



December 1, 2021

By Hand Delivery and U.S. Mail

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

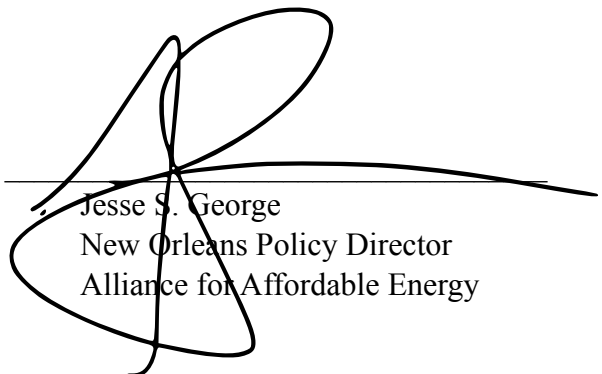
In Re: ENTERGY NEW ORLEANS, LLC LOAD SHED PROTOCOLS AND ALL EVENTS AND
DECISIONS RELATED TO THE FEBRUARY 2021 WINTER STORM URI EVENT
(Docket No. UD-21-01)

Dear Ms. Johnson:

Please find enclosed an original and three (3) copies of the Alliance for Affordable Energy's Response to the Council Utility Advisors' Final Report in the above mentioned docket. Please file this response into the record in this matter. We will submit physical copies at your instruction. If you have any questions, please do not hesitate to contact me.

Thank you for your time and attention.

Sincerely,



Jesse S. George
New Orleans Policy Director
Alliance for Affordable Energy

Before
The Council of the City of New Orleans

**In Re: ENERGY NEW ORLEANS, LLC
LOAD SHED PROTOCOLS AND ALL
EVENTS AND DECISIONS RELATED TO
THE FEBRUARY 2021 WINTER STORM
URI EVENT**

DOCKET NO. UD-21-01

DECEMBER 1, 2021

Response of the Alliance for Affordable Energy to the Council Utility Advisors' Report

I. Introduction

On May 6, 2021, the Council of the City of New Orleans (“the Council”) passed Resolution No. R-21-151 opening the instant docket, and setting a procedural schedule for an investigation into the prudence of Entergy New Orleans, LLC’s (“ENO”) decision-making during Winter Storm Uri in February 2021. The Alliance for Affordable Energy filed a Petition for Intervention and Inclusion on Service List under this docket on May 14, 2021. ENO filed its Response to the Prudence Investigation on June 16, 2021. In the wake of Hurricane Ida, on September 23, 2021, the Council passed Resolution No. 21-346, amending the procedural schedule to allow the Council Utility Advisors (“the Advisors”) to file their final report by November 1, 2021, with responses from ENO and intervenors due by December 1, 2021. The Advisors filed their Final Report on November 1, 2021. The Alliance for Affordable Energy hereby submits respectfully the following response:

II. The Advisors' Report Ignores Crucial Facts Regarding ENO's Imprudence

The Advisors' Report discusses both the technical and communication failures on the part of Entergy New Orleans that resulted in the excessive load shed event. Under Section D(3), the Advisors conclude that:

“ENO has defended its actions both in its technical and communications failures as resulting from an emergency. However, the Advisors do not accept that the technical and communications failures resulted from an emergency in the true sense of that word, which is defined as ‘a sudden, urgent, usually unexpected occurrence or occasion requiring immediate action.’

The technical failures acknowledged by ENO were the result of errors in computer data and programming that likely occurred years ago, not during an emergency, but routinely. It was repeated annually during routine system reviews for accuracy. These errors did not result from an emergency and could have been avoided.

The same is true of the communications failures. ENO is subject to communications manuals and protocols that run literally hundreds of pages, including many specific to load shed events. ENO management was aware in advance of the Event that load shedding was a **possibility** (emphasis added by Advisors), yet no concise, informative, understandable message had been prepared for New Orleans customers in advance. This was not due to an emergency, but deficient planning, and reliance on ESL.”

Yet, in the very next section, Section E pertaining to Intervenors’ Comments, while agreeing with the Alliance that ENO’s failure to perform load shed testing of any kind was, in their words “substandard”, the Advisor’s dismiss a finding of imprudence because, “the regulator must necessarily review the decisions made by the utility at the time those decisions were made, not based on hindsight.”

Furthermore, the Advisors' Report neglects to consider evidence presented by the Alliance in its Initial Comments that MISO itself performs monthly load shed testing. Thus, it is reasonable that ENO, as an owner of generation and transmission resources and as a member entity of MISO, would be aware of the importance of regular testing of such a technically complex process.

To criticize ENO for its lack of planning -- both technical and communicative -- is a criticism of its lack of reasonable foresight, not one based in hindsight. The Advisors' Report emphasizes repeatedly that these failures were not the result of an emergency, but of deficient planning on the part of ENO. Thus, the question before the Council is simply whether a reasonably prudent utility would have conducted regular load shed testing and would have a clear communications plan in place for an actual load shed event, and the answer -- despite the Advisors' dismissal -- is an unequivocal, "Yes."

III. The Advisors' Report Ignores ENO's History of Reliability Issues

Despite noting ENO's "substandard" technical and communications planning around Winter Storm Uri, the Advisors recommend no financial sanction against the company. While the focus of this docket is specifically on the events around Winter Storm Uri, the Council is not required to feign ignorance of the historical context of its regulation of ENO and the company's frequent reliability issues. The technical and communications failures around Winter Storm Uri are not an isolated incident, but a part of a larger pattern of corporate dysfunction and mismanagement, as evidenced by the findings of Council Docket No. UD-17-04 and the resulting Resolution No. R-19-442, assessing a \$1M penalty against ENO for routine reliability issues between 2014 and 2017. Unfortunately, ENO's reliability issues have not improved since

then.¹ The Council should consider the totality of circumstances surrounding this event in making a finding of prudence or imprudence, and in deciding on an appropriate remedy.

IV. ENO's Pending Litigation Against the Council Is an Impediment to Meaningful Regulation

As a result of the fine levied by Resolution No. 19-442, ENO filed a suit for injunctive relief (*Entergy New Orleans, LLC vs. The Council of the City of New Orleans, et al*, Orleans CDC Case No. 2019-12654) against the Council, which -- nearly two years after the date of filing -- is still pending before the court. The pendency of this litigation -- a direct challenge to the Council's ability to enforce its regulatory authority through meaningful penalties -- renders the Council impotent to implement serious reform of ENO, and likely is a factor in the Advisors' timidity in not recommending any penalty against the company. This creates an untenable relationship between the Council as a regulatory body and ENO as a regulated utility. The Council, the Advisors, and the Council Utility Regulatory Office should do everything in their power to advance and resolve this litigation in order to reassert the Council's regulatory authority over ENO.

VI. Conclusion

The Alliance appreciates this opportunity to respond to the Advisor's Final Report under this docket. Despite the Advisors' own conclusion, their Report makes plain ENO's imprudence in its technical and communications failures around Winter Storm Uri. A reasonably prudent utility would not have committed these errors, and, especially in light of ENO's history of dysfunction and unreliability, the excessive load shed event, and ENO's paltry defense of its actions, are unacceptable. The Council should resolve ENO's pending litigation and take

¹<https://thelensnola.org/2021/10/06/entergy-new-orleans-reliability-fell-significantly-in-2021-even-before-hurricane-ida/>

meaningful action against the company in the form of a financial penalty, with those funds dedicated to residential ratepayer relief.

Submitted respectfully,



Jesse S. George
New Orleans Policy Director
Alliance for Affordable Energy

I hereby certify that I have this 1st day of December, 2021, served the foregoing correspondence upon all other known parties of this proceeding by electronic mail.



Jesse S. George
Alliance for Affordable Energy

Service List

Lora W. Johnson, lwjohnson@nola.gov
Clerk of Council
City Hall - Room 1E09
1300 Perdido Street
New Orleans, LA 70112
Tel: (504) 658-1085
Fax: (504) 658-1140
Service of Discovery not required

Erin Spears, espears@nola.gov
Chief of Staff, Council Utilities Regulatory Office

Bobbie Mason, bfmason1@nola.gov

Christopher Roberts, cwroberts@nola.gov

City Hall - Room 6E07

1300 Perdido Street

New Orleans, LA 70112

Tel: (504) 658-1110

Fax: (504) 658-1117

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

1300 Perdido St. Rm. 2W40

New Orleans, LA. 70112

Paul Harang, 504-658-1101 / (504) 250-6837, Paul.harang@nola.gov

Interim Chief of Staff

City Hall - Room 1E06

1300 Perdido Street

New Orleans, LA 70112

Sunni LeBeouf, Sunni.LeBeouf@nola.gov

Law Department

City Hall - 5th Floor

New Orleans, LA 70112

Tel: (504) 658-9800

Fax: (504) 658-9869

Service of Discovery not required

Norman White, Norman.White@nola.gov

Department of Finance

City Hall - Room 3E06

1300 Perdido Street

New Orleans, LA 70112

Tel: (504) 658-1502

Fax: (504) 658-1705

Jonathan M. Rhodes, Jonathan.Rhodes@nola.gov

Director of Utilities, Mayor's Office

City Hall – Room 2E04

1300 Perdido Street
New Orleans, LA 70112
Tel: (504) 658-4928 - Office

ADMINISTRATIVE HEARING OFFICER

Hon. Maria Auzenne, maria@auzennelaw.com
1615 Poydras Street, Suite 900
New Orleans, Louisiana 70112
Tel: 504-566-7999
Fax: 504-569-0087

CITY COUNCIL CONSULTANTS and SUPPORT STAFF

Clinton A. Vince, clinton.vince@dentons.com
Presley Reed, presley.reedjr@dentons.com
Emma F. Hand, emma.hand@dentons.com
Adriana Velez-Leon, adriana.velez-leon@dentons.com
Dee McGill, dee.mcgill@dentons.com
Denton Law Firm,
1900 K Street NW
Washington, DC 20006
Tel: (202) 408-6400
Fax: (202) 408-6399

Basile J. Uddo (504) 583-8604 cell, buddo@earthlink.net
J. A. "Jay Beatmann, Jr. (504) 256-6142 cell, (504) 524-5446 office direct,
jay.beatmann@dentons.com
c/o DENTONS US LLP
650 Poydras Street
Suite 2850
New Orleans, LA 70130

Joseph W. Rogers, jrogers@legendcgl.com
Victor M. Prep, vprep@legendcgl.com
Byron S. Watson, bwatson@legendcgl.com
Legend Consulting Group
6041 South Syracuse Way, Suite 105
Greenwood Village, CO 80111
Tel: (303) 843-0351

Fax: (303) 843-0529

ENTERGY NEW ORLEANS, LLC

Courtney R. Nicholson (504) 670-3680, cnicho2@entergy.com

Entergy New Orleans, LLC

Vice-President, Regulatory and Public Affairs

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

Entergy New Orleans, LLC

Acting Director, Regulatory Operations

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

Brittany Dennis, bdenni1@entergy.com

Keith Wood, (504) 670-3633, kwood@entergy.com

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

Brandon M. Scott, (504) 670-3540, bscott8@entergy.com

Ross Thevenot, (504) 670-3556, rtheven@entergy.com

1600 Perdido Street, L-MAG 505B

New Orleans, LA 70112

Vincent Avocato, (281) 297-3508, vavocat@entergy.com

Entergy New Orleans, LLC

10055 Grogan's Mill Road Parkwood II Bldg, T-PKWD-2A

Suite 500, The Woodlands, TX 77380

Tim Cragin (504) 576-6571, tcragin@entergy.com

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

Entergy Services, LLC

Mail Unit L-ENT-26E

639 Loyola Avenue

New Orleans, LA 70113

Fax: 504-576-5579

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

Tim Rapier, (504) 576-4740, trapier@entergy.com

Entergy Services, LLC

Mail Unit L-ENT-4C

639 Loyola Avenue

New Orleans, LA 70113

Fax: (504) 576-6029

INTERVENORS

ALLIANCE FOR AFFORDABLE ENERGY

Jesse George, Jesse@all4energy.org

Logan Atkinson Burke, Logan@all4energy.org

Sophie Zaken, Regulatory@all4energy.org

4505 S. Claiborne Ave.

New Orleans, LA. 70125

Tel: (504) 208-9761

SUSTAINABLE ENERGY ECONOMY SOLUTIONS (“SEES”)

Andy Kowalczyk, andy@senergysolutions.org

819 Saint Roch Avenue

New Orleans, LA. 70117

(415) 676-1047