FIND THAT ENO HAD SIMILAR OUTAGE CAUSES TO THE PEER UTILITIES THAT IT IDENTIFIED?

A. Yes. Quanta reported that "the most common outage causes listed were equipment failure, vegetation, animals, and weather related, similar to ENO."[66]

C. Rebuttal to Mr. Rogers's Comments on ENO's Response to Resolution No. R-18-475

Q18. MR. ROGERS STATES ON PAGE 18 OF HIS DIRECT TESTIMONY THAT "ENO'S RESPONSE FAILS TO ADDRESS WHY IT DID NOT INVESTIGATE OR ADOPT THE USE OF BEST DISTRIBUTION MAINTENANCE PRACTICES TO IMPROVE RELIABILITY PERFORMANCE OF ITS DISTRIBUTION SYSTEM WHEN PROBLEMS STARTED AND BEFORE THE COUNCIL INITIATED AN INVESTIGATION." DO YOU AGREE?

A. No. This statement is based on a false premise and is incorrect. As I discussed in my Direct Testimony, ENO participates in certain industry groups and is therefore able to

[66] 2018 Quanta Report, at 59.

discuss and compare its distribution reliability practices with others in the industry.[67] Even before the 2018 Quanta Report, ENO was confident that its practices were generally in line with industry practices.[68] Moreover, Quanta's 2013 report also had concluded that "[o]verall, the Companies' distribution maintenance practices are consistent with the industry,"[69] Not only did the 2018 Quanta Report conclude that ENO's distribution reliability practices are "similar to the other utilities" included in its benchmarking survey of high performing utilities,[70] it concluded that those practices were working to improve reliability performance of the distribution system.[71] Examining the first six months of outage data for 2017 as compared to the same period for 2018, Quanta concluded that ENO already was experiencing improvement in SAIFI and that the "improvement is largely due to the ongoing distribution reliability efforts the company has undertaken for several years."[72]

Q19. YOU PREVIOUSLY DISCUSSED THE WEATHER INFORMATION THAT ENO PROVIDED IN THIS DOCKET. DO YOU HAVE ANY FURTHER RESPONSE TO MR. ROGERS'S STATEMENT THAT ENO'S RESPONSE TO COUNCIL RESOLUTION NO. R-18-475 "FAILS TO ADDRESS THE CRITICAL

67 Dir. Test. of T. Patella, at 19.

68 *Id.*

69 2013 Quanta Report, at 7.

70 2018 Quanta Report, at 51.

71 *See id.* at 12.

72 *Id.*

TIMEFRAME LEADING UP TO THE INCREASE IN OUTAGES AND COMPLAINTS THAT LED TO THE COUNCIL'S DIRECT INVOLVEMENT IN MID-2017?"[73]

A. Yes. The record in this Docket demonstrates that Mr. Rogers's statement is incorrect. Although neither Resolution No. R-18-475 nor Mr. Rogers defines a "critical timeframe" leading up to the increase in outages that led to the opening of this Docket in August 2017, Mr. Rogers expressly acknowledges that he reviewed information provided by ENO in this Docket that addresses reliability programs prior to mid-2017, and he purports to cover in his testimony ENO's system reliability "during the time period of approximately 2013-2018." I set forth below several examples of information in this Docket that address reliability before 2017:

- ENO's Revised Reliability Plan was incorporated by reference in its show cause response in this Docket, and Exhibit 3 to that plan includes a Root Cause Analysis presentation that provides a bar graph showing the top 10 causes of power outages on the ENO distribution system since 2013 and the changes in these causes from 2013 to mid-2018. Each of the top 20 outage causes for 2013 to 2018 is analyzed in a separate bar chart covering that same period and showing both the number of outages and customer interruptions by cause. And each chart also includes a brief description of the typical root cause or causes of the specific type of outage.

[73] Dir. Test. of J. Rogers, at 12.

- Exhibit 4 to ENO's Revised Reliability Plan further detailed the FOCUS and Backbone Programs, the planning process for those programs, and provided data for devices worked under those programs from 2011 to 2016.
- ENO's Revised Reliability Plan also included reliability and vegetation management spending data from 2013-2017 and estimates for 2018-2022.[74]
- In conjunction with my Direct Testimony, ENO provided very detailed outage and outage cause data for all outages from 2013 through the 1st quarter of 2018.[75] This spreadsheet included, for the period 2010 to 2017, temperature, rainfall, distribution SAIDI/SAIFI statistics, and a listing of all tropical depressions, tropical storms, tornados, and hurricanes affecting New Orleans in that time period.
- I also attached to my Direct Testimony ENO's storm hardening report from 2016 that explained the planning process for the reliability blitz.[76]
- I further attached to my Direct Testimony a 2013 report prepared by Quanta for ENO and ELL in Orleans Parish that documented and reviewed our distribution inspection and maintenance practices at that time and confirmed that "[o]verall the Companies' distribution maintenance practices are consistent with the industry."[77]

ENO also provided in this Docket numerous data sets and narrative accounts addressing its distribution reliability programs in the time period leading up to the increase in

[74] Revised Reliability Plan, at 3.

[75] *See* Dir. Test. of T. Patella, at Exhibit TSP-3.

[76] *Id.* at Exhibit TSP-2.

[77] *Id.* at Exhibit TSP-8, 2013 Quanta Report, at 11.

outages in 2016 and 2017. Mr. Rogers's suggestions that ENO did not provide the information that the Council should consider in a prudence investigation are flat wrong.

Q20. MR. ROGERS NOTES SEVERAL TIMES IN HIS TESTIMONY THAT ENO DID NOT ENGAGE QUANTA UNTIL 2018. IS HE CORRECT?

B. No. As I discussed above, ENO engaged Quanta in 2013, and I attached a copy of Quanta's 2013 report as Exhibit TSP-8 to my Direct Testimony. Accordingly, Mr. Rogers must have known about the report. Despite that, Mr. Rogers not only fails to mention the report, but he goes so far as to criticize ENO for not engaging Quanta before 2018.

This criticism is, at best, misleading. Simply put, Quanta's 2013 report refutes Mr. Rogers's suggestion that ENO did not maintain its distribution system in accordance with industry practices. In both 2013 and 2018, after conducting a review of ENO's facilities and maintenance programs, Quanta found that ENO's practices were consistent with the industry. Mr. Rogers did not attempt the sort of review that Quanta performed in 2013 and again in 2018, and he does not identify any changes in ENO's maintenance practices between 2013 and 2018 that departed from industry practice.

Q21. PLEASE COMMENT ON MR. ROGERS'S STATEMENT THAT "ENO'S RESPONSE FAILS TO ADDRESS WHY IN COMMUNICATIONS WITH THE COUNCIL AND ADVISORS, AND IN PUBLIC STATEMENTS, IT NEVER

ACCURATELY NOTED EQUIPMENT FAILURES, BUT CONSISTENTLY BLAMED OUTAGES ON OTHER CAUSES, LIKE MYLAR BALLOONS AND SQUIRRELS, UNTIL FORCED BY COUNCIL DIRECTION TO ACCURATELY ACCOUNT FOR CAUSES."[78]

A. This statement is based on a false premise and is incorrect. Mr. Rogers does not identify a single communication in which ENO inaccurately "blamed" an outage on a cause other than equipment failure when that was not the case. ENO has provided causation data for outages from 2013 to March 31, 2018 in Exhibit TSP-3 to my Direct Testimony.[79] The fact is that some outages each year *are* caused by animals and foreign objects,[80] but it not true that ENO blamed any outage on these causes improperly to avoid noting an equipment failure.

In fact, Quanta found that, if anything, ENO historically has over-reported equipment failure as a cause code when the outage could have been caused by external factors. Quanta reported that "[a] deeper look into the outage records indicates many events being coded as equipment failure when the root cause was something external to the infrastructure, such as weather or tree interference. For example, the outage code for a blown distribution line fuse is summarized under equipment failure. A blown fuse, however, is not a failure of equipment; it is, in fact, the proper operation of the

[78] Dir. Test. of J. Rogers, at 19.

[79] *See*, e.g., Dir. Test. of T. Patella, at Exhibit TSP-3, Tab 4 (providing the number of outages per cause category and subcategory each year).

[80] *See id.*

equipment. In examining outage reports, it is found that many blown fuse outages are due to an identified root cause that should be captured under the appropriate category for that cause, *e.g.*, vegetation, weather."[81] There is no truth to the suggestion that ENO has avoided coding equipment failures in order to blame another cause.

Q22. MR. ROGERS ASSERTS THAT ENO WAS AWARE OF A RELIABILITY PROBLEM, "YET AVOIDED THOROUGHLY ADDRESSING IT UNTIL FORCED TO DO SO BY THE COUNCIL."[82] WHAT IS YOUR RESPONSE TO THAT ASSERTION?

A. Mr. Rogers is mistaken. ENO initially responded to the increase in outages in 2016 with the "reliability blitz." ENO planned the targeted projects for the reliability blitz during the summer of 2016, well before the Council took action in this Docket. Moreover, ENO reported its concerns with system reliability to the Council on September 29, 2016, along with its plans for incremental investment in distribution reliability in a filing in the Hurricane Isaac Docket, No. UD-12-04, which I attached to my Direct Testimony in this Docket as Exhibit TSP-2.[83] The Advisors submitted

[81] 2018 Quanta Report, at 22.

[82] Dir. Test. of J. Rogers, at 13.

[83] Dir. Test. of T. Patella, at Exhibit TSP-2, at 21-22.

It is no secret to New Orleans residents that 2016 has been an incredibly wet year. At several points throughout the year, recurring weather patterns seemingly delivered thunderstorm after heavy thunderstorm on an almost daily basis on our City. These near daily beatings by Mother Nature have had an adverse effect on system reliability in the City and, at times, ENO and some of its customers have experienced the aggravating inconveniences associated with temporary outages. As a result, ***around mid-year*** ENO management determined that it would allocate approximately $10 million of

comments to this Supplemental Report on June 6, 2017, and, in those comments, did not express any concerns over ENO's planned reliability response.

The Council's action in this Docket began with Councilman Brossett's June 8, 2017 letter. This letter was sent well after ENO informed the Council of its own concerns and efforts to address those concerns. When asked to respond to the Council in this Docket, ENO already was in the process of addressing the negative reliability trend that emerged in 2016.

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incremental dollars (*i.e.*, dollars not originally included in the 2016 budget) to be spent in 2016 executing targeted reliability initiatives.

ENO ***planned this incremental reliability work over the course of the summer***, retained approximately ten 4- and 5-person contract crews to assist Entergy crews in designing and performing the work, and is in the process of performing the work necessary to strengthen the reliability of ENO's system. An overview of the plan for accomplishing this targeted reliability initiative is attached as Exhibit 3 hereto. It can be noted that some of the work being performed under this reliability initiative is of the same or similar nature as some of the storm hardening initiatives detailed herein. Moreover, the manner in which this reliability work was planned and designed is similar to how the storm hardening work will be planned and designed, except that the storm hardening work will focus on critical infrastructure, whereas the reliability work focused primarily on backbone feeders serving over 1,500 customers. For example, in preparing for the reliability work, ENO personnel or contractors must first go and closely inspect the targeted feeders to determine what reliability work needs to be done on them. A copy of the backbone inspection form used in this process is attached as Exhibit 4. A copy of the specific pole inspection form is attached as Exhibit 5. It shows that the poles are inspected for a multitude of potential problem areas including estimated basic insulation level, location and type of pole, structure type, bad pole (top or bottom), bad cross arm, bad cross arm brace, deterioration of fiberglass standoff arm, damaged or flashed insulators, loose guy wires, bad anchors, guy strain insulator, lightning arrestor, fuse switches, ground wire, need for Hendrix ground, missing or damaged pole ground, unfused lateral or transformer, animal guard, slack conductor, missing neutral/shield (spans), conductor damage, AAAC sleeve on 336ACSR conductor, damage to disconnect switch, GOAB switch damage, vegetation issues, and any other issues. The same or similar inspection process will be used to examine the feeders serving critical infrastructure customers for the storm hardening initiative. ENO believes that this reliability initiative will complement the storm hardening initiatives proposed herein. Moreover, if ENO receives Council approval of its storm hardening plan in 2016, ENO can transition some or all of the contractor crews retained for the reliability work to the storm hardening work in 2017. This is important as there is a seeming increase in hardening related work in the Gulf South and it can be difficult to get and retain quality work crews in a time where there is a high demand for their services.

Id. (emphasis added).

Mr. Rogers selectively quotes my Supplemental Direct Testimony to incorrectly suggest that ENO "delayed in engaging Quanta Technology, LLC proactively when the reliability problem first surfaced" to avoid revealing that our reliability metrics "would not match up favorably with the reliability metrics of high performing utilities selected by Quanta for benchmarking."[84] This suggestion is demonstrably false. Long before Quanta was engaged to perform its 2018 analysis, ENO had already reported its reliability concerns to the Council in September 2016, and I had advised in my June 2018 Direct Testimony in this Docket that ENO's reliability metrics for 2016 and 2017 placed it in the fourth quartile among U.S. utilities for those years.[85] ENO has not avoided acknowledging, addressing, or responding to reliability concerns, and it has been proactively working to address those concerns for several years.[86]

Q23. HOW DO YOU RESPOND TO MR. ROGERS'S STATEMENT THAT "ENO HAS NOT PRESENTED CONVINCING EVIDENCE THAT IT RESPONDED SWIFTLY AND ADEQUATELY TO MITIGATE THE DECLINE IN RELIABILITY"?[87]

A. I disagree with Mr. Rogers's statement. The reliability blitz described in my Direct Testimony and in the storm-hardening filing involved bringing in a number of outside

[84] Dir. Test. of J. Rogers, at 13 (quoting Supp. Dir. Test. of T. Patella, at 6).

[85] Dir. Test. of T. Patella, at 14.

[86] *See also* 2018 Quanta Report, at 13 ("Distribution reliability performance improvement is a high priority at ENO and has been a priority for several years, as indicated by the various programs and initiatives that have been instituted and are discussed in this report.").

[87] Dir. Test. of J. Rogers, at 3.

contractor crews to assist in executing targeted reliability projects over the last half of 2016 at a cost of approximately $10 million. This was not catch-up maintenance, but was instead an industry-standard method to improve reliability performance and strengthen backbone feeders after the service area had been faced with severe weather early that year.

The reliability blitz was well thought-out and executed from a planning perspective. Teams from this effort could transition to storm hardening in 2017 to help retain work crews for that effort. This was advantageous because it can be difficult to get and retain quality work crews in the Gulf South when they are in high demand.

As I stated in my Direct Testimony, examining the feeders that were worked during the reliability blitz, and comparing the customer interruptions before the blitz to the customer interruptions on those feeders after the blitz, we were able to get a reasonable idea of the effectiveness of that work. The spreadsheet entitled "2016 Reliability Devices 2017 CIs [Customer Interruptions] Avoided" and attached as Exhibit TSP-7 to my Direct Testimony showed that the work performed on 52 devices during the 2016 reliability blitz resulted in an estimated 46,998 net customer interruptions avoided, or an approximately 63% reduction in customer interruptions associated with those devices for 2017.

This response was swift, adequate, and in line with well-accepted industry practices to address system reliably, as confirmed by Quanta in 2013 when it noted that the "improvement of targeted feeders that do not meet reliability standards is a well-

accepted approach to continued system reliability."[88] Consistent with this approach and with techniques developed in the storm hardening effort, the 2016 reliability blitz targeted feeders to improve system reliability and strengthen the system in response to increasing outages and increases in rain and thunderstorms earlier that year.

D. ENO's Decision-Making, Actions to Address Distribution Reliability, and Results of those Efforts

Q24. DOES MR. ROGERS ADDRESS IN HIS TESTIMONY YOUR DESCRIPTION OF THE DECISION-MAKING PROCESS THAT RESULTED IN THE 2016 RELIABILITY BLITZ?

A. No, he does not. Nor does he dispute in his testimony that the costs of that program were prudently incurred.[89]

Q25. WAS THE RELIABILITY BLITZ "A DIRECT RESULT OF COUNCIL ACTION?"[90]

A. No. As described above, ENO planned this response in the summer of 2016, more than one year before receiving Councilman Brossett's June 8, 2017 letter that led to the Council's action in this Docket. ENO also brought the increasing number of outages to the Council's attention itself on September 29, 2016, and presented its plan for the reliability blitz at that time.

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88 *See* Dir. Test. of T. Patella, at Exhibit TSP-8, 2013 Quanta Report, at 7.

89 The costs of the reliability blitz were detailed in Exhibit TSP-5 to my Direct Testimony.

90 *See* Dir. Test. of J. Rogers, at 19.

Q26. WERE ENO'S OTHER ACTIONS TO IMPROVE DISTRIBUTION RELIABILITY TAKEN ONLY AS "A DIRECT RESULT OF COUNCIL ACTION?"[91]

A. No. As I stated in my Direct Testimony, our management, engineers, and lineman take customer reliability very seriously and are always looking for ways to reduce customer interruptions and to decrease the duration of outages when they do occur, both through our routine reliability programs and through targeted projects. ENO does work with the Council as its regulator (and with the Advisors) to implement certain significant spending projects like the storm hardening initiative, Advanced Metering Infrastructure ("AMI"), and Grid Modernization that are expected to have a positive impact on distribution reliability and are discussed further in Ms. Stewart's Direct and Rebuttal Testimony. But ENO has had industry-standard reliability programs in place for many years and will continue to adjust and improve on those programs each year to minimize customer outages. As Quanta observed in its 2018 Report, "Distribution reliability performance improvement is a high priority at ENO and has been a priority for several years, as indicated by the various programs and initiatives that have been instituted and are discussed in this report."[92]

Q27. MR. ROGERS LISTS CERTAIN OUTAGES OCCURRING IN 2017 AND 2018 TO SUPPORT HIS ASSERTION THAT ENO'S "RELIABILITY PROBLEMS PERSIST[ED] INTO 2018." DOES THE MERE OCCURRENCE OF OUTAGES

[91] *See id.*

[92] 2018 Quanta Report, at 13.

ESTABLISH THAT A UTILITY HAS PERSISTING "RELIABILITY PROBLEMS"?

A. No. As I stated in my Direct Testimony, although distribution reliability is a paramount goal for my team, and I would prefer it if not one single ENO customer experienced an outage throughout the year, the reality is that all utilities experience outages on their distribution grids for various reasons. For all electric utilities, maintaining a high-level of reliability requires analysis, planning, design, flexibility, execution, and a commitment to address situations that jeopardize customer reliability. Nevertheless, despite the fact that all utilities strive to prevent outages, sometimes power outages are simply unavoidable. Supplying power depends on an interconnected network of generation, transmission, and distribution systems that contain millions of pieces of equipment to get power to homes and businesses. Inevitably, from time to time, components of the interconnected network will fail for a variety of reasons (condition, vegetation, animals, public-inflicted damage, etc.), and when this happens on the distribution grid, the result is typically a distribution outage.

In this matter, Mr. Rogers did not discuss any of the information available to him on outages in 2017 and 2018 or the causes of outages in those years. He simply copied a list of 17 outages found on pages 9 and 10 of Resolution No. R-18-475, which list appears to have been compiled from media reports based on ENO's customer outage maps. Those maps are designed to give quick notifications of outages and present the number of customers on an affected line, but the affected customer count shown when an outage is first reported may decrease very quickly as automatic and

manual switching is deployed to restore power. The maps also do not provide cause coding.

Mr. Rogers does not attempt to tie any of the 17 outages he lists to an investment decision by ENO. ENO, moreover, has been providing to the Council bi-monthly reports on outages in accordance with Resolution No. R-17-427 and has been engaged in ongoing discussions with the Council concerning its reliability plans in this Docket. That information shows that at least three of the outages listed by Mr. Rogers were in substations and not on a distribution line.[93] The bi-monthly report that includes the outage for June 5, 2018, reveals that this listed outage was caused by lightning;[94] media reports documented that the outage followed a line of strong thunderstorms and that the area was under a flash flood warning.[95] The bi-monthly report that includes the outage for June 21, 2017, shows several lightning and storm-related outages;[96] New Orleans was under a tropical storm and flash flood warning that day as Tropical Storm Cindy headed towards land.[97] And three of the outages listed by Mr. Rogers involved

[93] *See e.g.*, ENO's 2019 Reliability Plan, submitted on January 18, 2019, at 26–28 (identifying the May 15, 2018, September 17, 2018, and September 30, 2018 outages from this list as substation-related outages).

[94] *See* Bi-Monthly Rept. for June 1, 2018 through July 31, 2018, submitted on September 28, 2018, in Council Docket No. UD-17-04.

[95] *See* Nola.com report, "More than 1,000 Uptown lose power Tuesday as storms roll through" (*available at* https://www.nola.com/business/2018/06/entergy_outage_uptown_severe_s.html) (noting further that Entergy anticipated power in Uptown would be restored by 6 p.m., and it was fully restored even earlier, by about 5:15 p.m.).

[96] *S ee* Bi-Monthly Rept. for June 1, 2017 through September 30, 2017, submitted on December 12, 2017, in Council Docket No. UD-17-04.

[97] *See* Nola.com report, "Tropical Storm Cindy: Street flooding likely Wednesday in New Orleans" (*available at* https://www.nola.com/hurricane/2017/06/flash_flood_cindy_new_orleans.html); *see also* Dir. Test. of T. Patella, at TSP-3, Tab 8 (noting the date for Tropical Storm Cindy as June 22, 2017).

broken cross-arms,[98] but, as mentioned previously, Quanta studied data on ENO's cross-arms and found that failure rates were within industry norms.[99]

In summary, Mr. Rogers has cited examples of outage types that will happen on any electric distribution system; they do not establish that ENO has failed to maintain its system in accordance with industry standards. Furthermore, it is my opinion that, although outages do happen from time to time on the system (as is the case for all utilities), ENO has demonstrated that it actively addressed distribution reliability upon determining a negative reliability trend in 2016, and we are seeing positive results.

Q28. IS MR. ROGERS CORRECT THAT ENO'S "RELIABILITY PROBLEMS" PERSISTED INTO 2018?

A. Not if he is referring to the increases in SAIFI and SAIDI indices that he used to determine a "decline in reliability." ENO's distribution line system saw a 20% overall reduction in SAIFI in 2018 as compared with 2017. This is a significant reduction and reflects the intense reliability efforts being put forth by our team. Quanta specifically found that ENO's 2018 improvement in reliability "is largely due to the ongoing distribution reliability efforts the company has undertaken for several years."[100] As I discussed in my Direct Testimony, ENO did not sit on its hands or otherwise ignore the

[98] This includes the June 12, 2017, June 15, 2017, and September 25, 2018 outages.

[99] 2018 Quanta Report, at 17-19.

[100] 2018 Quanta Report, at 12.

problem; the Company noticed a problem, dedicated the resources necessary to address that problem, and is beginning to see results.

III. CONCLUSION

Q29. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

A. Yes, at this time.

AFFIDAVIT

STATE OF LOUISIANA

PARISH OF ORLEANS

NOW BEFORE ME, the undersigned authority, personally came and appeared, **Tad S. Patella**, 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.

Tad S. Patella

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 26th DAY OF JUNE, 2019.

NOTARY PUBLIC

My commission expires: at death

TIMOTHY S. CRAGIN
NOTARY PUBLIC (La. Bar No. 22313)
Parish of Orleans, State of Louisiana
My Commission is issued for Life