

RESOLUTION

NO. R-21-151

CITY HALL: May 6, 2021

**BY: COUNCILMEMBERS MORENO, GLAPION, GIARRUSSO, BANKS AND
BROSSETT**

**IN RE: ENTERGY NEW ORLEANS, LLC LOAD SHED PROTOCOLS AND ALL
EVENTS AND DECISIONS RELATED TO THE FEBRUARY 2021 WINTER STORM
URI EVENT**

UD-21-01

RESOLUTION AND ORDER INSTITUTING A PRUDENCE INVESTIGATION

WHEREAS, pursuant to the Constitution of the State of Louisiana and the Home Rule Charter of the City of New Orleans ("Charter"), the Council of the City of New Orleans ("Council") is the governmental body with the power of supervision, regulation, and control over public utilities providing service within the City of New Orleans; and

WHEREAS, Entergy New Orleans, LLC ("ENO" or "the Company"), effective September 1, 2015, is a public utility providing electric and natural gas service to all of New Orleans; and

WHEREAS, ENO is a wholly owned subsidiary of Entergy Utility Holding Company, LLC. The other four operating companies are Entergy Arkansas, LLC, Entergy Louisiana, LLC, Entergy Mississippi, LLC, and Entergy Texas, Inc.; and

WHEREAS, from February 13-17, 2021, Winter Storm Uri swept across North America resulting in over 170 million Americans being placed under various winter weather alerts across the country and caused blackouts for over 9.7 million people in the U.S. and Mexico, including in New Orleans ("Winter Storm Event"); and

WHEREAS, during the Winter Storm Event, the Midcontinent Independent System Operator (“MISO”) issued several warnings regarding strains on the bulk electric system and the potential need to shed load; and

WHEREAS, again on Tuesday, February 16, at 5:37 p.m., MISO declared a Maximum Generation Emergency Event Step 2c effective from 5:35 p.m. to midnight, Wednesday, February 17, and directed utilities to implore customers to conserve energy to prepare to shed load; and

WHEREAS, at 6:53 p.m. on Tuesday, February 16, MISO directed a “pro rata Load Shed,” and in an email sent to Councilmembers at 7:35 p.m., ENO advised that it was responsible for shedding 26MW of load; and

WHEREAS, ENO did not issue information about the outages to the public until 8:41 p.m., just before the event ended. Similarly, ENO did not provide information to the Council until the event was well underway; and

WHEREAS, during and immediately after the outages, customers began to question how areas were selected for outage and why they were neither forewarned of the outages nor informed how long the outages were expected to last; and

WHEREAS, on Wednesday, February 17, Councilmembers Moreno and Giarrusso announced a joint meeting of the Utility, Cable, Telecommunications and Technology Committee (“UCTTC”) and the Public Works, Sanitation and Environment Committee on Tuesday, February 23 to “discuss how certain areas were selected for outages and reports that power was cut to Sewerage and Water Board drinking water intake pumps;” and

Summary of February 23 Joint Committee Meeting

WHEREAS, during the Joint Committee Meeting, ENO described its annual system to review its Load Shed Plan including the designation of feeders to specific categories to identify

those feeders which would produce “the least amount of risk to public safety and health if it is included in the shedding event,” and admitted that a Sewerage and Water Board of New Orleans (“SWBNO”) feeder had been miscategorized leading to ENO power being cut to drinking water intake and chemical injection pumps; and

WHEREAS, also during its presentation, ENO provided a timeline of its actions during the load shed event as follows:

7:15 p.m. - the first ENO breaker in the load shedding event was opened;

7:16 p.m. - the SWBNO Southport Breaker was opened, curtailing the electrical supply to critical SWBNO facilities. The total duration of the outage for the SWBNO Southport Breaker was 1 hour and 16 minutes;

8:55 p.m. - ENO closed the last breaker, ending the outage for all customers, with a total outage duration for all customers of 1 hour 40 minutes; and

WHEREAS, further, ENO reported that 25,707 customers were impacted during the event rather than 17,600 as had been reported by ENO to the Council on Tuesday, February 16; and

WHEREAS, in response to questions from the Councilmembers, ENO explained that while 26 MW load shed was assigned to New Orleans, ENO stated that it actually shed approximately 81 MW, more than three times the amount required, and after being asked by Councilmembers multiple times, the Company could not explain why so much more load was shed than had been required; and

WHEREAS, Chair Moreno directed the Council’s Utility Advisors (“the Advisors”) to conduct a forensic investigation into ENO and its response to the load shed event (“Investigation”); subsequently, the Council adopted Resolution R-21-87 initiating the Investigation and directing the Advisors to create a public report on their findings; and

WHEREAS, the Council established the scope of the Investigation to include:

- (1) the detailed chain of events from MISO's instruction to Load Balancing Authorities to shed load through the load shed to the full restoration of service to New Orleans customers, including maps reflecting where and when outages in Orleans Parish occurred;
- (2) information regarding the operational status of Entergy generation units during Winter Storm Uri and weatherization of generating units serving ENO load and their ability to operate in extreme weather conditions;
- (3) any protocols for load shedding and curtailment of load utilized during or applicable to the Winter Storm Uri load shedding event, including critical customer lists and all information about how those customers were prioritized; and
- (4) ENO's communications to customers, the Council, and stakeholders in any and all forms regarding the winter storm event generally and specifically related to the load shedding event as well as any protocols or policies governing such communications; and

Summary of March 16 UCTTC Meeting

WHEREAS, in a letter to the Council dated March 10, 2021, ENO President & CEO David Ellis informed Councilmembers that "the total amount of ENO load shed during the event was approximately 105 MW, and approximately 25,000 customers were interrupted" and that there were two causes for the superfluous load shed: 1) ENO breakers were included as part of the Downstream of Gypsy load pocket instead of Entergy Louisiana, LLC feeders (60 MW) and 2)

one of ENO's substations provided an inaccurate reading of actual load shed, resulting in an additional 19 MW of excess load shed (19 MW); and

WHEREAS, in response to the March 10 letter ENO was asked to present at the March 16 UCTTC meeting and to provide an update on the causes for the additional load shed and the steps the Company has taken to prevent this from happening in the future; and

WHEREAS, during the UCTTC meeting, ENO explained that if the proper amount of load had been shed, only 7,800 customers would have been impacted as opposed to the nearly 25,000 customers affected by the outage; and

WHEREAS, ENO provided insight into its automated load shed system; including the fact that the list of feeders entered into the system are reviewed annually with the last review prior to the Event occurring in April 2020. Further, ENO acknowledged that as a result of the improper load shed during the Event, they conducted a review of the system and there was a "gap" in updating the list of feeders pre-programmed into the load shed system to reflect any operational changes and changes to the critical customers list; and

WHEREAS, when asked if ENO conducts any simulations or drills to prepare for a load shed event, ENO responded that "our operators are required to be trained in the what we refer to as our operations protocol and it must be completed prior to any operator working independently." However, "the test environment does not – it's not the production environment of the actual system that is used during the event...[I]t's more on the familiarity of executing the program so when it needs to be operated, they're able to pull it up, enter the megawatts needed, the target megawatts, and be able to execute the program itself;" and

WHEREAS, ENO confirmed that the automated load shed system has been updated and they have "validated" that "there are no ENO feeders in any of the load packages except for the

one package that belongs to ENO.” Further ENO stated that it has formed a cross-functional team to look at “what we can do to make sure this never happens again;” and

WHEREAS, ENO also discussed that “MISO actually does a load shed package training every single month so they issue to us a directive that comes to my team, the [Load Balancing Authority] team, and we send it out to – the process goes from us to transmission and then down to distribution;” and

WHEREAS, ENO described the categorization system used to prioritize feeders. Feeders are organized into Priority categories ranging from 3 to 0, where Priority 3 feeders, “which makes up the largest portion of our load shed plan, consists of mostly residential load which is prioritized to be shed first, and Priority 0 “consists of critical customers and by design is prioritized to only be included within a load shed if absolutely necessary;” and

WHEREAS, ENO stated that its focus during a load shed event “is to protect the general health and welfare of the city by preserving power to critical facilities” and “[in] the determination, there is never a focus on the socio-economic makeup of the neighborhood as a determination. It is strictly based on the load needed to fill the requirement...” Further, ENO said that it is working “to review our process in depth with the intent of refining the sequencing of the list with input and collaboration from our external stakeholders and partners;” and

WHEREAS, ENO stated that they have removed the SWBNO Southport feeder and feeders that provide power to drainage pumps from the load shed list. ENO also committed to continue working with SWBNO to ensure that ENO does not “put any [SWBNO] facilities at risk that could cause harm to the city where feasible;” and

Summary of the Key Findings in the Advisors' Report

WHEREAS, on April 14, 2021, the Advisors submitted their report on the Event, and their Investigation was divided into two parts broadly described as technical issues and communications; and

WHEREAS, in addition to the technical issues ENO identified in its March 10 letter and during the committee meeting, the Advisors found that “if the annual review process had been more robust and actual simulations of the program had been performed in an external computer test environment, the errors that resulted in the 60 MW of excess load shed due to the ENO feeders being improperly identified as ELL feeders would have been avoided;” and

WHEREAS, in their review of the functionality of ENO’s load shed protocols, the Advisors observed that “the load shed program may not have recognized the feeder priority categories assigned to the feeders. Additionally, a review of the HSPM ‘Entergy SPO Policies and Procedures – Capacity Emergency Load Shed Process, and Event Reporting’ suggests the Priority Class 1 and Priority Class 0 should not even been included on the load shed list in the load shed program...there are likely other actions that need to be taken with respect priority category treatment with the ENO load shed program;” and

WHEREAS, ENO was unable to identify the original criteria used to select which feeders are included in load shed protocols and the sequence in which feeders are interrupted; and

WHEREAS, “the Advisors recommend a comprehensive review of all ENO distribution feeders, identifying all feeders with critical customers, prioritizing all remaining feeders, and from that, establishing a new load shed plan which includes as many feeders as reasonably possible with a randomly assigned load shed sequence;” and

WHEREAS, the Advisors found that ENO lacks independent control over its communications. Communications services are included as part of a shared services agreement between ENO and Entergy Services, LLC. As a result, communications during the Event did not include information specific to ENO customers and ENO did not provide customers with any information until minutes before the Event ended; and

WHEREAS, throughout the course of the Investigation, ENO designated an abundance of documents submitted in response to the Advisors discovery requests as highly sensitive protected materials (“HSPM”), including documents related to the weatherization generating units serving ENO during the Event; and

WHEREAS, the Advisors recommended the Council open a docket and institute a prudence investigation in order to 1) receive the information not provided during their initial investigation, including the critical customer list, 2) create a comprehensive record that can accommodate the HSPM, 3) ascertain if the actions ENO has taken have remedied the issues identified, 4) identify ways to disentangle ENO and Entergy Services, LLC’s communications to ensure that New Orleans customers receive information specific to Orleans Parish in a timely manner, and 5) determine if ENO’s actions constituted imprudent conduct; and

The Council’s Findings

WHEREAS, the Service Regulations Applicable to Electric and Gas Service by ENO define “prudent utility practice” as “[t]he practices, methods and acts, which in the exercise of reasonable judgment in the 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 costs consistent with reliability, safety and expedition;” and

WHEREAS, the Advisors' initial report raises serious doubt about the prudence of ENO's actions in connection with the load shed event, which requires a more thorough investigation; and

WHEREAS, Resolution R-07-432 which governs the manner in which HSPM should be handled by parties participating in proceedings before the Council; and

WHEREAS, Resolution R-07-432 defines HSPM as “material that a responding party claims is of such a highly sensitive nature that making copies of such material or providing access to such material to a party of the employees of the Reviewing Party would expose the responding party, or a person or entity to which the responding party owes a duty to protect the confidentiality of such materials, to an unreasonable risk of harm;” and

WHEREAS, the Council finds it necessary to remind ENO that the HSPM designation should be reserved only for those materials that actually would expose ENO “to an unreasonable risk of harm” as required by Resolution R-07-432; **NOW THEREFORE**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That Docket Number UD-21-01 is established and the Advisors are directed to conduct a prudence investigation to determine whether decisions which impacted ENO’s response as well as ENO’s actions leading up to and during the Load Shed Event related to Winter Storm Uri on February 16, 2021 were prudent or otherwise fell below appropriate standards of conduct under the circumstances and whether financial and/or other penalties should be imposed by the Council.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That the proceedings shall be conducted as follows:

1. The Honorable Maria Auzenne (marie@auzennelaw.com) is hereby appointed as Hearing Officer in this docket and shall, for good cause shown, and as required by the circumstances of this proceeding, have the authority to change or amend the procedural dates set forth herein.

2. ENO is directed to obtain MISO's cooperation consistent with the ENO/MISO relationship and to provide all required approvals necessary for MISO to provide all requested materials and information related to or in any way affecting ENO prior to or during the Load Shed Event, including but not limited to, the utilization of generation units that supply power to New Orleans.
3. ENO is designated as a party to these proceedings.
4. The Council's Advisors are directed to participate in the proceedings to conduct the investigation and ensure that the Council's objectives for this investigation are achieved.
5. Stakeholders desiring to intervene shall file a motion to intervene with the Clerk of Council, with a copy submitted electronically to Bobbie Mason (bfmason1@nola.gov) no later than **Monday, June 7, 2021**. The Council's requirements for motions to intervene may be found in the City Code at sections 158-236, 158-240, 158-286, 158-287, 158-288, 158-322, and 158-324. All fees associated with the filing of interventions in this proceeding are hereby waived, in accordance with Section 158-286 of the City Code. Objections to motions to intervene shall be filed within 5 days of such requests. Timely-filed motions to intervene not objected to within that time period shall be deemed GRANTED.
6. A discovery period will commence with this Resolution and the Council orders that all responses to discovery shall be made on a rolling basis and shall be due within 15 calendar days of receipt. Parties are encouraged to submit their data requests and responses electronically, where possible. Objections to data requests shall be filed within 5 days of receipt. All parties are strongly encouraged to provide complete, unambiguous, and non-evasive responses to requests for information. Failure to do so could cause unnecessary discovery disputes and may disrupt the procedural schedule outlined herein. The parties are encouraged to attempt to resolve their discovery disputes amicably prior to seeking the intervention of the Hearing Officer or appealing to the Council. The discovery deadline shall be 21 days prior to the deadline for the submission of the Advisors report to the Council.
7. By **June 16, 2021**, ENO is directed to file with the Clerk of the Council and serve on all parties on the Official Service List of this docket such testimony, evaluations, analyses, workpapers, and other information, as the Company believes will be of assistance to the Council in this prudence investigation. Additionally, ENO is directed to provide all materials requested by the Advisors during the original Investigation ordered in Resolution R-21-87 that ENO did not submit, including but not limited to the critical customer list.
8. ENO is further directed to limit the use of the Highly Sensitive Protected Material ("HSPM") designation only to those that explicitly meet the criteria as described in the official Protective Order adopted by Resolution R-07-432.

9. Intervenors shall file any comments, testimony, or other information, if they choose to do so, on or before **July 30, 2021**.
10. The Advisors shall file their report on or before **October 1, 2021**.
11. The Advisors shall have the discretion to conduct depositions and to utilize any other investigatory tools necessary to conduct this investigation. A court reporter or stenographer should be retained to create transcripts of all depositions, interviews, and hearings. Such transcripts shall be distributed to the Official Service List and made part of the record.
12. The Intervenors and ENO shall file their response to the Advisors' report on or before **November 1, 2021**.
13. The Hearing Officer shall certify the record to the Council for consideration no later than **December 1, 2021**.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That in the event the Council finds that ENO acted imprudently or otherwise fell below appropriate standards of conduct under the circumstances, any and all costs or expenses, including any financial penalty, associated with the Advisor's forensic investigation and this prudence investigation shall be borne completely and wholly by ENO and not by the ratepayers in the City of New Orleans.

THE FOREGOING RESOLUTION WAS READ IN FULL, THE ROLL WAS CALLED ON THE ADOPTION THEREOF, AND RESULTED AS FOLLOWS:

YEAS: Banks, Brossett, Giarrusso, Gisleson Palmer, Glapion, Moreno, Nguyen - 7

NAYS: 0

ABSENT: 0

AND THE RESOLUTION WAS ADOPTED.

THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY
Lara W. Johnson
CLERK OF COUNCIL