

RESOLUTION

NO. R-23-396

CITY HALL: September 7, 2023

BY: COUNCILMEMBERS MORENO AND MORRELL

**RESOLUTION AND ORDER PROVIDING GUIDANCE AND ESTABLISHING
PROCEDURAL DEADLINES WITH RESPECT TO CONTIUNED EFFORTS TO
ENCOURAGE DEVELOPMENT OF ELECTRIC VEHICLE CHARGING
INFRASTRUCTURE AND ELECTRIC VEHICLE ADOPTION**

DOCKET UD-18-01

WHEREAS, pursuant to the Constitution of the State of Louisiana and the Home Rule Charter of the City of New Orleans, 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 (“City”); and

WHEREAS, Entergy New Orleans, LLC (“ENO”) is a public utility providing electric and natural gas service to New Orleans; and

WHEREAS, ENO is a wholly owned subsidiary of Entergy Utility Holding Company, LLC. ENO, and four other Entergy subsidiaries, Entergy Arkansas, LLC; Entergy Louisiana, LLC; Entergy Mississippi, LLC; and Entergy Texas, Inc. are the Entergy Operating Companies (“EOC”); and

WHEREAS, the Council established in Council Resolution No. R-18-100 (“Resolution”) that the “use of electric vehicles is in the public interest and is consistent with Council Resolution Nos. R-17- 428 (Resolution Regarding Climate Action for a Resilient New Orleans Strategy) and R-17-303 (Resolution supporting the Paris Agreement) and should therefore be encouraged,” and that “the construction, location and operation of electric vehicle charging stations is in the public interest and should be encouraged;” and

WHEREAS, the Council also determined that electric vehicle (“EV”) charging hosts/providers who purchased electricity from a regulated utility and charged EV owners to charge their vehicles were not considered public utilities and were not subject to utility regulation by the Council; and

WHEREAS, the Resolution did not address any matters related to EV charging hosts/providers powered by alternative means; and

WHEREAS, in the Resolution the Council established Council Utility Docket No. UD-18-02 to consider “other regulatory matters related to electric vehicles and electric vehicle charging stations...,” beyond the “limited issue” addressed in the Resolution; and

WHEREAS, matters relating to electrical vehicle charging infrastructure (“EVCI”) have been addressed in Council Utility Docket No. UD-18-01 (Smart Cities and Grid Modernization), Council Docket UD-18-02 (Electric Vehicles - merged with Council Docket UD-18-01), and Council Docket UD-18-07 (2018 Rate Case); and

WHEREAS, in Resolution No. R-18-537 the Council directed an expansive and ongoing information gathering process to “provide the Council with the maximum amount of information to make the broadest and most comprehensive evaluation of electric vehicles and electric vehicle charging matters to develop sound policy decisions...;” and

WHEREAS, the ongoing process led to several other EV and EVCI related resolutions, all directed toward encouraging broader and more rapid EV adoption in the City, and

WHEREAS, in Council Utility Docket No. UD-18-07 (“2018 Rate Case”) the Council approved an Electric Vehicle Charging Infrastructure Rider (“EVCI Rider”) that allowed ENO to construct, own, and operate electric vehicle charging infrastructure on customers’ property and recover the costs over ten (10) years; and

WHEREAS, in the 2018 Rate Case the Council also authorized ENO to invest \$500, 000 in 30-50 free-to-use electric vehicle chargers located on public property after determining siting locations through a stakeholder process; and

WHEREAS, in Council Resolution No. R-23-75 the Council granted ENO’s Request to Modify its Electric Rate Schedules to Expand Access to Electric Vehicle Charging Infrastructure in the City of New Orleans and approved the Electric Vehicle Charging Demand Adjustment Rate Schedule (“EVFDA Rider”); and

WHEREAS, on July 21, 2022, ENO filed a request for approval of a public direct current fast charging (“DCFC”) station project (“DCFC Project”) for the expressed purpose of expanding access to EVCI and thereby promoting EV adoption (“Application”); and

WHEREAS, under the proposed project ENO would invest up to \$3 million to construct and own five (5) DCFC stations, locating one in each Council district and one in the parking lot of the Walmart Supercenter on Bullard Road in New Orleans East, which station might also be eligible for funding under the Infrastructure and Investment Jobs Act (“IIJA”); and

WHEREAS, in its Application ENO noted that “[c]urrently, the City does not have a single public DCFC site;” and

WHEREAS, in support of the DCFC Project, ENO stated that “[p]ublic access to EV infrastructure ... will facilitate and encourage expansion of EVCI and encourage the adoption of EVs... – a goal shared by the Council of the City of New Orleans ... and ENO.” ENO noted “a serious gap in New Orleans EV infrastructure that could, if left unaddressed, limit opportunities for ENO customers to benefit from the rapidly developing EV market;” and

WHEREAS, on January 23, 2023, ENO filed a motion to delay consideration of its DCFC Project due to the withdrawal of interest by Walmart Supercenter on Bullard Avenue, which ENO called a “material change in circumstances;” and

WHEREAS, ENO requested an “opportunity to rework its DCFC Station Request and to submit an amended DCFC Station Request when, and if, other suitable sites can be identified in the City;” and

WHEREAS, to date no amended DCFC request has been filed by ENO; and

WHEREAS, the City still does not have a single fully public DCFC station, although there are twelve (12) Tesla ports at the Jung Hotel, which are limited to Tesla vehicles, and one (1) port at Rouse’s Market (701 Barrone St.), which is a Rouse’s “customer priority” station;¹ and

WHEREAS, by contrast Baton Rouge has twenty-five (25) Tesla ports, three (3) customer-only ports, and three (3) public ports; Hammond has five (5) public ports;² and

WHEREAS, New Orleans has fallen seriously behind in EV fast-charging infrastructure development, which adversely impacts the Council’s goal of fostering EV adoption as being in the public interest; and

WHEREAS, ENO’s Application states that its DCFC Project was intended not only for ENO to construct and operate a “modest number” of DCFC stations, but to “jumpstart public charging EV adoption in New Orleans” and to create “ample opportunities for other parties to invest in EV charging infrastructure for public use;”³ and

¹ U.S. Department of Energy, Alternative Fuels Data Center, as of August 2023.

² Id.

³ Affidavit of Gregory S. Crisler on Behalf of Entergy New Orleans, LLC exhibit to application at 8.

WHEREAS, ENO expert Gregory Crisler also stated that “ENO’s proposed DCFC Station Project will not adversely affect opportunities for other EV charging providers to enter the market ... [and that] a need exists for increased investment in public DCFC in New Orleans;”⁴ and

WHEREAS, the Council recognizes that there is still a paucity of dependable data about EVCI, EVCI usage, and EV adoptions for the City; and

WHEREAS, the Council recognizes that the issues raised by EVCI and its impact on EV adoption are not unique to New Orleans and that most states and utility regulators are facing a new regulatory paradigm with complex, often unimagined, challenges that require a careful, thoughtful process that will achieve the best policies with the fewest missteps; and

WHEREAS, specifically the Louisiana Public Service Commission (“LPSC”) has recently opened a rulemaking proceeding “to determine the Commission's jurisdiction over electric vehicle charging stations and any other method of providing electricity to electric vehicles and whether a non-jurisdictional entity that owns and/or operates a charging station is subject to the Commission’s jurisdiction;”⁵ and

WHEREAS, the Council recognizes that to date there has been an impressive level of cooperation among stakeholders and parties to these proceedings with rare unanimity as to the importance of the task; and

WHEREAS, the Council finds it appropriate to consider this matter further, especially as related to DCFC and EVCI, and to establish a procedural schedule and provide certain guidance to the parties in the interest of further evaluating all aspects to maximize EV adoptions; and

⁴ Id.

⁵ Louisiana Public Service Commission, Docket NO. R-36131.

WHEREAS, without limiting the matters of interest to the stakeholders and parties, the Council encourages particular emphasis on the following: 1) given that the Council has already concluded that it is in the public interest to allow ENO to own and operate EVCI, to what extent should other entities be allowed/encouraged to invest in and operate EVCI; 2) what are the obstacles to such private entity participation and how can these obstacles be removed or minimized; and 3) given the vast technological changes spawned by EVs and EVCI what is the appropriate regulatory model, if any, to accomplish the various goals and objectives previously noted and agreed to throughout these dockets; and **NOW THEREFORE**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS,

That:

A. Data

By October 9, 2023, ENO shall file with the Council the following updates with detailed information through June 30, 2023:

1. Status of the \$500,000 public charger investment approved in the 2018 Rate Case.
2. Status of ENO's eTech incentives for EVs.
3. Status of EVCI-2 Rider and EVCDA Rider impacts on: 1) EV adoptions, 2) charging utilization, cost shifting, and 4) effects on rates.
4. Status of ENO DCFC Project.

B. Procedural Schedule

1. A rolling discovery period conducted according to the City of New Orleans Code of Ordinances ("City Code") shall commence upon the adoption of this resolution by the Council.
2. A procedural schedule is established to allow stakeholders to participate.
3. Stakeholders desiring to intervene in this proceeding shall file a motion to intervene pursuant to the City Code no later than October 5, 2023, with a copy submitted electronically to Bobbie Mason (bfmason1@nola.gov). Timely filed motions to intervene that are not opposed within the allotted time-period shall be deemed GRANTED.

4. ENO is designated a party to the proceedings.
5. The Council's Utility Advisors ("Advisors") are directed to participate fully in the proceedings, including conducting discovery, submitting testimony, reports, data, or other evidence, to assure that the Council's objectives in this docket are achieved.
6. Judge Calvin Johnson is appointed the Hearing Officer to preside over the proceedings pursuant to the City Code.
7. The following deadlines are established:
 - a) The Council Utility Regulatory Office ("CURO") shall convene the first technical conference for the parties, the Advisors, and CURO between October 30, 2023, and November 10, 2023. CURO shall provide a detailed agenda at least forty-eight (48) hours before the conference.
 - b) Parties shall file preliminary comments on or before November 17, 2023.
 - c) CURO shall convene the second technical conference between November 29, 2023, and December 8, 2023. CURO shall provide a detailed agenda at least forty-eight (48) hours before the conference.
 - d) Parties shall file final comments on or before January 31, 2024.
 - e) Any party may file reply comments on or before February 16, 2024.
 - f) The Advisors shall file a report and recommendations on or before March 1, 2024.

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

YEAS: Giarrusso, Green, King, Moreno, Morrell - 5

NAYS: 0

ABSENT: Harris, Thomas - 2

AND THE RESOLUTION WAS ADOPTED.

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