R-10-274

BY: COUNCILMEMBERS HEDGE-MORRELL, GUIDRY, HEAD AND GISLESON PALMER

ENTERGY NEW ORLEANS, INC.’S 2010 ELECTRIC AND GAS FORMULA RATE PLAN FILINGS PURSUANT TO

 COUNCIL RESOLUTION R-09-136 AND THE 2009 AGREEMENT IN PRINCIPLE

AND

APPLICATION OF ENTERGY NEW ORLEANS, INC. TO RECOVER EMISSION ALLOWANCE EXPENSES

INCURRED VIA RESULT OF COMPLIANCE WITH THE CLEAN AIR INTERSTATE RULE

DOCKET NO. UD-08-03

RESOLUTION AND ORDER ESTABLISHING PROCEDURAL SCHEDULE

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, pursuant to its powers of supervision, regulation and control over public utilities, the Council

is responsible for fixing and changing rates and charges of public utilities and making all necessary rules

and regulations to govern applications for the fixing and changing of rates and charges of public utilities;

and

WHEREAS, Entergy New Orleans, Inc. (“ENO” or “Company”) is a public utility providing electric

service to all of New Orleans, except the Fifteenth Ward (“Algiers”), and gas service to all of New

Orleans; and

WHEREAS, Entergy Louisiana, LLC (“ELL”) provides electric service to the Algiers section of New

Orleans; and

Formula Rate Plans

WHEREAS, on April 2, 2009, the Council adopted Resolution R-09-136, which approved the 2009

Agreement in Principle (“‘09 AIP”) and resolved ENO’s application for a change in electric and gas rates;

and

WHEREAS, pursuant to the ‘09 AIP, beginning with the year 2010, ENO is to be subject to Formula Rate

Plans (“FRPs”) for both Electric (“EFRP”) and Gas (“GFRP”) operations; and

WHEREAS, the ’09 AIP established a term of three (3) years for both the EFRP and GFRP, with the first

filing due by ENO on or before May 31, 2010; and

WHEREAS, the evaluation period for each of the FRPs is to be the immediately prior calendar year (e.g.,

the evaluation period for the 2010 filing will be the period January 1, 2009—December 31, 2009 (“Test

Year”)); and

WHEREAS, with respect to the specific terms of the EFRP, the ’09 AIP ordered that the midpoint Return

on Equity (“ROE”) for the EFRP shall be set at 11.10% with a +/- bandwidth of 0.40%, and ENO has the

ability to earn within the bandwidth of 10.70% to 11.50% for electric operations without any change in

rates; and

WHEREAS, electric earnings above the 11.50% upper bandwidth will result in prospective rate decreases

commencing in the first billing cycle of October in the FRP filing year using the EFRP rider schedule

based upon the midpoint ROE of 11.10% (reset to midpoint); and

WHEREAS, electric earnings below the 10.70% lower bandwidth will result in prospective rate increases

commencing in the first billing cycle of October in the FRP filing year using the EFRP rider schedule

based upon the midpoint ROE of 11.10% (i.e., reset to midpoint); and

WHEREAS, with respect to the specific terms of the GFRP, the midpoint ROE was set at 10.75% with a

+/- bandwidth of 0.50%, and ENO has the ability to earn within the bandwidth of 10.25% to 11.25% for

Gas operations without any change in rates; and

WHEREAS, gas earnings above the 11.25% upper bandwidth will result in rate decreases commencing in

the first billing cycle of October in the FRP filing year using the GFRP rider schedule based upon the

midpoint target ROE of 10.75% (i.e., reset to midpoint); and

WHEREAS, gas earnings below the 10.25% lower bandwidth will result in rate increases commencing in

the first billing cycle of October in the FRP filing year using the GFRP rider based upon the midpoint

target ROE of 10.75% (i.e., reset to midpoint); and

WHEREAS, on May 27, 2010, ENO submitted its 2010 Electric and Gas Formula Rate Plan Filings

pursuant to Council Resolution R-09-136 and the ’09 AIP; and

WHEREAS, under the Electric Evaluation Report, ENO requests a decrease in EFRP revenue of $12.859

million, and under the Gas Evaluation Report, ENO requests an increase in GFRP revenue of $2.368

million; and

WHEREAS, ENO’s estimate of the net effect of these Rate Adjustments on typical monthly electric and

gas bills are as follows: the typical summer electric residential bill for 1,000 kWh will decrease from

$103.58 to $99.86, a net decrease of $3.72. A typical electric commercial bill for 10kW and 1,825 kWh

will decrease from $210.84 to $202.95, a net decrease of $7.89. A typical electric industrial bill for 250

kW and 91,250 kWh will decrease from $7,778.77 to $7,524.21, a net decrease of $254.56; and

WHEREAS, a typical gas residential bill for 50 ccf will increase from $58.76 to $60.73, a net increase of

$1.97. A typical gas commercial bill for 20 mcf will increase from $222.65 to $229.74, a net increase of

$7.09; and

Clean Air Interstate Rule (“CAIR”)

WHEREAS, on April 29, 2010, ENO filed its Application of Entergy New Orleans, Inc. to Recover

Emission Allowance Expenses Incurred Via Result of Compliance with the Clean Air Interstate Rule

(“Application”); and

WHEREAS, in March, 2005, the United States Environmental Protection Agency (“U. S. EPA”) enacted

CAIR, the objective of which is to reduce emissions of certain precursor pollutants, nitrogen oxides

(“NOx”) and sulfur dioxide (“SO2”) that create ground-level ozone and particulate environmental issues

in downwind states in the eastern United States, including Louisiana; and

WHEREAS, the U.S. EPA has imposed “cap-and-trade” programs, which require that an entity which

owns an affected unit that exceeds its unit specific allocation of the overall emissions cap to buy

emission allowances from another party, or install controls to reduce those emissions; and

WHEREAS, according to its Application, ENO’s CAIR compliance plan calls for the use of a combined

capital/allowance purchase strategy by which the Company has installed cost-effective pollution

 controls to partially reduce excess emissions, and has purchased allowances to address any remaining

excess emissions; and

WHEREAS, according to ENO it began purchasing emission allowances in 2008, and the expenses

associated with those purchases were incurred in calendar year 2009, and the expenses associated with

purchases in 2009 are being incurred in calendar year 2010; and

WHEREAS, ENO’S Application is seeking a determination that the costs of emission allowances

expensed for the period January 2009 through October 2010, in complying with CAIR, are reasonable

 and recoverable in rates; and

WHEREAS, according to ENO, although the Company has incurred the expenses associated with the

purchase of emission allowances since 2009, those costs have not yet been recovered from customers.

Specifically, during the 2009 calendar year, ENO expensed $1,852,455 of annual NOx emission

allowances and $109,209 of seasonal emission allowances, for a total $1,961,664 in emissions allowance

expenses. The 2010 expenses incurred by the Company for annual emission allowances from January

2010 through March 2010 is $64,168; and

WHEREAS, in its Application, ENO requests approval of an Environmental Adjustment Clause Rider

(“EAC” Rider”) for recovery of emissions expenses incurred in 2010, all prospective CAIR-related costs,

as well as any other fuel–related environmental costs that may arise from future federal or state

legislation; and

WHEREAS, since ENO alternatively proposes that certain of the historical CAIR emissions allowances

costs expensed in calendar year 2009 be recovered via the Company’s ’09 FRP as a proforma

adjustment, and ENO has included the emissions allowance expenses incurred in 2009 as an operating

expense in its 2010 Electric FRP Filing, the Council believes it appropriate that the Company’s

Application be considered together with its ’09 FRP in Docket No. UD-08-03; and Parties

WHEREAS, it is the Council’s desire to grant “deemed intervenor” status to all parties who have

participated previously in Docket No. UD-08-03 and, accordingly, the companies that participated in

these proceedings as New Orleans Business Energy Council, or NOBEC, shall be deemed intervenors in

their individual capacities as: Jacobs Technology, Inc., The Folger Coffee Company (J.M. Smucker) and

U.S. Gypsum; now therefore:

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS THAT:

1. These proceedings shall be conducted in Docket No. UD-08-03

2. Jeffrey Gulin is appointed the Hearing Officer to preside over the proceedings in this docket.

3. ENO, the Council’s Advisors, and all of the original intervenors in this docket, including Jacobs

Technology, Inc., The Folger Coffee Company (J.M. Smucker) and U.S. Gypsum, are designated parties

to these proceedings. Additionally, a period of 15 days from the adoption of this Resolution is

established for interventions in this docket by individuals not herein designated as a party. Persons

 desiring to intervene shall do so by filing an intervention request with the Clerk of Council, with a copy

submitted to Director, Council Utilities Regulatory Office, Room 6E07 City Hall, 1300 Perdido Street, New

Orleans, LA 70122; and to persons on the Official Service List of Docket UD-08-03 available from the

Council Utilities Regulatory Office. All fees associated with the filing of interventions are hereby waived,

in accordance with Section 158-286 of the City Code. Objections to intervention requests shall be filed

within 7 days of such requests. Timely-filed intervention requests not objected to within that time

period shall be deemed GRANTED.

4. With respect to the review of ENO’s FRP Electric and Gas Evaluation Reports, the schedule for the

review shall proceed in accordance with the terms of the ‘09 AIP, particularly the procedures established

in the Electric and Gas Formula Rate Plan Rider Schedules.

5. With respect to ENO’s CAIR Application:

a. These proceedings shall be conducted in Sub-Docket No. UD-08-03-A.

b. A period of discovery shall commence with the adoption of this Resolution and extend through

October 15, 2010, (written discovery requests must be issued prior to the close of the discovery period;

requested depositions shall be completed on or before the close of the discovery period). Responses to

data requests shall be made on a rolling basis and shall be due in hand within 12 calendar days of

receipt), except with respect to data requests issued subsequent to August 13, 2010, the responses to

 which shall be due in hand within 5 (five) calendar days of receipt of the requests. (All requests received

after 3 o’clock p.m. (central) on a Friday shall be deemed received the following business day. Parties

are encouraged to submit their data requests and responses electronically, where appropriate.

Objections to data requests shall be filed within 5 days of receipt. 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.

b. Intervenors shall file any Responsive Comments on or before August 13, 2010.

c. Advisors shall file any Responsive Comments on or before September 10, 2010.

d. ENO shall file any Rebuttal Comments on or before September 30, 2010.

e. ENO is directed to supplement its CAIR Application with updated expenses and supporting invoices

throughout the discovery period.

f. The Council intends to render its decision on ENO’s original and supplemental CAIR Applications on

or before November 7, 2010.

6. It is anticipated that during discovery, the parties may be required to produce documents or

information that is deemed confidential and/or highly sensitive and, accordingly, the Council adopts for

use in the Sub-Docket UD-08-03 its Official Protective Order adopted by Resolution R-07-432, a copy of

which can be obtained from the Council Utilities Regulatory Office.

THE FOREGOING RESOLUTION WAS READ IN FULL, THE ROLL WAS CALLED ON THE

ADOPTION THEREOF AND RESULTED AS FOLLOWS:

YEAS: Clarkson, Fielkow, Gisleson Palmer, Guidry, Head, Hedge-Morrell, Johnson – 7

NAYS: 0

ABSENT: 0

AND THE RESOLUTION WAS ADOPTED.