

IN RE:

*Supplemental & Amending  
Application of Entergy New Orleans,  
Inc., et al*

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*Hearing - Public*

*December 15, 2017*

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BEFORE THE  
COUNCIL OF THE CITY OF NEW ORLEANS

SUPPLEMENTAL AND \* UD-16-02  
AMENDING APPLICATION \*  
OF ENTERGY NEW \*  
ORLEANS, INC. FOR \*  
APPROVAL TO \*  
CONSTRUCT NEW \*  
ORLEANS POWER \*  
STATION AND REQUEST \*  
FOR COST RECOVERY \*  
AND TIMELY RELIEF \*  
\* \* \* \* \*

PUBLIC

Evidentiary hearing in the above-entitled matter before Honorable Jeffrey S. Gulin, held at 601 Poydras Street, 11th Floor, Bayou Rooms 1 and 2, New Orleans, Louisiana 70130, commencing at 9:00 A.M., on Friday, the 15th day of December, 2017.

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9 KATHY SHAW-GALLAGHER, certified

10 Court Reporter, State of Louisiana,

11 officiated in administering the oath to

12 the witness.

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1 P R O C E E D I N G S

2 JUDGE GULIN:

3 On the record.

4 Good morning, everyone.

5 EVERYONE:

6 Good morning.

7 JUDGE GULIN:

8 Today is December 15th, 2017. The  
9 first day of number of days we're going  
10 to share together. And we're here, of  
11 course, to conduct a hearing on the  
12 merits in Docket UD-16-02 addressing the  
13 pending application of Entergy New  
14 Orleans.

15 I am Jeffery Gulin, the appointed  
16 hearing officer presiding over this  
17 hearing on behalf of the Council for the  
18 City of New Orleans.

19 This hearing is open to the public,  
20 but subject to the protection of  
21 confidential information, pursuant to the  
22 official protective order governing this  
23 proceeding, and in this regard, I've  
24 already spoken to the court reporter,  
25 but, again, on the record, I direct the



1 court reporter to segregate and seal any  
2 exhibits that are designated as  
3 protective materials, as well as  
4 segregate and seal any portion of the  
5 transcript that contains sealed testimony  
6 that I designate as confidential under  
7 the protective order.

8 I want to say at the outset that  
9 beginning on Monday, we will be  
10 reconvening at 8:30 A.M. each day, and  
11 hopefully we'll be able to get through  
12 the day's schedule. I know that's not  
13 convenient for everyone, but if we were  
14 to have any chance of completing the  
15 hearing before the Christmas holiday, I  
16 think we need to at least begin with that  
17 schedule.

18 All right. So we have a number of  
19 housekeeping and preliminary matters this  
20 morning, but before we do that, why don't  
21 we begin with having counsel introduce  
22 themselves and their clients, I guess  
23 beginning with Entergy, please.

24 MR. GUILLOT:

25 Good morning, Your Honor. My name

1 is Brian Guillot on behalf of Entergy New  
2 Orleans. To my left, I have co-counsel,  
3 Mr. Raley Alford, Mr. Timothy Cragin, and  
4 Mr. Harry Barton.

5 JUDGE GULIN:

6 All right. Thank you.

7 And let's go in order of  
8 presentations this morning or order of  
9 cross to Sierra Club.

10 MR. BROWN:

11 Good morning, Your Honor. My name  
12 is Michael Brown, here on behalf of  
13 Sierra Club.

14 MR. SMITH:

15 Good morning, Your Honor. Joshua  
16 Smith on behalf of Sierra Club as well.

17 MR. WIYGUL:

18 And Robert Wiygul also here for the  
19 Sierra Club.

20 JUDGE GULIN:

21 All right. Thank you.

22 MR. WIYGUL:

23 You're welcome.

24 JUDGE GULIN:

25 Alliance for Affordable Energy.

1 MS. MILLER:

2 Thank you, Your Honor. My name is  
3 Susan Stevens Miller, and I'm here on  
4 behalf of the Alliance for Affordable  
5 Energy and 350 New Orleans, Louisiana.

6 MS. OSUALA:

7 And, Your Honor, my name is Chinyere  
8 Osuala. I am also here on behalf of the  
9 Alliance for Affordable Energy and 350.

10 JUDGE GULIN:

11 Yeah. I know you're going to be  
12 tempted to leave your microphones on.  
13 Actually I'd probably prefer that you not  
14 do that. If you can remember, though, to  
15 turn it on before speaking, that would be  
16 helpful.

17 So Deep South Center.

18 MS. HARDEN:

19 Your Honor, my name is Monique  
20 Harden. I'm counsel for the Deep South  
21 Center for Environmental Justice.

22 JUDGE GULIN:

23 Thank you and welcome.

24 And Air Products and Chemicals.

25 MR. EDWARDS:

1                   Good morning, Your Honor. My name  
2                   is Lanny Edwards. I'm counsel for Air  
3                   Products.

4                   JUDGE GULIN:

5                   Thank you. Good seeing you again.

6                   And then, I guess, the advisors.

7                   MR. VINCE:

8                   Good morning, Judge Gulin. My  
9                   name's Clint Vince representing the  
10                  Council of the City of New Orleans. I'm  
11                  joined by my teammates, Emma Hand,  
12                  Presley Reed, Jay Beatmann, and local  
13                  counsel, Jeff Wilkerson.

14                  JUDGE GULIN:

15                  Okay. Welcome.

16                  Now, I believe there were some other  
17                  parties who were not actually  
18                  participating in the hearing, but you're  
19                  welcome to introduce yourselves and your  
20                  clients if you would like.

21                  (No response.)

22                  JUDGE GULIN:

23                  No? Okay. Then we shall move on.

24                  Earlier this week, I requested that  
25                  a team of timekeepers be established to

1 keep track of the amount of time consumed  
2 during the opening statements and during  
3 cross-examination. So who will serve as  
4 those timekeepers?

5 And your names, please?

6 MR. WOOD:

7 My name is Keith Wood.

8 JUDGE GULIN:

9 Okay. Who are you with, Mr. Wood?

10 MR. WOOD:

11 With Entergy New Orleans.

12 JUDGE GULIN:

13 Okay. Anyone else?

14 MR. SMITH:

15 Your Honor, Lauren Hogrewe will be  
16 keeping time for us on behalf of Sierra  
17 Club and the Alliance as well.

18 JUDGE GULIN:

19 Can you spell that, please?

20 MR. SMITH:

21 H-O-G-R-E-W-E.

22 JUDGE GULIN:

23 Who else? That's it? All right.

24 Thank you.

25 All right. So as you-all know, I

1 don't have a law clerk and I don't have a  
2 personal staff to help with the  
3 administration of this case. I have to  
4 rely upon you-all for that assistance.  
5 And in that regard,  
6 Ms. Hand has already been extremely  
7 helpful in beginning the process of  
8 keeping track of the administrative  
9 record. That's going to have to  
10 continue. I would suggest that it not be  
11 left completely to Ms. Hand so as to  
12 avoid any discontation later on, but we  
13 will need to keep track of all the  
14 exhibits being offered during the course  
15 of this proceeding. And, specifically, I  
16 would like a notation -- and I'm going to  
17 ask for that at the conclusion of the  
18 hearing, or at least within a few days.  
19 So it might be wise to confer, if not  
20 every evening, then several evenings to  
21 keep a running tally.

22 And what I would like on that is  
23 obviously how the exhibit is marked,  
24 description of the exhibit, whether it  
25 was admitted, and if it was admitted --

1 and I'm going to discuss this more in a  
2 little while -- but if it was admitted,  
3 the purpose of the admission. I would  
4 anticipate that most exhibits will be  
5 admitted for the limited purpose of  
6 cross-examination and not as substantive  
7 evidence. So I want a notation on that  
8 chart as to what the purpose of the  
9 admission was.

10 All right. That leads me -- It's a  
11 good segue to the first preliminary  
12 matter that requires resolution. I have  
13 reviewed the proposed list of what should  
14 be included in the administrative record  
15 and I think there was one dispute on  
16 that. Also, I would like to add, and I'm  
17 not sure it was clear, Ms. Hand, you may  
18 have intended to include this under the  
19 rubric of pleadings, perhaps, I don't  
20 know, but all motions and responses to  
21 motions should be included. Then there  
22 was some discontation as to whether  
23 discovery documents themselves, documents  
24 that were provided in response to  
25 discovery requests and depositions -- and

1 I think -- I'm trying to recall.

2 Who wanted to have that done? Was  
3 that Mr. Edwards? Was that your --

4 MR. EDWARDS:

5 Which one, Your Honor? For the  
6 motions?

7 JUDGE GULIN:

8 No, not the motions. I don't think  
9 you have any objection to that. I  
10 suspect, anyway. You wanted not to have  
11 all discovery documents also included in  
12 the administrative record?

13 MR. EDWARDS:

14 I was persuaded by whoever responded  
15 to it that those that are admitted into  
16 the -- into evidence should be part of  
17 the record, but the others not.

18 JUDGE GULIN:

19 Okay. Well, let me amend that and  
20 say that even if it is not admitted into  
21 evidence as substantive evidence, for  
22 example, if a deposition is used during  
23 the course of cross-examination, it may  
24 be part -- in fact, it will be part of  
25 the administrative record at the request



1 of any -- either the counsel doing the  
2 cross or counsel for the witness. So I'm  
3 very liberal about that. It will be  
4 admitted, but for the limited purpose of  
5 cross-examination. And there may be  
6 situations where it's also admitted as  
7 substantive evidence. That should be  
8 rare, much more rare.

9 All right. Let's get on to another  
10 matter of some contention here. It is  
11 with respect to the prefiled written  
12 testimony. We have an open motion filed  
13 by the intervenors three days ago to  
14 strike the written testimony of ENO  
15 witness, Entergy witness, Jonathan Long.  
16 He's actually scheduled to appear here on  
17 Monday, I believe, and a reply to that  
18 was filed yesterday.

19 All right. Let's begin with the  
20 moving party. I'll be happy to hear from  
21 you, Ms. Harden.

22 MS. MILLER:

23 Thank you, Your Honor.

24 Essentially our argument is that  
25 Mr. Long, in his November supplemental

1 testimony, presented evidence on air  
2 emission effects, groundwater, and  
3 flooding issues at the site in question  
4 and that he does not have the expertise  
5 necessary to present evidence on these  
6 issues. The City Council directed  
7 Entergy to file testimony on those  
8 issues. Mr. Long received a report from  
9 other experts and essentially is  
10 testifying with regard to what that  
11 report means and the conclusions that the  
12 City Council should make with regard to  
13 that report.

14 He lacks -- He admitted in his  
15 deposition that he lacks the skills and  
16 knowledge to be able to discuss that  
17 report himself and Entergy seems to be  
18 arguing that because he received this  
19 report as part of his job duties, that  
20 that makes him qualified to present it as  
21 part of his testimony.

22 Our view is that drives a dagger in  
23 the heart of what it means to be an  
24 expert. He may well receive expert  
25 reports in conducting his duties, but

1           that doesn't make him the expert. And,  
2           quite frankly, I'm sure if he has  
3           questions about that report, he goes back  
4           to those experts. If he's filing that  
5           report and he's the one testifying on it,  
6           we cannot ask him questions about those  
7           reports because he cannot answer it. It  
8           would be the same as if I received a  
9           written medical diagnosis, that doesn't  
10          make me an expert on what's in my medical  
11          report.

12                   And, quite frankly, it's not even  
13          clear that Mr. Long uses these kind of  
14          reports in his daily job duties. For  
15          example, if you do file for an air  
16          permit, you don't debate what the effect  
17          is of the different air emissions that  
18          your facility may be emitting. You file  
19          a permit request with what emissions your  
20          plant puts out. The environmental body  
21          says what the standards are that they  
22          adopted, and if your plant meets those  
23          standards, they give you a permit, and if  
24          your plant doesn't meet those standards,  
25          you either don't get a permit or you

1 figure out controls to fix it, but you  
2 don't get to debate what the air emission  
3 effects are. And Mr. Long was unable to  
4 even discuss what those air emission  
5 effects are.

6 So our view is that he was the wrong  
7 witness to sponsor this report and he has  
8 no ability to discuss the report so his  
9 testimony allegedly discusses the report  
10 and the report itself should be stricken.

11 Thank you.

12 JUDGE GULIN:

13 And I believe I called you  
14 Ms. Harden. You're Ms. Stevens Miller;  
15 correct?

16 MS. MILLER:

17 That's correct.

18 JUDGE GULIN:

19 Okay. I apologize for that.

20 Let me ask you, Ms. Stevens Miller,  
21 this is testimony from over a year ago.  
22 Can you tell me why you would have waited  
23 until three days before the hearing to  
24 file such a motion?

25 MS. MILLER:

1           Absolutely, Your Honor.

2           And I recognize this is a little  
3 unusual, but, first of all, I'm sure Your  
4 Honor recalls the schedule was suspended  
5 for five months, but, more importantly,  
6 this was a very compressed schedule. We  
7 are only allowed to depose a witness  
8 once. So we waited until the rebuttal  
9 testimony was filed to choose which  
10 witnesses to depose and deposed them.

11           If we would have deposed a witness  
12 before they filed rebuttal, we would have  
13 lost the opportunity to depose them on  
14 their rebuttal. So we had to wait till  
15 all the testimony was filed in order to  
16 schedule depositions. Two days after we  
17 had his deposition, we filed a request to  
18 strike his testimony.

19 JUDGE GULIN:

20           Okay. Well, what about the seven  
21 months prior to the case being suspended?  
22 You didn't have a deposition. You didn't  
23 need a deposition. You already knew his  
24 credentials, didn't you?

25 MS. MILLER:

1           No, sir. I disagree. He did not  
2           attach a resume' to his -- any of his  
3           testimony. And, as you know, it's not  
4           just your education that makes you an  
5           expert. You can have skills that you  
6           develop over your career that can make  
7           you an expert in a different area. So  
8           just having his resume' may well have not  
9           been enough in itself, but we didn't even  
10          have that information.

11         JUDGE GULIN:

12                 What about in the testimony itself?  
13                 Even if it wasn't -- and I'll take your  
14                 word for it that it was not attached --  
15                 we'll hear from Entergy in a moment --  
16                 but I would have to believe there was --  
17                 in fact, I think I even recall testimony  
18                 about his qualifications -- you thought  
19                 that was inadequate to give you notice of  
20                 what his qualifications were, that maybe  
21                 somewhere hidden in his qualifications,  
22                 he was an expert in air quality or  
23                 hydrology?

24         MS. MILLER:

25                 So that goes back to the idea that

1 an expert isn't just an expert based on  
2 what education they've had, and it also  
3 goes back to he did testify that he had  
4 obligations in the company with regard to  
5 certain issues but did not expound on  
6 those issues. So it simply wasn't clear  
7 from his testimony why he felt he was an  
8 expert in these areas and could testify  
9 with regard to things like air emissions  
10 and effect of groundwater.

11 JUDGE GULIN:

12 Thank you, Ms. Stevens Miller.

13 Let's go to Entergy.

14 MR. ALFORD:

15 Thank you, Judge. Again, Raley  
16 Alford on behalf of Entergy New Orleans.

17 Your Honor, the motion, in our view,  
18 depends on the false premise that  
19 Mr. Long has held himself out as an  
20 expert in air quality, health impacts,  
21 groundwater subsidence impacts, and  
22 flooding issues. The fact is, Your  
23 Honor, that he does not. He makes it  
24 very clear in his testimony that his area  
25 of expertise and extensive experience, 30

1 years of experience, is in the  
2 development and construction of power  
3 generation facilities.

4 He has several pages in his direct  
5 testimony that goes through his  
6 experience. It is certainly providing  
7 all of the relevant information that any  
8 party in this case would need to know  
9 about his area of expertise and what he's  
10 addressing.

11 With respect to what he does do,  
12 it's been presented that this  
13 supplemental testimony is pure opinion.  
14 That's just not true. It has extensive  
15 testimony about what the project team  
16 over which Mr. Long has supervisory  
17 authority has done to address these  
18 issues, and we can't forget that this  
19 testimony was filed on a very short  
20 timetable back in 2016 in direct response  
21 to a Council resolution.

22 Now, because Mr. Long had filed  
23 direct testimony that addressed some of  
24 these issues, he was the absolute  
25 appropriate witness to come in with this



1 supplemental information that the Council  
2 had requested. The supplemental  
3 testimony addresses those issues one by  
4 one, and it is very clear throughout his  
5 testimony when he is relying on the  
6 reports of others versus when he is  
7 offering his own conclusions. And the  
8 problem with this motion, Your Honor, is  
9 that it doesn't make those distinctions.  
10 It doesn't acknowledge, as it should,  
11 that in certain areas, he is providing  
12 factual information, in certain areas he  
13 is discussing the reports of others. And  
14 whenever he discusses the reports of  
15 others, he points out their  
16 qualifications, their expertise, lays an  
17 absolute appropriate foundation for it.

18 So, Your Honor, we submit for the  
19 reasons we provided in our opposition  
20 yesterday that this motion is baseless.  
21 It should be denied. Mr. Long will be  
22 here on Monday for cross-examination, but  
23 that is the appropriate way for the  
24 parties to address that testimony.

25 JUDGE GULIN:

1           Let me make sure I understand what  
2           you're telling me. And I don't know if  
3           this is a fair inference on my part or  
4           not and you can disabuse me of it.

5           Under your theory, it seems to me,  
6           you could come into the hearing with one  
7           witness and that witness would say, "I  
8           commissioned studies from a number of  
9           experts and they did analyses, and here  
10          is the summary of all of those -- all of  
11          those studies and all of those analyses,"  
12          and you don't need to bring in any other  
13          expert witnesses. You can simply rely  
14          upon that witness because that witness  
15          you're holding out as a project manager  
16          for this entire construction and,  
17          therefore, every issue that needs to be  
18          addressed can be addressed by that one  
19          issue.

20                 Disabuse me of that. Why is that  
21                 not necessarily your position based on  
22                 the argument you just presented?

23           MR. ALFORD:

24                 Your Honor, it is not. And if you  
25                 see our roster of witnesses, we have

1 witnesses who have the expertise in these  
2 fields and they will also be here in this  
3 proceeding. But the discrete issues on  
4 which Mr. Long addresses information  
5 received from others, these were  
6 absolutely within his role as the project  
7 manager.

8 For example, in his direct  
9 testimony, he talks about here is the  
10 groundwater impact expected from this.  
11 This is something that as they're  
12 developing the project, they're looking  
13 at. More questions arise in the course  
14 of the proceeding and he provides  
15 supplemental information. He also made  
16 it clear in his direct that he had  
17 responsibility for permitting.

18 Now, I disagree with  
19 Ms. Stevens Miller that those sorts of  
20 issues do not come within his day-to-day  
21 experience. The fact is when issues  
22 arise like that and he is the one that  
23 has responsibility for making sure that  
24 the --

25 JUDGE GULIN:

1 Well, are you saying he's an expert  
2 or not? When you say they come within  
3 his experience, is he an expert in  
4 hydrology, in air quality, and in  
5 subsidence and those types of issues that  
6 he commissioned studies for?

7 MR. ALFORD:

8 He is not and he doesn't claim that  
9 he is. And precisely for that reason, he  
10 commissioned those studies. That's why  
11 he lays the foundation in his testimony.  
12 He explains, "This is what I do." But in  
13 the course of -- whether it be submitting  
14 an application to the Department of  
15 Environmental Quality or in response to a  
16 request from the Council, there are areas  
17 where he needs to go out and get the  
18 information.

19 And in testimony that, as Your Honor  
20 knows, is filed as a matter of course in  
21 these proceedings, it's not that you have  
22 one witness saying, you know, "I'm  
23 attaching all these reports." That's not  
24 what was done here. He attaches one  
25 report that was obtained, you know, to

1 provide some more specific information  
2 and then he explains why, as a project  
3 manager or a project developer, that the  
4 concerns that have been raised and that  
5 the Council asked for more information  
6 are unfounded in his view as the project  
7 manager, as the project developer.

8 So I think it's a very different  
9 situation where you have one witness --  
10 And, you know, Louisiana's Code of  
11 Evidence, Article 703 addresses this very  
12 situation, and it makes it clear that  
13 because he has -- his area of expertise  
14 is perfectly appropriate for him to  
15 consult with others if he is realizing  
16 that he needs assistance that does not  
17 fall within his specific area.

18 JUDGE GULIN:

19 Well, certainly it's within his role  
20 to consult with others who have  
21 expertise. But who is it that the  
22 intervenors are supposed to cross-examine  
23 in this proceeding?

24 MR. ALFORD:

25 Your Honor, Ms. Higgins will be here

1 on the 19th. Dr. Losonsky will also be  
2 here on the 19th. So it isn't a  
3 situation where any party is not going to  
4 have the opportunity to cross-examine.

5 JUDGE GULIN:

6 Well, why didn't they present these  
7 issues instead of Mr. Long?

8 MR. ALFORD:

9 Well, Your Honor, they do address  
10 these issues. I mean, that -- part of --  
11 they have in their testimony and they  
12 even mention that in the motion. But  
13 like while you have --

14 JUDGE GULIN:

15 Then you're not prejudiced at all if  
16 I strike the testimony of Mr. Long in  
17 this matter?

18 MR. ALFORD:

19 Your Honor, certainly we are  
20 because, remember, this testimony also  
21 addresses things that the project team  
22 did to address, for example, the issue of  
23 flooding rates.

24 JUDGE GULIN:

25 Let's hold that aside for a second,

1 the flood rates. Let's stick with air  
2 quality and hydrology.

3 MR. ALFORD:

4 Okay. Well, Your Honor, with  
5 respect to both of those, when you look  
6 at the standard under the city code that  
7 we're all operating under today, it makes  
8 it clear that hearsay is admissible in  
9 proceedings such as this one. The  
10 standard really is, is the evidence  
11 competent and is it relevant. And the  
12 answer to that is certainly yes. I mean,  
13 we're talking about a study that was done  
14 to address issues concerning this site.

15 JUDGE GULIN:

16 Did your other witnesses address  
17 this CK Associates report?

18 MR. ALFORD:

19 Yes, absolutely.

20 JUDGE GULIN:

21 And they interpreted the results and  
22 they have the expertise to interpret  
23 those results?

24 MR. ALFORD:

25 Dr. Losonsky was actually one of

1 the -- He worked on the CK report.

2 JUDGE GULIN:

3 Okay.

4 MR. ALFORD:

5 And so the report, it's not only --  
6 Mr. Long provides a summary of the  
7 report. Now, there's no contention here  
8 that his summary is in any way  
9 inaccurate.

10 JUDGE GULIN:

11 And that's kind of my point here is  
12 if this report is being adequately put  
13 into evidence through other witnesses and  
14 explicated through other witnesses -- Is  
15 it not being put into evidence through  
16 other witnesses?

17 MR. ALFORD:

18 Your Honor, there are cross  
19 references, so other witnesses will say  
20 as attached to Mr. Long's testimony as  
21 Exhibit 6.

22 JUDGE GULIN:

23 Okay.

24 MR. ALFORD:

25 And so some of them discuss the



1 report that way.

2 JUDGE GULIN:

3 Okay. Let me ask you this. Does  
4 the CK report on its face provide  
5 conclusions that the Council would  
6 understand, or does the Council require  
7 someone to -- I've not reviewed that  
8 report.

9 MR. ALFORD:

10 Sure.

11 JUDGE GULIN:

12 Would the Council be able to come to  
13 some meaningful conclusion as to what  
14 that report says, or do we need a witness  
15 like Mr. Long to explain it?

16 MR. ALFORD:

17 Well, I think that what Mr. Long  
18 does, he stays within the bounds of the  
19 report. So it's not a situation in his  
20 testimony where he is going beyond the  
21 report.

22 JUDGE GULIN:

23 So the answer is yes?

24 MR. ALFORD:

25 He provides a summary of the report.

1           We submit, Your Honor, certainly that the  
2           report --

3           JUDGE GULIN:

4                    It speaks for itself independently?

5           MR. ALFORD:

6                    The report absolutely speaks for  
7           itself.

8           JUDGE GULIN:

9                    Okay.

10          MR. ALFORD:

11                    And he doesn't -- And I think that  
12          the disconnect with respect to this  
13          motion is that Mr. Long doesn't purport  
14          to add to the report. He doesn't purport  
15          to --

16          JUDGE GULIN:

17                    But he adopts it. He adopts the  
18          report.

19          MR. ALFORD:

20                    He presents it and he summarizes it.

21          JUDGE GULIN:

22                    So does he not opine that the report  
23          is correct?

24          MR. ALFORD:

25                    He provides what the project team

1           took from the report. He said this  
2           supplements what we already knew, that  
3           this confirms the conclusions that we  
4           reached independently, but it's presented  
5           as an independent verification of the  
6           points that he made in his direct  
7           testimony. And it, again, is responsive  
8           to what the Council asked the company to  
9           do to --

10          JUDGE GULIN:

11                    I understand that.

12          MR. ALFORD:

13                    -- make the supplemental findings.

14          JUDGE GULIN:

15                    I understand that.

16                    All right. Anything else you want  
17                    to tell me?

18          MR. ALFORD:

19                    Your Honor, again, we think that if  
20                    you look at the specific code section  
21                    that governs evidence in this proceeding,  
22                    this certainly meets that standard. It's  
23                    helpful. It's relevant. And we also  
24                    submit that this testimony does more than  
25                    just provide a summary of this report.

1           And we think it's very clear line by line  
2           when Mr. Long is citing a report, relying  
3           on others, and when he's providing  
4           independent testimony, which is certainly  
5           admissible and has not been challenged on  
6           this motion.

7           JUDGE GULIN:

8                     I certainly agree. It's probative  
9                     and relevant.

10          MR. ALFORD:

11                     Thank you, Your Honor.

12          JUDGE GULIN:

13                     Ms. Stevens Miller, do you wish to  
14                     be heard?

15          MS. MILLER:

16                     Yes, Your Honor. Just one moment.

17                     Well, first of all, I need to point  
18                     out that it's the obligation of the  
19                     sponsoring party to prove that their  
20                     witness is an expert. It's not our  
21                     obligation to prove that he is not and  
22                     that this -- an objection to someone  
23                     doesn't mean an expert can be made at any  
24                     time.

25          JUDGE GULIN:

1                   No, but it's your obligation to  
2                   submit it timely.

3                   MS. MILLER:

4                   Absolutely, Your Honor, and we  
5                   believe we did --

6                   JUDGE GULIN:

7                   Okay.

8                   MS. MILLER:

9                   -- based on the compressed time  
10                  schedule of this proceeding.

11                  But, more importantly, counsel for  
12                  Entergy stated that Mr. Long provides a  
13                  summary. Mr. Long provides his  
14                  conclusion that he thinks the report is  
15                  correct. Mr. Long has no expertise in  
16                  that area.

17                  The deposition proved he couldn't  
18                  explain anything about the report. And  
19                  he was the only witness we had to talk to  
20                  about the report because he is the  
21                  sponsoring witness.

22                  He didn't know that the site in  
23                  question was a critical flood zone. He  
24                  couldn't understand what was meant by a  
25                  hundred year flood. He could not

1 describe the process that the office of  
2 the court used to reach their conclusion  
3 that subsidence wasn't an issue. He --  
4 The only thing he did was read and  
5 summarize the report and state his  
6 conclusion that he thought the report was  
7 correct. It is not -- The report may be  
8 probative, but Mr. Long's testimony is  
9 not and for that reason, it should be  
10 stricken.

11 Thank you, Your Honor.

12 JUDGE GULIN:

13 I'm prepared to rule on this, and  
14 it's going to be a ruling that is  
15 probably not satisfactory to either side.  
16 But I am faced here with counter  
17 balancing interests with respect to an  
18 eleventh hour motion that I do not think  
19 was timely. It could have -- It should  
20 have been submitted much earlier. I  
21 think there was sufficient information to  
22 submit it earlier; however, I think  
23 there's some merit to it.

24 So I've got counter balancing  
25 interests. I've got a motion with some

1 merit that is highly prejudicial to the  
2 responding side.

3 Now, under these circumstances, if I  
4 were to strike the testimony, ordinarily  
5 what I would do in these situations, and  
6 I've done it in the past and I've done in  
7 other proceedings with prefiled  
8 testimony, I would -- even if it meant  
9 continuing the hearing, I would offer the  
10 party whose testimony is being stricken  
11 the opportunity to provide a substitute  
12 witness.

13 That can't be done here, which is  
14 why it is so highly prejudicial. It  
15 cannot be done because I do not have the  
16 authority delegated by the Council to  
17 elongate or continue with this hearing.  
18 There is no way I can offer the remedy of  
19 replacing the witness.

20 So what I think I'm going to do in  
21 this case, quite frankly, is to -- I hate  
22 to use the term "split the baby," but I'm  
23 going to partially grant the motion. And  
24 I'm not going to take the time this  
25 morning to go through line by line as to

1           what is being stricken and what stays.  
2           I'm going to order Entergy and the  
3           intervenors to get together this weekend  
4           and hammer out a written agreement as to  
5           what stays and what goes under these  
6           parameters.

7                         With respect to the air quality and  
8           hydrology subsidence issues, I'm going to  
9           strike the testimony what seeks to  
10          explain or seeks to adopt the conclusions  
11          of that CK report.  Incidental mentions  
12          of the report, I have no problem with.  
13          But it's when a witness tries to adopt  
14          it, opine that it is correct, attempts to  
15          explain it when he doesn't have the  
16          expertise to explain it, that is  
17          stricken, but the report itself is going  
18          to stay in evidence.

19                        Ordinarily I would probably strike  
20          the report, too, but that's the nature of  
21          this kind of a compromise ruling.  
22          Whether compromise rulings are  
23          appropriate or not, I don't know, but in  
24          these proceedings where we're dealing  
25          with something less than formal rules of



1 evidence, I think I have the latitude to  
2 do it and I'm going to do it. If the  
3 Council has another view, so be it.

4 As to the elevation issue, the  
5 flooding issue, I'm going to leave that  
6 testimony as is other than I think, if my  
7 memory serves, the last response -- and I  
8 don't have it here, but I believe the  
9 last response of Mr. Long was that he  
10 opines that the team was correct or that  
11 there is no realistic danger of flooding.  
12 However, in that same response, he goes  
13 on to say, But even in the event there  
14 was a flood, we have insurance. (As  
15 read.) That sentence can stay, that  
16 there is insurance.

17 So within those parameters, I'm  
18 going to ask the parties to hammer out a  
19 written agreement that I'm afraid Ms.  
20 Hand will have to incorporate into -- I  
21 told her out in the hall when we first  
22 came in, "Good work begets more work."  
23 Unfortunately, so. She will incorporate  
24 that into her chart.

25 So I would like that at 8:30 on

1 Monday morning so that we'll have some  
2 idea of how to proceed with Mr. Long.

3 MR. ALFORD:

4 Your Honor, can I ask for a brief  
5 clarification?

6 JUDGE GULIN:

7 Please.

8 MR. ALFORD:

9 On the issue of whether certain  
10 improvements exist at the site post  
11 Hurricane Katrina, that testimony remains  
12 in?

13 JUDGE GULIN:

14 Yes.

15 MR. ALFORD:

16 What about the testimony of the  
17 other witnesses, Dr. Losonsky and Bliss  
18 Higgins?

19 JUDGE GULIN:

20 I'm going to leave it to you two to  
21 work that out and see what that testimony  
22 is. I don't want to go through it line  
23 by line right now.

24 MR. ALFORD:

25 Okay.

1 JUDGE GULIN:

2 But within the parameters I set  
3 forth, I would guess some of it stays in,  
4 at least some of it.

5 MR. ALFORD:

6 But, Your Honor, with respect to his  
7 testimony about the steps that the  
8 project team took to address flooding at  
9 this site and the reason why they are  
10 confident that the elevation is  
11 appropriate, that testimony, that  
12 fact-based testimony stays in; correct?

13 JUDGE GULIN:

14 Certainly he can testify as to what  
15 steps were taken, but if he is testifying  
16 that as a result of that, what he's  
17 really saying is in my opinion, the  
18 flooding is not an issue, that, I think,  
19 is an opinion.

20 MR. ALFORD:

21 What about in terms of the  
22 description of what they did in order to  
23 determine --

24 JUDGE GULIN:

25 That's fine.

1 MR. ALFORD:

2 -- how the concrete elevation --

3 JUDGE GULIN:

4 That's fine.

5 MR. ALFORD:

6 -- and why they believe that three  
7 and a half feet is appropriate?

8 JUDGE GULIN:

9 Why the people who did the study  
10 believe?

11 MR. ALFORD:

12 Not just -- No, the study. Why the  
13 project team, why they determined --

14 JUDGE GULIN:

15 Why the project team determined --

16 MR. ALFORD:

17 -- that three and a half feet was an  
18 appropriate elevation?

19 JUDGE GULIN:

20 I'm going to have to look at that if  
21 you can't work out an agreement.

22 MR. ALFORD:

23 Okay. Thank you, Your Honor.

24 JUDGE GULIN:

25 Thank you.

1 All right. With that and subject to  
2 that, I would say that I hereby admit  
3 into evidence -- Subject to revision  
4 after we receive the agreement that we  
5 just spoke of, I admit into evidence all  
6 the prefiled written testimony with the  
7 exception of the very limited written  
8 testimony of Dr. Wright that was  
9 stricken. And even as to Dr. Wright's  
10 testimony, I want to be clear, while it  
11 is not in evidence, it is still part of  
12 the administrative record so that if my  
13 decision to exclude it is disturbed by  
14 the Council or review in court, they will  
15 have it.

16 And, you know, let me say something  
17 else about this because I think I may  
18 have seen some wheels turning in the  
19 heads of some of the intervenors. I  
20 mentioned that ordinarily when a  
21 witness's testimony is stricken under  
22 these circumstances of prefiled written  
23 testimony, I would offer an opportunity.  
24 I would give some remedy to replace that  
25 testimony. I did not do that with the

1 testimony of Dr. Wright, and the reason  
2 why I didn't do it is because I don't  
3 think there is a witness that exists that  
4 can provide that testimony.

5 I say that because it was legal  
6 argument in my judgment and I don't want  
7 to relitigate this, but the intervenors  
8 are more than welcome to make the same  
9 exact legal argument in their briefs.  
10 They can make the argument before the  
11 Council. They can make it before a  
12 review in court. They can file a  
13 separate action claiming a lack of due  
14 process if they want. But if they had  
15 come in with a retired member of the  
16 Supreme Court or a renowned Harvard law  
17 professor saying exactly the same thing,  
18 I would not have admitted it because it's  
19 legal argument.

20 So I just want to clarify that to  
21 make sure that there's no perception here  
22 that I was applying this rule of allowing  
23 a substitute witness only for Entergy. I  
24 would have done the same thing if time  
25 had permitted for the intervenors.

1 MS. HARDEN:

2 Your Honor, may I ask a clarifying  
3 question?

4 JUDGE GULIN:

5 Please.

6 MS. HARDEN:

7 With regards to the -- your order  
8 granting the motion to strike Section 4  
9 of Dr. Wright's supplemental testimony,  
10 can you give us instructions on how you  
11 would prefer the offer of that excluded  
12 testimony?

13 JUDGE GULIN:

14 I don't know that there's a need for  
15 offer. It's part of the administrative  
16 record. This is not a situation where  
17 testimony in open court is stricken and  
18 no one knows what that testimony would  
19 be. We all know what the testimony is.  
20 It's written. It's now part of the  
21 administrative record. It's available.  
22 If my ruling is disturbed and the Council  
23 wants to see it, they have it. So I'm  
24 not sure what's left to make any kind of  
25 offer of proof about it.

1 MS. HARDEN:

2 Well, I thought it might be helpful  
3 just to preserve the record to show what  
4 the details of the testimony is about,  
5 which is not a legal conclusion as to due  
6 process, but a focus on public  
7 participation process and how that was or  
8 was not met here.

9 JUDGE GULIN:

10 Well, again, the testimony is the  
11 testimony.

12 MS. HARDEN:

13 Yes, sir.

14 JUDGE GULIN:

15 And whatever it is, it's a question  
16 of is it to be admitted or not. I don't  
17 think giving your view of the testimony  
18 at this point really would be helpful to  
19 the Council. I think that your arguments  
20 were made in your motion.

21 You didn't have an opportunity for  
22 oral argument. So in that regard, if you  
23 would like five minutes, I'll give you  
24 five minutes to put your argument on the  
25 record as to what -- why you feel it



1           should not have been stricken. But I'm  
2           not sure any parameterization of that  
3           testimony is necessary because it speaks  
4           for itself.

5           MS. HARDEN:

6                       Well, then, with regards to just the  
7           efficiency of the day, would Your Honor  
8           be opposed to public interest intervenor  
9           filing an offer of proof written in the  
10          record?

11          JUDGE GULIN:

12                       What is it going to say?

13          MS. HARDEN:

14                       I can -- It's right here. I've got  
15          a copy right here.

16          JUDGE GULIN:

17                       I'll take a look.

18          MS. HARDEN:

19                       Sure.

20          MS. HAND:

21                       Your Honor, if possible, the  
22          advisors would like the opportunity to  
23          review it as well.

24          JUDGE GULIN:

25                       Do you have copies?

1 MS. HARDEN:

2 What I would like to do is file it  
3 and e-mail it to everyone. I just wanted  
4 to make sure that if you had any other  
5 alternative ways of making a formal offer  
6 of proof, I wanted to --

7 JUDGE GULIN:

8 Why don't you go ahead and show it  
9 to Ms. Hand and --

10 MS. HARDEN:

11 I can e-mail it to --

12 JUDGE GULIN:

13 -- I probably am not going to have  
14 to any problem with you --

15 MS. HARDEN:

16 I appreciate it.

17 JUDGE GULIN:

18 -- simply filing it.

19 MS. HARDEN:

20 Thank you.

21 JUDGE GULIN:

22 Subject to advisors' view of it, I  
23 don't see a whole lot of harm, but we'll  
24 see what they have to say about it on  
25 Monday. Okay?

1 MS. HARDEN:

2 Okay.

3 MS. HAND:

4 Your Honor, one more area for  
5 clarification. There were certain  
6 passages in advisor witness Vumbaco's  
7 testimony that were responsive to the  
8 stricken testimony, just due to the  
9 timing of the filings. His testimony had  
10 to be filed before you had ruled on the  
11 motion to strike.

12 To the extent that the intervenor --  
13 that Dr. Wright's -- that that portion of  
14 Dr. Wright's testimony remains withdrawn  
15 or remains stricken, the advisors are  
16 willing to withdraw that testimony, but  
17 would similarly want to make sure that  
18 it's included in the administrative  
19 record in the event that that would --

20 JUDGE GULIN:

21 Yeah. I thought I had made that  
22 clear that it is already in the  
23 administrative record and that it is  
24 being withdrawn only on the contingency  
25 that Dr. Wright's testimony remains

1 stricken. And if any court disturbs  
2 that, then it would come back in.

3 MS. HAND:

4 Thank you, Your Honor.

5 JUDGE GULIN:

6 Okay.

7 MR. BROWN:

8 Your Honor.

9 JUDGE GULIN:

10 Yes, sir.

11 MR. BROWN:

12 Before we move on to the  
13 administrative records, the separate  
14 issue, though, from Dr. Wright's  
15 testimony -- Michael Brown on behalf of  
16 the Sierra Club, and a point of  
17 clarification as to the definition of the  
18 administrative record. My understanding  
19 from case law in other fields is that  
20 that would encompass documents that are  
21 cited or referenced in the testimony. Is  
22 that, as well, Your Honor's  
23 interpretation?

24 JUDGE GULIN:

25 Give me an example, please.

1 MR. BROWN:

2 So a number of the witnesses in this  
3 docket have included it in footnotes and  
4 citations to reports that may or may  
5 not -- or in discovery responses as well,  
6 that may not have been attached at the  
7 back of their testimony. Is that  
8 information included in the  
9 administrative record?

10 JUDGE GULIN:

11 We're talking about they cite to  
12 publicly available information?

13 MR. BROWN:

14 Yes, Your Honor.

15 JUDGE GULIN:

16 Is there any objection to that  
17 being -- If it's public information, I  
18 see no reason why it wouldn't be part of  
19 the administrative record just by  
20 citation, but is there any objection to  
21 that?

22 MR. GUILLOT:

23 The company doesn't have any  
24 objection to that.

25 JUDGE GULIN:

1                   Okay.

2           MR. BROWN:

3                   Your Honor, just one last  
4                   clarification just with respect to  
5                   discovery responses --

6           JUDGE GULIN:

7                   Before you go on, let me just say,  
8                   my idea of administrative record is it  
9                   should contain everything that a review  
10                  in court would need. So if they were to  
11                  reverse a ruling of mine, they should  
12                  have whatever information they need to  
13                  proceed without having to remand the  
14                  case, if possible. That's what I'm  
15                  looking for in administrative record. So  
16                  with that in mind, that's what generates  
17                  what the administrative record should  
18                  include.

19          MR. BROWN:

20                  I'm sorry for interrupting.

21                  No. That probably answered my  
22                  question, but it was just with respect to  
23                  discovery responses in this docket that  
24                  we're citing. They're not public  
25                  documents. But my understanding is those

1           discovery responses are already part of  
2           the administrative record; correct?

3           JUDGE GULIN:

4                    No. I had this discussion right at  
5           the outset with Mr. Edwards. I thought  
6           he was the only one who wanted the  
7           discovery documents to be part of the  
8           administrative record, and he indicated  
9           that through the perspicacious persuasion  
10          of Ms. Hand, he withdrew that. Do you  
11          wish to discuss it?

12          MR. BROWN:

13                    Only with respect to specific  
14          responses that were cited by a witness in  
15          their testimony, which, I believe, would  
16          only be a handful of the voluminous  
17          discovery.

18          JUDGE GULIN:

19                    If it was cited by a witness, I  
20          have -- that should be part of the  
21          administrative record. It might be  
22          rather burdensome to try to locate all of  
23          that, but if you can, yes, I think that  
24          would be helpful.

25                    Just give me a moment of indulgence

1 to review my notes.

2 And, of course, along those lines,  
3 if there was -- and I believe there were  
4 a couple motions, at least, discovery  
5 motions, the discovery that pertains to  
6 those motions should be part of the  
7 administrative record.

8 MS. HARDEN:

9 I'm sorry. Judge, can you repeat  
10 that last sentence again?

11 JUDGE GULIN:

12 Yeah. If there was discovery that  
13 was the subject of a discovery motion,  
14 that discovery material should be part of  
15 the administrative record so that a  
16 reviewing court can -- if they were to  
17 disturb my ruling, would have context  
18 what we were talking about.

19 I neglected one of the most  
20 important matters. As to taking breaks,  
21 I would propose a break about every hour  
22 and a half. I've been known to lose  
23 track, so please let me know if I do and  
24 don't be shy, including please the court  
25 reporter.



1 All right. Any other preliminary  
2 matters before we proceed with opening  
3 statements?

4 MS. MILLER:

5 Your Honor, just how does Your Honor  
6 want to be handling the cross with  
7 confidential information?

8 JUDGE GULIN:

9 If you have confidential information  
10 that you anticipate is going to come out  
11 in cross, bring that to my attention. I  
12 will notify that the hearing is being  
13 closed until that confidential  
14 information is being disposed of. And I  
15 also will instruct the court reporter to  
16 seal and segregate that testimony.

17 MS. MILLER:

18 May I make a suggestion that just  
19 may be administratively easier?

20 JUDGE GULIN:

21 Okay.

22 MS. MILLER:

23 Let's say Mr. Brown is crossing a  
24 witness. He does all his public cross,  
25 then he informs you that he has some

1 confidential cross. Well, then you go to  
2 the next attorney. They do all their  
3 public cross. And then when everyone's  
4 done their public cross, that's when you  
5 close the hearing and then everyone can  
6 do their confidential cross. That way  
7 you don't have people going in and out  
8 for the same witness over and over again.  
9 And that's just my suggestion that might  
10 make it a little easier.

11 MR. GUILLOT:

12 The company would object to that. I  
13 think that would almost amount to a  
14 second round of cross.

15 JUDGE GULIN:

16 That was my concern first hearing  
17 it. I think it has some efficiencies.

18 MS. MILLER:

19 But the second round, Your Honor,  
20 they would only be allowed to cross on  
21 any confidential information. That's up  
22 to you. I just thought it might be  
23 easier.

24 JUDGE GULIN:

25 Yeah, I appreciate that. I think

1           it's a good suggestion, but I think I'm  
2           going to decline because, frankly, I  
3           think it puts a little too much burden on  
4           me.

5           MS. MILLER:

6                     That's fine. That's the standard  
7           we're going for here, Your Honor.

8           JUDGE GULIN:

9                     Thank you. I appreciate that, but  
10          it was a good suggestion.

11                    Anything else?

12          MR. SMITH:

13                    Your Honor, may I ask a question?  
14          Josh Smith on behalf of Sierra Club.

15                    In terms of following up on cross,  
16          do you expect or anticipate us to stand  
17          at the podium, or can we sit at the  
18          table?

19          JUDGE GULIN:

20                    Your preference.

21          MR. SMITH:

22                    Okay.

23          THE COURT REPORTER:

24                    My preference, Your Honor, would be  
25          that if they came here, it would be

1           probably be easier for me to --

2           JUDGE GULIN:

3           To hear?

4           THE COURT REPORTER:

5           Yes, because it's a little bit  
6           difficult to hear them.

7           JUDGE GULIN:

8           All right. You heard the court  
9           reporter's preference. You can try --  
10          Put on your microphone.

11          MR. SMITH:

12          Is that any better?

13          JUDGE GULIN:

14          I don't think it's on, is it?

15          THE COURT REPORTER:

16          I mean, nobody's sound like they're  
17          really loud.

18          JUDGE GULIN:

19          Is that any better?

20          THE COURT REPORTER:

21          I think we need to turn up the  
22          volume.

23          JUDGE GULIN:

24          Say that again.

25          Is that any better for you?

1 THE COURT REPORTER:

2 I think it's a little better. It's  
3 just a matter of -- I mean, are you going  
4 to sit there and talk into the mic like  
5 that?

6 MR. SMITH:

7 The reason I ask, Your Honor --

8 THE COURT REPORTER:

9 That's better.

10 MR. SMITH:

11 -- I think it would be a little  
12 easier for us rather than trying to lug  
13 all of our stuff up there.

14 JUDGE GULIN:

15 Yeah. Perhaps we could ask if the  
16 volume could be turned up a little bit on  
17 the microphones.

18 Can you hear me okay?

19 THE COURT REPORTER:

20 I could use a little volume on you,  
21 too.

22 JUDGE GULIN:

23 Let's ask if the volume can be put  
24 up. Someone please see to that. I'm not  
25 seeing any volume controls on these.

1 MS. HAND:

2 Mr. Wilkerson has gone to see if  
3 that can be done.

4 JUDGE GULIN:

5 Okay. Thank you.

6 MR. CRAGIN:

7 Judge, one alternative might be to  
8 put a couple of tables up there and have  
9 people move up.

10 JUDGE GULIN:

11 Yeah. Certainly that is not --

12 MR. CRAGIN:

13 So you could sit and --

14 JUDGE GULIN:

15 We've got a lot of documents here,  
16 lot of folders, files. So if we're not  
17 able to get the volume up, maybe that  
18 will be an alternative. But you sounded  
19 pretty good just then, but you're not  
20 going to want to be doing this all day  
21 either, so --

22 All right. Are we ready for opening  
23 statements? Then we will hear from  
24 Entergy first. And, timekeepers, do your  
25 thing.

1 MR. GUILLOT:

2 Judge Gulin, Councilmembers who may  
3 be reviewing this record, and my fellow  
4 New Orleanians, I am here today to sound  
5 the alarm. Our city is at risk for  
6 cascading outages, for blackouts. We  
7 need to fix it. We have no local  
8 generator to respond to hurricanes to  
9 restore power as quickly as we can and we  
10 need to fix it.

11 Right now, we're a hundred percent  
12 dependent on importing power through  
13 transmission lines for the first time in  
14 modern history in New Orleans and we need  
15 to fix that situation. The company has  
16 analyzed this problem and we have  
17 developed a solution that will not only  
18 address these problems, but that will  
19 pump hundreds of millions of dollars into  
20 the local economy.

21 Ladies and gentlemen, ENO has  
22 hundreds of years of experience with  
23 operating the grid. This company cares  
24 about this city. As someone who was born  
25 and raised in this community, I care

1 about this city. And I'm here today to  
2 talk to you about New Orleans Power  
3 Station.

4 This is a relatively simple and  
5 straightforward case. ENO had a large  
6 operating unit generating facility in New  
7 Orleans East called the Michoud facility  
8 for 50 years. That unit was old. That  
9 unit was inefficient. That unit had  
10 mechanical problems. That unit posed --  
11 Those mechanical problems posed a risk to  
12 our workers and so we had to shut it  
13 down. And we're here now because, simply  
14 put, we need to replace it.

15 We need to replace it because we  
16 were dependent on that unit to stabilize  
17 the grid in the hottest months of the  
18 year. We need to replace it because we  
19 were dependent on that unit to restore  
20 service as quickly as we can after a  
21 hurricane. We need to replace it  
22 because, quite frankly, the whole system  
23 was designed to have a unit located at  
24 that Michoud location.

25 The company had us conduct extensive



1           analyses and we've come up with two  
2           options for the Council to consider.  
3           They're both gas options. One's a 226  
4           megawatt peaking unit. The other one is  
5           a hundred and twenty-eight megawatt unit.  
6           I think it's important to note that  
7           either option is going to be cleaner.  
8           It's going to be smaller. It's going to  
9           be more efficient than the large  
10          inefficient unit that it's going to  
11          replace.

12                 I think it's also important to note  
13          that the Council will not be acting alone  
14          if they approve one of these units.  
15          Regulators all over the country have been  
16          approving gas units and that's because  
17          gas is cheap and gas is reliable. The  
18          generation from gas units is reliable.  
19          You can press a button and get the amount  
20          of power that you need when you need it.

21                 We filed an application over a year  
22          ago, a year and a half ago. We conducted  
23          extensive analyses and we included  
24          thousands of pages of testimony since  
25          that time.

1           The first witness that you're going  
2           to meet today is a guy by the name of  
3           Charles Long. Charles Long has extensive  
4           operating experience and transmission  
5           planning, over 25 years of planning  
6           transmission in this area. He's led  
7           hurricane responses to hurricanes like  
8           Gustav and Katrina.

9           He's going to tell you that that  
10          area is presently at risk for cascading  
11          outages or blackouts and that we have no  
12          unit to respond to a hurricane if we get  
13          hit. He's also going to tell you that we  
14          need to act now. He's also going to tell  
15          you that we've conducted preliminary  
16          analysis that indicates that in the event  
17          that the whole city goes dark, we may be  
18          able to use that unit to start the pumps  
19          at Sewerage & Water Board. That is an  
20          important benefit that the Council needs  
21          to consider.

22          You're going to meet Seth  
23          Cureington. He's going to tell you --  
24          And he's the director of resource  
25          planning for ENO. He's going to tell you

1           that the options we put forth are the  
2           lowest cost resources to meet the power  
3           needs of this city when considering risk.

4           You're going to meet Bliss Higgins.  
5           Bliss Higgins is a former deputy  
6           secretary of Louisiana Department of  
7           Environmental Quality. She was the  
8           author of the air toxins regulation in  
9           Louisiana.

10          She's going to tell you that the  
11          plant is safe. She's going to tell you  
12          that compared to the old units that were  
13          there, it's going to be a substantial  
14          reduction in emissions.

15          You're going to meet Dr. George  
16          Losonsky. He has a Ph.D. in geology and  
17          he was a commissioner on the Orleans  
18          Parish Levee Board.

19          He's going to tell you that the unit  
20          will not cause subsidence. It will not  
21          damage your property, and it will not  
22          pose a risk to the flood walls.

23          And last but not least, you're going  
24          to meet our CEO, Charles Rice.  
25          Charles -- Mr. Rice is from this

1 community. He was born in this  
2 community. He would never do anything to  
3 harm this community.

4 He's going to tell you that the  
5 unit's going to have substantial benefits  
6 in terms of reliability and it's going to  
7 pump hundreds of millions of dollars into  
8 the local economy in the form of jobs,  
9 wages, and increased spending in the  
10 parish.

11 So when you consider all of the  
12 testimony and analyses all offered by  
13 professionals who have been involved in  
14 the greater New Orleans for decades, it  
15 can lead you to but one conclusion. Now  
16 is the time to build New Orleans Power  
17 Station. It's going to be safe. It's  
18 going to bring economic benefits. It's  
19 going to help to keep the lights on.

20 I think it's also significant to  
21 consider that the Council's advisors, who  
22 have significant experience, agree that  
23 we need a unit, the 128 megawatt unit out  
24 at the Michoud location.

25 You're going to meet Council advisor

1 Philip Movish. He's an electrical  
2 engineer. He's a transmission planner.  
3 He has 47 years of experience, including  
4 right here in New Orleans.

5 He's going to say that it is in the  
6 public interest and that a hundred and  
7 twenty-eight megawatt option should be  
8 built at the Michoud facility. He's  
9 going to say that we need to build it as  
10 soon as we can, and he's going to tell  
11 you about an important benefit of the  
12 unit, black start capability. What that  
13 means, ladies and gentlemen, is that if  
14 the whole grid goes dark, this unit has  
15 the ability to start itself and to power  
16 some of the load, some of the customers  
17 in this city. That's an important  
18 benefit.

19 And so on the other hand, you have  
20 the parties who are opposed to this unit.  
21 And these are parties who have never had  
22 the responsibility to serve a single  
23 customer in New Orleans with electricity.  
24 They've hired experts with no experience  
25 with the electric grid in New Orleans or

1 Louisiana. And they propose a path that  
2 amounts to no plan at all. At best, it's  
3 wishful thinking based on assumptions.

4 Assumption number one, they believe  
5 that we can simply meet our need by  
6 constructing more transmission. As  
7 Charles Long is going to tell you,  
8 transmission is just like an extension  
9 cord. It does not generate power. It  
10 simply moves power from one place to the  
11 other.

12 Now, imagine if the lights were off  
13 in your house for some reason and you  
14 plugged an extension cord into your  
15 neighbor's who lives two doors down.  
16 That might be fine and you may meet some  
17 of the needs in your house until it rains  
18 or till somebody kicks the wire or till  
19 somebody unplugs the wire.

20 Well, it's the same thing with  
21 transmission. There are serious risks  
22 involved with being a hundred percent  
23 dependent on transmission and we need to  
24 fix that situation. We need our own  
25 electricity in our own house, in our own

1 city so that we can use those outlets in  
2 our own house, in our own city whenever  
3 we need it.

4 It's also clear that we can't  
5 construct transmission any time soon.  
6 Conditions like the soil conditions that  
7 are located in the city and that we can't  
8 take outages because we need every  
9 transmission line that we have in service  
10 to remain in service to keep the grid  
11 stabilized since the Michoud units  
12 retired. The transmission upgrades are,  
13 just simply put, too risky.

14 Assumption number two, they believe  
15 that we can just simply decrease  
16 electricity, electric usage in homes,  
17 increase the usage of solar panels on  
18 roofs, and everyone can just start using  
19 batteries. And they think that one of  
20 these options or a combination of these  
21 options or maybe other options can meet  
22 the need. They offered no analyses to  
23 back up these claims. They don't know  
24 things like the amounts that would be  
25 needed of these resources, the cost, the

1 timing that these resources would be  
2 needed, or the likelihood of success.  
3 That is not a gamble that this company is  
4 willing to take with the reliability of  
5 this city.

6 Again, this amounts to no plan at  
7 all. They depend on expert witnesses  
8 that have never looked at a wire in New  
9 Orleans, that have never participated in  
10 a storm response, and who do not take the  
11 unique geography that we have in New  
12 Orleans into consideration when they  
13 offer their opinions.

14 On the other hand, you know who we  
15 are. You know we've been here throughout  
16 every storm, Hurricane Katrina, Gustav,  
17 and others. You know our experts know  
18 this city. They know this grid.

19 The other thing that's important to  
20 remember is we're not anti renewables.  
21 We're not anti environment. Our CEO in  
22 this very case committed to doing a  
23 hundred megawatts of renewable resources  
24 like solar and we take that commitment  
25 serious and we intend to honor that



1 commitment.

2 At the end of the day, transmission,  
3 renewables, reducing electricity in homes  
4 will not fix the problem that we have  
5 today, and we need to take action to  
6 approve this plant today. So now is the  
7 time to act. It's not the time for  
8 delay.

9 And the people who oppose this  
10 plant -- You know, again, we've conducted  
11 countless number of analyses, but the  
12 people who oppose this plant are going to  
13 say, look, they need to conduct hundreds  
14 of more analyses. I'm here to tell you  
15 today that you can conduct analysis after  
16 analysis after analysis until you reach  
17 the point of analysis paralysis, frozen.  
18 We cannot be in that situation. We need  
19 to take action.

20 And I'll just briefly close by  
21 offering something that, you know, a  
22 retired politician from New Orleans told  
23 me once. He said, "Young man, there's  
24 opposition to everything." There was  
25 opposition to the construction of the

1 Superdome. And we all know how terrible  
2 that turned out to be. But the Council  
3 needs to take courageous action to  
4 provide for the needs of its citizens.

5 And I'll say one other thing about  
6 the opposition in this case. They are  
7 all good people. They are well meaning.  
8 I've come to like and respect many of  
9 them, all of them really, but I think  
10 they are wrong about this. They are  
11 passionate about their issues, but  
12 they're simply wrong.

13 And I'll say one other thing. I'm  
14 very passionate about this issue, too. I  
15 believe that this plant should be  
16 constructed because I believe that this  
17 plant is going to solve a whole lot of  
18 problems in New Orleans, and I believe  
19 that this plant is going to have  
20 substantial benefits for our citizens.  
21 And for that reason, I ask the Council to  
22 approve ENO's application and let us  
23 construct New Orleans Power Station so  
24 that we can make this city reliable.

25 JUDGE GULIN:

1 Thank you, Mr. Guillot.

2 Who will be presenting for Sierra  
3 Club?

4 MR. BROWN:

5 I will, Your Honor.

6 MR. CRAGIN:

7 Your Honor, I noticed that people  
8 are videotaping in the back. Is that  
9 going to be allowed throughout this or --

10 JUDGE GULIN:

11 Well, is there any objection to  
12 videotaping, assuming it doesn't become  
13 disruptive? I know of no particular rule  
14 against it. Obviously it's not going to  
15 be allowed during any private,  
16 confidential session, but as long as  
17 there's no flashes, any disruption, and I  
18 certainly don't see any so far, it  
19 will -- If you can cite some reason, some  
20 authority why it should not be --

21 MR. CRAGIN:

22 I just wanted to know if it was --

23 JUDGE GULIN:

24 Yeah. I made note of it and I can  
25 just see no reason why -- I'm not even

1           sure I can prohibit it. It's a public  
2           session. Unless there is some local --  
3           I'm not familiar with Louisiana law on,  
4           for example, recording without the  
5           consent --

6           MR. GUILLOT:

7                     Your Honor --

8           JUDGE GULIN:

9                     -- of other parties.

10          MR. GUILLOT:

11                    -- if I may note, most -- when we do  
12           these types of proceedings at the LPSC,  
13           most of the ALJs do not allow this kind  
14           of thing because what happens is --

15          JUDGE GULIN:

16                    You're speaking of FERC, or you're  
17           talking --

18          MR. GUILLOT:

19                    At the LPSC.

20          JUDGE GULIN:

21                    Oh, okay.

22          MR. GUILLOT:

23                    Because they post these videos on  
24           social media and then they're  
25           essentially -- it exposes the witnesses

1           that are to appear in the future to  
2           testimony that may be happening at the  
3           hearing and so forth. So that's -- I  
4           don't think I'm going to -- I don't  
5           object to it, but I'm letting you know  
6           the rationale for those who don't allow  
7           this type of thing to happen.

8           JUDGE GULIN:

9                     All right. I appreciate your  
10            comments. And I would caution those who  
11            are videotaping, don't get involved in  
12            nefarious conduct using those videotapes.  
13            I trust that you won't. If it comes to  
14            my attention that you are, then,  
15            obviously, things are going to change.

16                     So let's go ahead and proceed.  
17            Thank you.

18            MR. BROWN:

19                     Thank you, Your Honor.

20                     Good morning, Your Honor. My name  
21            is Michael Brown. I'm a New Orleans  
22            resident here representing the Sierra  
23            Club.

24                     It's an honor to be here today as  
25            the Council faces its most important

1 decision for our city's energy future in  
2 a very long time. I'm optimistic because  
3 this Council and New Orleanians have  
4 already made the choice for a brighter  
5 future that does not require buying  
6 Entergy's outdated gas plant.

7 The Council must now act to do two  
8 important things to secure that future.  
9 First, the Council must reject Entergy's  
10 costly gas plant application. Entergy is  
11 asking New Orleans residences and  
12 businesses to pay it more than \$230  
13 million, as well as more than \$20 million  
14 on top of that in guaranteed profit. In  
15 return, we will get all of the risk of a  
16 polluting gas plant in east New Orleans  
17 that we do not need. The Council must  
18 reject this bad idea.

19 Second, the Council must instead  
20 continue on the progressive, healthier,  
21 and far less risky path that it has  
22 already begun to build a stronger, more  
23 just energy system in New Orleans. The  
24 eight experts whose testimony the public  
25 interest intervenors have presented today

1 have confirmed that the Council's  
2 approach is the right one and that we can  
3 do this.

4 We can do this by continuing to  
5 improve our electric grid so that it can  
6 safely transport electricity and  
7 withstand storms. We can do this by  
8 continuing the Council's existing program  
9 to reduce our energy consumption and  
10 encourage rooftop solar. We can do this  
11 by meeting any remaining power needs with  
12 modern, reliable renewable energy and  
13 battery storage for purchases of power on  
14 the market.

15 And this is not just the healthiest  
16 option, the safest option, the most  
17 sustainable option. The beauty of it is  
18 that it is the cheapest option. New  
19 Orleanians would pay a fraction of the  
20 cost on their energy bills for this  
21 program than they would for Entergy's gas  
22 plant.

23 Now, Entergy is a regulated utility.  
24 And the compact that regulating utilities  
25 enter into is that they get a virtual

1 monopoly and the right to a guaranteed  
2 return, but, in exchange, the utility has  
3 an obligation to spend the time and the  
4 money to evaluate alternatives and make  
5 sure it's acting in the public interest  
6 and not just in the interest of  
7 shareholders. In this case, the evidence  
8 will show that Entergy simply wanted to  
9 build a gas plant, any gas plant, from  
10 the very beginning. And whether it was  
11 intentional or not, Entergy has had to  
12 rely on three core misleading assumptions  
13 to make its gas plant sales pitch.

14 First, Entergy's economics don't add  
15 up. To make its 230 plus million dollar  
16 gas plant look cost effective, Entergy  
17 wants us to believe that it can sell the  
18 plant's excess power for profits. But to  
19 do that, Entergy assumes that the  
20 capacity price will rise to levels never  
21 seen before in our region, do so quickly,  
22 and remain at that record high  
23 indefinitely. When the advisors'  
24 witnesses and ours have corrected that  
25 unprecedented scenario, the gas plant is



1 a clear economic loser.

2 Third, to show that there's a need  
3 for the gas plant's power, Entergy has  
4 had to obscure the progress New Orleans  
5 is making on energy efficiency and solar  
6 power, including programs that are  
7 required by the City Council. Simply  
8 counting all the new solar power that  
9 will likely be installed in New Orleans  
10 and the Council's 2 percent energy  
11 efficiency goal means that our city's  
12 need for additional power in the  
13 foreseeable future will, in fact, be very  
14 low or nonexistent. The far cheaper  
15 route to meet what need remains is to buy  
16 power where it is cheapest on the  
17 capacity markets and to continue to  
18 invest in modern solutions like solar  
19 power, battery storage, and efficiency.

20 Finally, Entergy seeks to build a  
21 gas plant in New Orleans by playing to  
22 our fears about power outages and storms.  
23 But the facts show that it is Entergy's  
24 failure to fix and upgrade our  
25 distribution poles and lines that have

1 led New Orleans to experience sunny day  
2 outages at a rate few other major  
3 American cities must endure. Likewise,  
4 Entergy's failure to upgrade our longer  
5 distance transmission lines is what  
6 creates a risk of transmission outages.

7 Entergy has deferred making many of  
8 the improvements required to fix these  
9 problems while it is focused on selling  
10 us this 230 million plus dollar gas  
11 plant. In reality, if approved, the gas  
12 plant itself will be at risk of flooding  
13 when the next major storm strikes. Every  
14 day for decades, it could pump out air  
15 pollution next to east New Orleans  
16 communities. Every day for decades, it  
17 could suck out groundwater from the  
18 need -- the hurricane levees that guard  
19 our city. And just when New Orleans is  
20 taking the lead in fighting rising seas  
21 and worsening storms, every day the gas  
22 plant could spew carbon pollution into  
23 our atmosphere.

24 Entergy's gas plant is not our  
25 energy future. Our energy future lies in

1 continuing to modernize our grid and  
2 power supply and the Council has the  
3 great opportunity to reaffirm that  
4 commitment in this docket.

5 Thank you.

6 JUDGE GULIN:

7 Thank you, Mr. Brown.

8 And for the Alliance?

9 MS. MILLER:

10 Thank you, Your Honor, for this  
11 opportunity.

12 My name is Susan Stevens Miller, and  
13 I am representing the Alliance for  
14 Affordable Energy and 350 New Orleans in  
15 this proceeding.

16 Members of the Alliance and 350 New  
17 Orleans are residents of New Orleans and  
18 ratepayers of Entergy. Thus, they will  
19 be directly impacted if either of the  
20 plants proposed by Entergy is approved.

21 Today the City Council stands at a  
22 crossroads. One path, the path proposed  
23 by Entergy, is old, worn, and well past  
24 its usefulness. Essentially Entergy  
25 wants this city to remain mired in the

1 past, build yet another fossil fuel power  
2 plant that will cost citizens hundreds of  
3 millions of dollars, increase the level  
4 of pollution in the city, and contribute  
5 climate change.

6 Remarkably, the RICE alternative,  
7 which Entergy is now touting as the wave  
8 of the future, actually uses technology  
9 from the 1800s. Thus, Entergy isn't even  
10 offering its ratepayers an alternative  
11 from the 20th Century. However, Entergy  
12 is offering to let residents be saddled  
13 with the unnecessary -- with this  
14 unnecessary dinosaur for the next 30  
15 years. The benefits of this choice will  
16 go to Entergy's shareholders, not the  
17 residents of New Orleans.

18 The other path is a recognition of  
19 the future. It's a path that has already  
20 been selected by regulated cities,  
21 states, and local governments across this  
22 country. This path is a recognition that  
23 we can and must do better. Thus,  
24 utilities are abandoning reliance on  
25 fossil fuels and adopting a mix of new

1 technology. Technologies like solar  
2 energy, battery storage, combined with  
3 innovative energy efficiency and demand  
4 response programs are not only replacing  
5 proposed fossil fuel plants, these  
6 technologies are leading to the closure  
7 of fossil fuel plants across the country.  
8 This is the path that the City Council  
9 should choose, a path that will benefit  
10 its citizens now and in the future.

11 The City Council also stands at the  
12 crossroads as a regulator. Entergy has  
13 failed in its responsibility to provide  
14 reliable, least-cost services to the  
15 citizens of New Orleans. Entergy failed  
16 to plan properly for the deactivation of  
17 units at Michoud, failed to appropriately  
18 analyze the needs of the system, failed  
19 to fully evaluate alternatives to its  
20 preferred expensive option as directed by  
21 the City Council and placed its thumb on  
22 the scale at every opportunity.

23 The advisors detail a myriad of  
24 these failures in their testimony.  
25 Sadly, rather than recommend that Entergy

1 be held accountable for its failures, the  
2 advisors' response is to recommend that  
3 the City Council simply ignore these  
4 findings and give Entergy its desired  
5 outcome.

6 The City Council has the  
7 responsibility to fully and effectively  
8 regulate Entergy, the monopoly provider  
9 of electricity services in this city.  
10 The City Council remains the citizens'  
11 only protection against abuses by a  
12 monopoly provider of an essential  
13 service, a provider that does not keep  
14 the best interest of New Orleans citizens  
15 at the forefront of its decision making.

16 The City Council must force Entergy  
17 to recognize its authority as a regulator  
18 of electricity services in this city.  
19 The City Council should direct Entergy to  
20 follow its previous resolutions and fully  
21 evaluate all alternatives. If Entergy is  
22 not able to assess these options in an  
23 unbiased and independent manner, the City  
24 Council should select an independent  
25 third party who can. Ultimately the

1 Council must decide if it is going to  
2 force Entergy to take the Council's  
3 regulatory oversight seriously.

4 Last, but certainly far from least,  
5 are the environmental issues raised by  
6 Entergy's proposal. Siting a power plant  
7 in a critical flood zone needlessly  
8 exposes that plant to increasingly and  
9 tests coastal hazards and violates all  
10 principles of common sense. Moreover,  
11 erecting a new polluting resource in a  
12 city already suffering from excessive  
13 pollution burden only exacerbates the  
14 history of an environmental injustice to  
15 that community.

16 Faced with these realities, Entergy  
17 attempts to change the world to  
18 accommodate its plant. Suddenly  
19 straightforward evidence of significant  
20 environmental impacts is now found  
21 lacking or just ignored. Levees and  
22 other flood protections which have failed  
23 this city so often in the past are  
24 suddenly amazing bulwarks against  
25 increasingly severe storms.

1 Remarkably, this conclusion is  
2 asserted despite the Army Corp of  
3 Engineers' own position that levees will  
4 never provide adequate protection for the  
5 communities of New Orleans, but turning a  
6 blind eye to reality cannot change that  
7 reality. Entergy's proposal remains the  
8 wrong project in the wrong location.

9 Finally, this fossil fuel plant is a  
10 step in the wrong direction with regard  
11 to the fight against climate change.  
12 Right now there are Americans huddled in  
13 the dark without electricity for another  
14 night because of climate change. Right  
15 now there are Americans on the move  
16 across the south, washed out of their  
17 homes again because of climate change.  
18 Right now Americans in the west are  
19 mourning over the ashes of their homes  
20 because of climate change.

21 The City Council recently issued a  
22 resolution asserting its support for the  
23 Paris agreement and for the reduction of  
24 greenhouse gases. This proceeding  
25 represents the City Council's first



1 opportunity to put these words into  
2 action. Approval of the Entergy project  
3 will make it impossible for the city to  
4 achieve its goal of zero greenhouse gas  
5 emissions by 2030.

6 In this proceeding, Entergy bears  
7 the burden of proving that one of its  
8 offered alternatives is in the public  
9 interest. The evidence in this  
10 proceeding demonstrates that neither  
11 plant is a least cost option and that  
12 neither plant is in the public interest  
13 of city residents. Both proposals should  
14 be rejected by the City Council.

15 Thank you, sir.

16 JUDGE GULIN:

17 Thank you.

18 Let's go to the Center for  
19 Environmental Justice.

20 Ms. Harden.

21 MS. HARDEN:

22 Thank you.

23 The Deep South Center for  
24 Environmental Justice is a nonprofit  
25 organization based here in New Orleans

1 and it's dedicated to improving the lives  
2 of children and families harmed by  
3 pollution and vulnerable to climate  
4 change in the Gulf Coast region. The  
5 center's activities involve research,  
6 community education, and public advocacy  
7 for system change, as well as health and  
8 safety training for environmental  
9 careers.

10 The executive of the Deep South  
11 Center for Environmental Justice,  
12 Dr. Beverly Wright, has prefiled  
13 testimony in this proceeding. Her  
14 testimony presents the racially  
15 disproportionate adverse impacts that  
16 would result from approval of Entergy's  
17 application for the New Orleans Power  
18 Station, a gas-fired power plant. In her  
19 testimony, she also analyzes the flawed  
20 process for public participation that had  
21 the effect of impeding meaningful and  
22 effective public input at critical  
23 junctures leading up to and including  
24 Entergy's gas plant applications to the  
25 City Council.

1           In this evidentiary hearing, the  
2           Deep South Center for Environmental  
3           Justice will show that Entergy's  
4           application for a gas plant fails to meet  
5           the public interest because it would  
6           continue the pattern of racially  
7           disproportionate pollution burdens.

8           Furthermore, Entergy's application  
9           was developed without meaningful and  
10          effective opportunities for public input  
11          by the predominantly African-American and  
12          Vietnamese-American residents who would  
13          bear all the environmental, health and  
14          safety risks of living near the Michoud  
15          site where Entergy has selected for the  
16          proposed gas plant. As we are gathered  
17          here today, more than 1 million  
18          African-Americans are inhaling toxic air  
19          pollution from oil and gas facilities in  
20          their communities that expose them to  
21          cancer risks that are above the  
22          Environmental Protection Agency's level  
23          of concern. More than one-third of  
24          African-Americans exposed to these  
25          elevated cancer risks live here in

1 Louisiana.

2 Seventy-eight percent of power  
3 plants in the United States operate  
4 within three miles of predominantly  
5 people of color in poor communities. In  
6 Louisiana, all power plants, 100 percent,  
7 operate less than three miles from people  
8 of color in poor communities.

9 In this gas plant application,  
10 Entergy has not performed or had  
11 performed on its behalf any analysis of  
12 the impact its proposed gas plant options  
13 would have on the health of nearby  
14 residents. Entergy's gas plant  
15 application, if approved by the City  
16 Council, would continue this pattern of  
17 environmental racism.

18 Although there have been  
19 opportunities for public participation,  
20 as shown in Dr. Wright's direct  
21 testimony, such opportunities have not  
22 been meaningful nor effective. There was  
23 scant public input on Entergy's  
24 integrated resource plan in which the  
25 company selected a new gas plant as the

1 preferred alternative. Fifty-eight  
2 percent of New Orleanians who made  
3 comments at the June 15th, 2016, public  
4 hearing on the integrated resource plan  
5 complained that the plan lacked public  
6 input and a transparent process.

7 The first community meeting to  
8 inform people about the integrated  
9 resource plan in New Orleans East was not  
10 convened by Entergy but by the Deep South  
11 Center for Environmental Justice on  
12 June 14th, 2016.

13 The flawed public participation  
14 process that we have here also follows  
15 the pattern of environmental racism. It  
16 denies people, and particularly people  
17 who are predominantly people of color in  
18 poor communities who would bear the  
19 risks, an equal voice in decision making.

20 The lack of affordable housing is a  
21 crisis in New Orleans. Entergy  
22 residential bills only add to this  
23 crisis, and its plans for the gas plant  
24 would cause this crisis to grow.  
25 Currently low-income households in our

1 city pay nearly 20 percent of their  
2 income on Entergy bills.

3 The effect of Council Resolution  
4 R-15-542, which was issued in 2015 and  
5 approves the settlement agreement  
6 terminating the Entergy System Agreement,  
7 is critical to examining whether the  
8 proposed gas plant is in the public  
9 interest. This resolution adopts the  
10 agreement in which Entergy is to pursue  
11 development of new bill peak generation  
12 with a minimum of 120 megawatts in New  
13 Orleans with Michoud as one of the  
14 potential sites. This resolution  
15 predates the integrated resource plan.  
16 And Entergy's first application  
17 subsequently follows this directive in  
18 the resolution by proposing a 226  
19 megawatt combustion turbine for peak  
20 generation.

21 The prefilled direct testimonies of  
22 Charles Rice, Shauna Lovorn-Marriage, and  
23 Seth Cureington assert that the gas plant  
24 application was made in compliance with  
25 this prior agreement adopted in

1 Resolution 15-542. Purportedly, due to a  
2 change in Entergy's forecast showing  
3 decreased customer need for electricity,  
4 Entergy submitted a second application  
5 that presents two options. The first  
6 option is the originally proposed 226  
7 megawatt gas plant, and the second option  
8 is closer to the prior agreement set  
9 forth in Resolution 15-542, which is a  
10 128 megawatt reciprocating gas engines.

11 It cannot be ignored that Entergy's  
12 gas plant applications each mirror the  
13 prior agreement, which bypasses the  
14 requirements of the integrated resource  
15 planning process. These requirements  
16 include rigorous analysis of future  
17 customer need, modeling scenarios  
18 involving energy efficiency, renewable  
19 energy, and demand-side management among  
20 others, as well as public notice and  
21 public participation.

22 These requirements helped to uphold  
23 the public interest, ensure that it's  
24 served, and should not be bypassed or  
25 undermined by a prior agreement.

1 Thank you.

2 JUDGE GULIN:

3 Thank you, Ms. Harden.

4 And the final participating  
5 intervenor is Air Products.

6 Mr. Edwards.

7 MR. EDWARDS:

8 Thank you, Your Honor. May it  
9 please Your Honor and the City Council  
10 for the City of New Orleans.

11 Air Products is the largest customer  
12 on Entergy's New Orleans system and is a  
13 major player in New Orleans East. It's  
14 been a customer of Entergy New Orleans  
15 since 1965 and in recent years entered  
16 into new contracts. They were supposed  
17 to be temporary, and until a rate case,  
18 which was required of Entergy New Orleans  
19 to conduct, would move the cost charge to  
20 Air Products from a non-cost base, how  
21 many kilowatts are you purchasing, to a  
22 true-cost base based upon a percentage of  
23 overall energy costs to ratepayers by  
24 class.

25 Those rate cases were never filed.



1           Entergy entered into a settlement with  
2           Entergy Louisiana in a proceeding  
3           involving Algiers, in which Air Products  
4           was not aware, and that rate case that  
5           was supposed to have been finished long  
6           before we get to where we are today,  
7           never happened. We were not a party.  
8           The rate was not changed. Converting a  
9           temporary rider that Entergy asked for in  
10          this case -- a temporary rate rider --  
11          based on kilowatt volume to a base rate  
12          cost never happened because it didn't  
13          hold the rate cases. That's an important  
14          part of our being involved in this case.  
15          We want to get off of the PPCACR rider --  
16          P-P-C-A-C-R, PPCACR in my east Texas  
17          accent -- PPCACR rider as a result of a  
18          ruling in this case.

19                 The City Council requires by a  
20                 resolution that is not directly involved  
21                 in this, but indirectly, set the standard  
22                 for going forward that Entergy build a  
23                 new power plant in New Orleans with a  
24                 minimum capacity of a hundred and twenty  
25                 megawatts. In my view and in the view of

1 Air Products, what action should the  
2 Council take regarding ENO's application  
3 to construct New Orleans Power Station  
4 and their request for approval of a cost  
5 recovery plan? Our position, and we  
6 think the evidence supports, that ENO has  
7 not justified a need to add 226 megawatts  
8 of combustion turbine, CT capacity.  
9 ENO's alternative proposal to add seven  
10 18 megawatt Wartsila reciprocating  
11 internal combustion generators, called  
12 RICE -- and I'm waiting for Charles Rice  
13 to get on the stand. I can ask him did  
14 they do that so he could go down in  
15 history as having been the promoter of  
16 this as the president of Entergy New  
17 Orleans.

18 The RICE units, by Entergy's own  
19 analysis, would provide substantially  
20 more capacity than ENO forecasts justify  
21 for the next ten years. In light of the  
22 size of the RICE resources and ENO's load  
23 and capacity forecasts, it would be  
24 appropriate to add less than the full  
25 seven RICE units that are being asked

1 for, but with the infrastructure for all  
2 seven.

3 ENO seeks the exact cost recovery  
4 mechanism where we would have an instant  
5 recovery of cost. I do not believe that  
6 anybody else in this proceeding will  
7 support that, but the example of how bad  
8 that ultimately hurts you is what's  
9 happened to Air Products here, where we  
10 entered into what was supposed to be a  
11 temporary rider, just like the one that's  
12 being purposed, and as a result of it, we  
13 are losing \$1.5 million a year of added  
14 cost that should not have been incurred  
15 under any proposed rate plan. And,  
16 therefore, we think you should not adopt  
17 the PPCACR rider.

18 The PPCACR rider is arbitrary  
19 because it allocates nonfuel revenue  
20 requirement to customers on the basis of  
21 kilowatt hours purchased. That's not  
22 cost based, which is what regulatory  
23 rates are supposed to be, and it's  
24 outside of the mainstream of cost  
25 recovery mechanisms being used in the

1 United States today. A proper cost  
2 recovery system for any new generator  
3 would be to apply a uniform percentage  
4 factor to the base rate revenue of all  
5 customer classes.

6 Entergy does not need an exact cost  
7 recovery rider of any kind. ENO can  
8 capitalize and defer any for later  
9 recovery nonfuel costs on a new unit only  
10 after a prudence review for construction  
11 of that unit and the rates approved by  
12 the City Council, then set a cost-based  
13 charge as a result of a rate case coming  
14 up here shortly, in 2018. The rate case  
15 will be resolved by the time this unit --  
16 these units are placed in service and a  
17 recovery of costs should be approved by  
18 the City Council.

19 When I look around the room, I see  
20 that I'm much older than anybody sitting  
21 up here and I've been through a lot of  
22 hurricanes. I've waded in a lot of flood  
23 waters in my neighborhood. I've stood on  
24 the levee on the Jefferson Parish side  
25 where everything was busing and everybody

1 was having a great time as if nothing  
2 happened. And I looked across the levee  
3 into New Orleans and see nothing but  
4 water in my neighborhood and it was weeks  
5 and months before we were even allowed to  
6 go back to the area. I don't want to see  
7 that happen again. And it's important  
8 that we have a new power plant in the  
9 City of New Orleans.

10 We would argue and I think that it  
11 would show clearly that that ought to be  
12 the hundred and twenty-eight megawatt  
13 power generation by the new RICE units  
14 and we hope that the City Council will so  
15 approve and keep us out of flood waters.

16 Thank you.

17 JUDGE GULIN:

18 Thank you, Mr. Edwards.

19 Who will be presenting for the  
20 advisors?

21 MR. VINCE:

22 I will. Good morning, Judge Gulin.  
23 My name is Clint Vince representing the  
24 Council of the City of New Orleans.

25 A couple of very quick points before

1 I begin with the planned opening. New  
2 Orleans is not behind the herd when it  
3 comes to dealing with carbon emissions  
4 and low rates. New Orleans has  
5 50 percent below the carbon emissions of  
6 the national average right now and leads  
7 in Louisiana and leads in this region in  
8 terms of low carbon intensity. We also  
9 have rates that are 20 percent below the  
10 national average. So we're not behind  
11 the herd. We're way ahead of the herd.

12 That doesn't mean we do high fives  
13 or boast. It means we've got a lot of  
14 work ahead of us, and the comments that  
15 improvement is needed are well taken, but  
16 we have pressed Entergy for a commitment  
17 to bring in a hundred megawatts of power  
18 as soon as practicable. That's  
19 10 percent of their system. And we have  
20 award winning energy efficiency programs  
21 that are being expanded upon continuously  
22 by the Council.

23 The Council's faced with basically  
24 three choices in this proceeding. First,  
25 approve a plant that is too big and has

1 the wrong technology, which is Entergy's  
2 original proposal to build a 226 megawatt  
3 combustion turbine.

4 Second, the Council's next choice is  
5 to approve a plant that's almost half the  
6 size of the 226 megawatt project and has  
7 a much better technology for New Orleans,  
8 not a technology developed in the 18th  
9 Century and that's the hundred and  
10 twenty-eight megawatt RICE unit.

11 The third choice is to fail to  
12 approve either plant and put all our eggs  
13 in the transmission basket. The  
14 transmission system is already  
15 overstressed and this approach will lead  
16 to an unacceptable risk of cascading  
17 outages of potentially long duration with  
18 potentially devastating consequences for  
19 the New Orleans community.

20 So it's a pretty easy choice. The  
21 Council advisors unanimously recommend  
22 against approving the plant that's too  
23 big in favor of approving a much smaller,  
24 128 megawatt RICE unit. And we  
25 unanimously recommend against the

1 approach of becoming overly dependent on  
2 transmission lines that are already over  
3 utilized and can easily be knocked out by  
4 severe storms.

5 The city does not need another  
6 Sewerage & Water Board situation. We  
7 need to put in essential infrastructure  
8 as soon as possible or face the  
9 consequences. And delay is not an  
10 option. There's a mountain of evidence  
11 in this case presented by qualified  
12 experts with years of experience of  
13 actually running utility systems and  
14 transmission systems and years of  
15 specialized experience with the Entergy  
16 system and years of experience with storm  
17 recovery on this system. And I have  
18 personally represented the City Council  
19 for 35 years and I've seen the problems  
20 that Counsel Lanny Edwards has mentioned  
21 and I want to prevent that going forward.

22 The evidence and testimony makes  
23 clear that this risk of cascading outages  
24 is real and it's unacceptable and it will  
25 harm the very people that many of the



1           intervenors in this case are seeking in  
2           good faith to protect.

3           Since time is of the essence, I'll  
4           dispose of Entergy's first proposal for a  
5           226 megawatt project very quickly.

6           First, Entergy has not met its burden of  
7           proof regarding the size of the plant.

8           Second, if New Orleans' projections  
9           are wrong, which sometimes occurs, New  
10          Orleans' customers will be burdened with  
11          excessive costs for many years to come.

12          Third, the size of the plant also  
13          threatens the Council's goal of  
14          diversifying its energy portfolio to  
15          include renewables and enlarge Entergy  
16          efficiency programs, as well as  
17          distributed energy resource concepts.

18          And, fourth, the 226 megawatt CT  
19          project does not have black start  
20          capability, which means that if  
21          transmission lines are disrupted by  
22          turbulent weather, the plant may not be  
23          able to run when it is needed most.

24          So we recommend a no vote on the  
25          226 megawatt proposal. To their credit,

1           Entergy has provided a second option  
2           based on withering criticism by the  
3           advisors and some of the other  
4           stakeholders.

5           The second proposal is much smaller,  
6           128 megawatt RICE unit. This unit is a  
7           reasonable size and it has black start  
8           capability, which means it can self start  
9           in a crisis, and it does not use  
10          groundwater in its internal cooling  
11          process. Also unlike solar power, the  
12          RICE unit can run when the sun is not  
13          shining. The reduced size of the plant  
14          would allow the Council to fulfill its  
15          goal of diversifying its energy portfolio  
16          so we'll be able to aggressively add  
17          renewables and energy efficiency.

18          The joint stakeholders attack the  
19          RICE unit with unsupported health and  
20          environmental claims. The claims are  
21          demonstrably false. The RICE unit  
22          technology has been used safely and  
23          reliably and efficiently and on a  
24          cost-effective basis throughout the  
25          United States and around the world. The

1 joint intervenors' claims do not  
2 withstand serious scrutiny.

3 It is noteworthy that the Michigan  
4 Public Service Commission approved two  
5 RICE technology plants within the past  
6 six weeks in the upper peninsula of  
7 Michigan and like New Orleans, the upper  
8 peninsula is surrounded by water on three  
9 sides and has significant transmission  
10 constraints. On Wednesday in a City  
11 Council meeting, we heard Dr. Stanton  
12 compliment the Michigan PSC as a highly  
13 progressive and respected Commission. In  
14 fact, he said he worked there for many  
15 years.

16 Here is what the chair of the  
17 Mississippi Commission said about the  
18 proposed RICE technology. This new  
19 gas-fired generation is a critical piece  
20 in shaping the future of energy supplies  
21 in the upper peninsula, a future that is  
22 cleaner, more reliable and affordable for  
23 upper peninsula residents and businesses.  
24 (As read.)

25 The Michigan PSC chair described the

1 RICE units as, quote, clean and efficient  
2 and, quote, adaptable to the changing  
3 needs of the region providing a  
4 foundation for adding renewable energy or  
5 investing in ways to cut energy waste in  
6 homes and businesses. That's exactly how  
7 the advisors recommend that this  
8 technology be used in New Orleans.

9 Similarly, the City Council of  
10 Denton, Texas, recently approved 12 RICE  
11 units, stating that the units are the  
12 lowest cost, most reliable option for  
13 achieving the City of Denton's goal of  
14 higher renewable penetration.

15 Tucson is also backing up its  
16 renewables with RICE generation because,  
17 quote, variable energy input from  
18 renewables can cause voltage instability  
19 and other problems and RICE units can  
20 respond quickly and reliably and run  
21 efficiently and cost effectively.

22 Finally, the transmission-dependent  
23 option favored by some of the  
24 stakeholders puts New Orleans in an  
25 unacceptable risk category for cascading

1           outages. And also, by definition,  
2           transmission does not produce  
3           electricity, nor do demand-side measures.  
4           So the transmission-dependent option also  
5           leaves the city in an incredibly  
6           vulnerable position when severe storms  
7           roll in.

8                     Just as the RICE technology is not  
9           obsolete, severe storms hitting New  
10          Orleans and knocking out transmission  
11          lines are not going to be obsolete either  
12          any time soon. This community needs  
13          reliable, all weather, local generation  
14          for storm contingencies and also to back  
15          up renewable energy at times when the sun  
16          is not shining or the wind is not blowing  
17          or when transmission is torn apart by  
18          severe storms as we saw happen with  
19          Hurricane Gustav. This is not a  
20          hypothetical.

21                    So to sum up, the Council advisors  
22          urge the Council to reject the 226  
23          megawatt CT plant because it's too big.  
24          We urge approval of the much smaller 128  
25          megawatt plant because it is a more

1 reasonable size and the right technology  
2 for the needs of this community. And,  
3 finally, we urge the Council to reject  
4 the all our eggs in one basket  
5 transmission strategy because it's high  
6 risk and potentially perilous for New  
7 Orleans citizens.

8 Finally, the transmission-dependent  
9 approach should be rejected because it  
10 violates Rule No. 1 of investment, which  
11 is never put all your eggs in one basket.

12 Thank you, Judge Gulin.

13 JUDGE GULIN:

14 Thank you, Mr. Vince.

15 I've got 10:46 or so.

16 MS. PIONTEK:

17 Judge Gulin, if I may, I'd like to  
18 make an appearance for the record. I  
19 don't really have an opening statement.

20 My name is Luke Piontek. I'm here  
21 on behalf of New Orleans Cold Sewerage.  
22 We're an intervenor in the proceeding.  
23 We did not file testimony, but we are  
24 monitoring it.

25 We echo the comments of Air Products

1 especially with respect to cost recovery  
2 in this matter and the testimony of  
3 Council advisor witness Prep that any  
4 cost recovery should be on a contribution  
5 and base revenue basis and not on a  
6 kilowatt hour basis.

7 JUDGE GULIN:

8 Okay. Thank you for that. Good to  
9 see you again, Mr. Piontek.

10 MR. PIONTEK:

11 Good to see you, Judge.

12 JUDGE GULIN:

13 Fifteen, 16 years, I believe, a long  
14 time.

15 Well, all right. So with that,  
16 let's take a ten-minute break and we can  
17 go off the record.

18 (Whereupon a recess was taken.)

19 EXCERPT FROM ENO HEARING

20 FRIDAY, 12/15/17

21 WITNESS: CHARLES LONG

22

23 REPORTER'S NOTE AND WARNING

24

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1 P R O C E E D I N G S

2 JUDGE GULIN:

3 Back on the record. And I'd like to  
4 invite at this time the deputy city  
5 attorney just to acknowledge her presence  
6 for the record.

7 Do you want to identify yourself,  
8 Ms. Mason?

9 MS. MASON:

10 Yeah. I just wanted to get on the  
11 record. My name is Bobbie Mason, and I'm  
12 a deputy city attorney and we represent  
13 the City of New Orleans. And I'm also  
14 here with Siobhan Foley, which she's with  
15 the mayor's office of resiliency and  
16 sustainability.

17 So, Shavonne, if you want to come  
18 forward. She's back there.

19 JUDGE GULIN:

20 She can just rise and you introduced  
21 her, and --

22 MS. MASON:

23 All right. That's Shavonne Foley.

24 Thank you, Judge.

25 JUDGE GULIN:

1 All right. Thank you, Ms. Mason.

2 MS. MASON:

3 All right.

4 JUDGE GULIN:

5 Okay. Mr. Long, if you would please  
6 come forward and take the hot seat just  
7 to my right, and if you would remain  
8 standing while Kathy administers the oath  
9 to you.

10 MR. LONG:

11 All right.

12 CHARLES W. LONG,  
13 after having been duly sworn by the  
14 above-mentioned Certified Court Reporter, was  
15 examined and testified as follows:

16 JUDGE GULIN:

17 And, Mr. Brown. Where's Mr. Brown?  
18 Here you are.

19 MR. BROWN:

20 Yes. But Mr. Smith will be  
21 conducting the cross.

22 JUDGE GULIN:

23 Oh, okay. Mr. Smith, whenever  
24 you're ready.

25 MR. SMITH:

1 Thank you, Your Honor.

2 Is this going to be okay for you  
3 from the volume?

4 THE COURT REPORTER:

5 Yes.

6 MR. SMITH:

7 Thank you.

8 Joshua Smith on behalf of Sierra  
9 Club.

10 EXAMINATION BY MR. SMITH:

11 Q. Thank you, Mr. Long. You have your  
12 direct and supplemental amending and rebuttal  
13 testimony in front of you?

14 A. Yes, I do.

15 Q. And do you have the exhibits that  
16 were attached to those documents as well?

17 A. It does appear that I have the  
18 exhibits, too.

19 Q. Okay. Great. And you -- We had --  
20 You went through a deposition last week as  
21 well, December 7th; is that right?

22 A. That's right.

23 Q. Okay. Thank you.

24 Your current position is director of  
25 transmission planning; is that right?

1 A. Yes, that's correct.

2 Q. And in your position, you're  
3 essentially responsible for overseeing the  
4 planning of Entergy New Orleans' transmission  
5 system; is that right?

6 A. That's right.

7 Q. And as part of that responsibility,  
8 you -- generally you run -- you run computer  
9 load analyses; is that right?

10 A. My staff runs them, yes.

11 Q. And you oversee that process?

12 A. Yes.

13 Q. You use a couple of different  
14 programs to do that; right?

15 A. Yes.

16 Q. I think you referred to one as Power  
17 World of some such; correct? Is that right?

18 A. Yes.

19 Q. And Entergy has to purchase licenses  
20 from these companies to run those modeling  
21 platforms?

22 A. Yes. There -- Yes. You have to  
23 purchase a license to run them.

24 Q. And the licenses aren't exactly  
25 cheap, are they?

1           A.    They're -- They're in the thousands  
2 for an annual license.

3           Q.    Okay. And you can't run it without  
4 the license; is that right?

5           A.    You can't run those specific  
6 software packages without licenses for those  
7 packages.

8           Q.    These modeling programs are fairly  
9 complex; are they not?

10          A.    They are -- There are many inputs  
11 into the models.

12          Q.    Many inputs. So you have to input  
13 the transmission topography; is that correct?

14          A.    Yes.

15          Q.    You have to input all of the various  
16 assumptions that you would be looking at; is  
17 that right?

18          A.    That's right.

19          Q.    And they can sometimes take a couple  
20 of days to run the model; is that right?

21          A.    Well, it depends on what you want to  
22 do. It can take various amounts of time,  
23 depending on how big the analysis is.

24          Q.    Is it -- Does it take maybe a couple  
25 days at times depending?

1           A.     Again, it depends on what you do.  
2     Some take -- It depends on how many things you  
3     change and how many scenarios you run and how  
4     many years you run, and those types of things,  
5     but, generally, days to weeks, depending on how  
6     complex it is.

7           Q.     Okay. And is it fair to say in  
8     running these models that the lower the load  
9     that the transmission system has at peak, the  
10    less likelihood there is of a transmission  
11    constraint? Is that right?

12          A.     Very generally that's load on the  
13    system that is -- increases the stress on the  
14    system. There are nuances within certain  
15    areas, that that's not always the case, but, in  
16    general, higher load is higher usage of  
17    transmission and lower load is lower usage.

18          MR. EDWARDS:

19                 Your Honor, if I might -- I can't  
20                 hear the witness. I want to make sure  
21                 that that microphone is on.

22          JUDGE GULIN:

23                 Yeah. Unfortunately, we've  
24                 requested to have the volume increased  
25                 and apparently that cannot be done. All

1 we can request is that the witness get  
2 close to the microphone.

3 MR. CHARLES LONG:

4 Yes, sir. I'll try.

5 JUDGE GULIN:

6 So if you would, please. I know  
7 that's not an intuitive and natural  
8 position to be in, but please try as best  
9 you can.

10 MR. EDWARDS:

11 Thank you, Mr. Long.

12 EXAMINATION BY MR. SMITH:

13 Q. And so just so I understand your  
14 answer, if you use a lower load forecast in  
15 running these models, you would expect to find  
16 fewer constraints?

17 A. Fewer constraints perhaps or perhaps  
18 the existing constraints would be slightly  
19 less.

20 Q. Okay. And these load flow analyses,  
21 this is one of the primary areas of your  
22 testimony; is that correct?

23 A. Yes.

24 Q. And in your testimony, you're  
25 looking for NERC violations as I understand it;

1 is that correct?

2 A. We look for overloading of the  
3 transmission system or a failure of the  
4 transmission system to perform in a manner that  
5 is consistent with NERC reliability standards.

6 Q. And there are two particular  
7 reliability standards that you're looking at  
8 quite frequently in the analyses that you've  
9 done in this case; is that right?

10 A. I don't understand the question.

11 Q. So are you familiar -- You're  
12 familiar with a P2.3 contingency?

13 A. There are -- Where in my testimony  
14 are you so I can catch up?

15 Q. Yes. Give me one moment. I'm sorry  
16 I don't have that right at my fingertips. I  
17 apologize. One second here.

18 JUDGE GULIN:

19 Take your time.

20 EXAMINATION BY MR. SMITH:

21 Q. Let's take a look at Exhibit --  
22 Well, if you could turn to your rebuttal  
23 testimony, for example, and I just want to ask  
24 some basic questions about this process. So  
25 it's Exhibit CWL-7 for example.



1 A. Yes.

2 Q. And this is a PowerPoint  
3 presentation that summarizes one of the  
4 modeling runs that you did; is that right?

5 A. That's right.

6 Q. And so when you describe on page 3  
7 of that exhibit a contingency involving a  
8 failure of a breaker, you're referring to P2.3  
9 contingency situations; correct?

10 A. Yes. In the NERC reliability  
11 standards, there are a number of planning  
12 events that you're required to study. One of  
13 those is P2, which includes breaker failures  
14 and there are others. There are many others,  
15 but P2.3 is one of them.

16 Q. So we can call it P2.3 and that will  
17 make sense to you?

18 A. Yes.

19 Q. And then another line that you look  
20 at quite frequently is a P6 violation; is that  
21 right?

22 A. Yes.

23 Q. And that's a multiple contingency  
24 violation? Is that an accurate description?

25 A. A P6 would be two elements out

1 simultaneously.

2 Q. And so just so we understand it  
3 clearly, typically what the model looks at,  
4 there will be a single contingency violation  
5 followed by some period of time. It could be  
6 very short. It could be a longer period of  
7 time where there may be system adjustments and  
8 then there will be a second failure; is that  
9 right?

10 A. That's right.

11 Q. Okay. And so while we're looking at  
12 CWL-7 and -8, and we'll start with seven here,  
13 you generally presented these -- the outcomes  
14 of load flow analyses for the years 2019, 2024,  
15 and 2027 in these exhibits; is that correct?

16 A. We studied three years of various  
17 scenarios. Some were, you know, original  
18 scenarios and some were provided during the  
19 process to do some additional scenarios, but  
20 they studied years 2019, 2024, and 2027.

21 Q. And so CWL-7 reflects what has been  
22 called case B2, as in Boy 2; is that correct?

23 A. It does.

24 Q. And that was an analysis of the  
25 transmission system without any new NOPS

1 system, any new combustion turbine, or RICE  
2 unit at the Michoud site; is that correct?

3 A. Case B2 includes a 100 megawatt  
4 solar facility, which was assumed to be  
5 included at Michoud and also an additional  
6 2 percent of demand-side management. So a  
7 2 percent additional load reduction in addition  
8 to a solar facility.

9 Q. And then it also includes another  
10 100 megawatt solar facility assumed to be  
11 selected by -- as economic by the IRP; is that  
12 right? So a total of 200 megawatts of solar?

13 A. A total of 200 megawatts of solar  
14 and 2 percent of DSM. We also assumed in those  
15 that those -- you know, that those were -- that  
16 they would be producing energy, that there  
17 would be -- there would not be a time when they  
18 would not be producing energy --

19 Q. Okay.

20 A. -- which is not necessarily the case  
21 for solar or DSM, but that's what we studied.

22 Q. But these analyses, though, they  
23 look at -- and I think you have it there on  
24 page 2 -- you're generally looking at hour  
25 representing the peak summer demand; is that

1 right?

2 A. That's right.

3 Q. And in the summertime, the peak  
4 demand is sometime between five and 7 P.M.; is  
5 that accurate?

6 A. It varies day to day. It just  
7 depends, but it's in the afternoon, late  
8 afternoon, early evening usually on a summer  
9 day.

10 Q. May I ask you to turn to page 9 of  
11 your supplemental amending testimony?

12 A. Okay.

13 Q. So at line 1 there, you assert that  
14 by 2019, if NOPS -- "NOPS" being the New  
15 Orleans Power System; right -- or Power  
16 Station; correct?

17 A. New Orleans Power Station, yes.

18 Q. Thank you for the correction.

19 If it's not constructed, several  
20 230 -- you indicate that several 230 and 115 kV  
21 lines would overload; is that correct?

22 A. Yes.

23 Q. And then on page 10 at lines 12 and  
24 13, you describe what would be necessary to  
25 mitigate those constraints in 2019.

1                   And on to the next page --

2                   A.     Where are we on page 10 again?

3                   Q.     I'm on page 10 there, at lines 12  
4 through 14. You indicate to mitigate the  
5 constraints observed in the system in 2019,  
6 you'd have to make the following upgrades and  
7 the upgrades are listed in Table 1 on page 11;  
8 is that right?

9                   A.     Those -- The upgrades in Table 1 are  
10 all the upgrades necessary to mitigate all of  
11 the overloading transmission elements if we do  
12 not complete the New Orleans Power Station.

13                  Q.     Right. Okay.

14                  A.     It was not just 2019, though. It  
15 was multiple years.

16                  Q.     Okay. And on page 12, you indicate  
17 at lines 6 through 9 that the results of the  
18 reliability assessment with the assumption of a  
19 226 megawatt CT, the NOPS, assumed to be  
20 interconnected in June 2019, would mitigate  
21 those reliability violations; is that right?

22                  A.     If we installed the 226 megawatt  
23 unit, then all of the transmission upgrades  
24 would be avoided, yes.

25                  Q.     Let me ask you about that because

1 neither the RICE unit nor the CT unit would  
2 actually be able to mitigate any violations in  
3 2019, would it?

4 A. Well, the unit would need to be  
5 constructed to mitigate the constraint and when  
6 we do this, we look for when it's needed. The  
7 unit can't actually go into service until  
8 January of 2020, but when we studied this, we  
9 studied 2019, which is one of the years, so we  
10 indicate that is when it's needed.

11 Q. Okay. And so let me just clarify.  
12 The RICE unit can go into service in February  
13 of 2020; is that correct?

14 A. I don't think that's correct. I  
15 think it's January of 2020, but subject to  
16 check, I would have to check on that.

17 Q. And the CT, if the CT were selected,  
18 it would be approximately a year later in 2021.  
19 Does that sound right?

20 A. I'd have to check again. If I said  
21 that, you'd have to point to my testimony. I  
22 don't remember the in-service dates for that  
23 one.

24 Q. I want to ask you to turn back to  
25 your Exhibit CWL-7, please, to your rebuttal

1 testimony. And on -- And you've done this a  
2 couple of times throughout. There are a couple  
3 of these presentations in each, but in the 2019  
4 analyses, you have these little clouds drawn  
5 on -- they're red clouds drawn on, for example,  
6 page 3 of that exhibit; is that right?

7 A. Yes.

8 Q. Okay. So that's the 2019 case  
9 without NOPS?

10 A. That's the 2019 case with solar,  
11 200 megawatts of solar, with 2 percent DSM, all  
12 of which is, you know, not the same as NOPS,  
13 but it does not include a dispatchable  
14 resource. It assumes that the solar resources  
15 dispatched and the DSM that we have achieved,  
16 all of the DSM in the 2 percent goal.

17 Q. Okay.

18 A. Which we have them, but it assumes  
19 that we do.

20 Q. Yeah. So for practical purposes  
21 in -- neither the RICE unit or CT will do  
22 anything to -- would fix any of the violations  
23 that you've seen right there in the 2019  
24 scenario; is that right?

25 A. That's correct. There's no option

1 in this case that's going to eliminate the  
2 early years. It's going to take time to  
3 construct whatever is constructed. So until it  
4 is constructed, the risk exists.

5 Q. And so let's talk about that for a  
6 moment. Would Entergy's mitigation in the  
7 interim involve the use of curtailment or  
8 shedding interruptible load?

9 A. If the situation arose that was  
10 simulated here, we would -- and arose at the  
11 wrong time, we would have to shed load. It  
12 would be curtailable and additional load in all  
13 likelihood. Additional non-curtailable --  
14 curtailable and non-curtailable load.

15 Q. You've reviewed the advisors'  
16 witness Movich's testimony; is that right?

17 A. Yes.

18 Q. And he refers to approximately 16 to  
19 20 megawatts of load shedding that would take  
20 place. Do you recall that?

21 A. I think he refers to a level of load  
22 shed that is curtailable. He did not indicate,  
23 as far as I can recall, that that would remedy  
24 the problem. He just indicated that that was  
25 there, that there was some curtailable load in



1 the area.

2 Q. Beyond that 16 to 20 megawatts, have  
3 you undertaken any effort to secure more  
4 interruptible load to address the contingency  
5 problem in 2019?

6 A. I would not be the correct witness  
7 for that. I do transmission planning. So if  
8 there were other programs or load scenarios out  
9 there, you'd have to ask Seth or someone about  
10 that. What's reflected in here is what's in  
11 the load forecast, and then what's an  
12 additional demand side or other mitigations  
13 that were proposed as alternatives for us to  
14 study, we've studied those, but they were  
15 hypothetical studies. What was in our load  
16 forecast is what we believe to be the case that  
17 drives what we need to do.

18 Q. Okay. And so you did not, then,  
19 study any additional load shedding capability?  
20 That wasn't an input that you looked at?

21 A. In addition to what?

22 Q. In addition to any of the scenarios?  
23 In addition to the 2 percent DSM that you have,  
24 aside from that in terms of --

25 A. What was in the load forecast --

1 Q. Uh-huh (indicating affirmatively).

2 A. -- and then the additional decreased  
3 load that was proposed for us to study, we  
4 studied those. I did not go to individual  
5 places and look for, you know -- knock on doors  
6 to ask if there were other people interested in  
7 shedding load, but we studied just the  
8 scenarios, but we did study reduced load that  
9 would be -- reduced load whether we got it  
10 through DSM or something else.

11 Q. But you didn't specifically include  
12 the 16 to 20 megawatts that Mr. Movich talks  
13 about in his testimony?

14 A. That would be in the load forecast.  
15 That's an existing load that's been there in  
16 the load forecast.

17 Q. And that's incorporated into your  
18 assumptions?

19 A. Yes.

20 Q. Okay. Given that the -- neither of  
21 the proposals would actually be constructed in  
22 2019 or even until 2020, is Entergy in  
23 violation of any of the NERC standards?

24 A. We are not in violation of the NERC  
25 standards because our corrective action plan is

1 to replace some of the capacity that we lost at  
2 Michoud with a new resource. So that is our  
3 corrective action plan.

4 I also note that 2019, certainly we  
5 don't think we can make it by the peak period  
6 of summer '19, but we would make it by the peak  
7 of 2020 for the RICE units. The others  
8 unlikely, but 2019 peak will -- I mean, 2020  
9 peak, we should make it, assuming we move  
10 forward.

11 Q. On page 2 of Exhibit CWL-7, you  
12 indicate that all MTEP '16A and MTEP '17 target  
13 appendix transmission projects are included in  
14 these analyses; is that correct?

15 A. That's correct.

16 Q. And these are transmission upgrades,  
17 transmission projects that are already in the  
18 queue, so to say?

19 A. It's a subset of those. The  
20 MTEP '16A project would be the ones that were  
21 approved by MISO at the end of the MTEP '16  
22 process. MTEP '17 Target Appendix A are the  
23 projects that we believe are necessary for  
24 MTEP '17 to maintain compliance with NERC  
25 reliability standards.

1 Q. On page 5 of the exhibit at the  
2 bottom, there's a note that indicates that  
3 several of these projects are included, but are  
4 not limited to the Jefferson Parish reliability  
5 plan and the Paris tap to Avenue C 115 kV  
6 project; is that right?

7 A. Yeah. I think what that reflects is  
8 that some of those MTEP '16 and MTEP '17A  
9 projects are -- changed the loading on the  
10 facilities in the DSG area for the analysis.  
11 It explains why they changed.

12 Q. And it changes those downward; isn't  
13 that right?

14 A. I don't know if it changes it  
15 downward. What we say here is that some were  
16 reduced. There could be some increased, too.  
17 We just noted that to explain, but I don't know  
18 whether some increased and some decreased.  
19 They could do either.

20 Q. But the conclusion of these projects  
21 in your assumptions accounts for the reduced  
22 overloads that you see in year 2024 there; is  
23 that correct?

24 A. It would include the 2019. I'm not  
25 sure -- And whatever effects were in 2019

1 would, of course, extend into the future, but  
2 as for explaining all the changes in 2024, I  
3 don't think that's the case.

4 MR. SMITH:

5 Your Honor, I -- I have a couple  
6 exhibits here that I think I need to talk  
7 to him about that are designated CEII.

8 JUDGE GULIN:

9 Okay. At this point, I'm going to  
10 ask members of the public to please leave  
11 the room. We have some confidential  
12 information that is going to be discussed  
13 in cross-examination. So we will send  
14 someone out to let you know when we are  
15 completed this session of confidential  
16 executive session.

17 MR. GUILLOT:

18 Unfortunately, Your Honor, I think  
19 we need to be a little bit more  
20 restrictive. There is the general highly  
21 sensitive confidential disclosure  
22 document that people signed in this case.

23 JUDGE GULIN:

24 Yeah.

25 MR. GUILLOT:

1           There is also an additional CEII  
2           nondisclosure agreement that FERC  
3           mandates that we have people sign in  
4           order to --

5           JUDGE GULIN:

6           Okay. So there are also counsel  
7           here that need to -- people who have not  
8           signed the agreement?

9           MR. GUILLOT:

10           I believe so.

11           JUDGE GULIN:

12           All right. Well, any counsel who  
13           have not signed the agreement, also I ask  
14           to please leave the room until we're  
15           finished this session. Everyone in the  
16           back should be leaving, I assume, unless  
17           they've signed the confidentiality  
18           agreement.

19           MR. SMITH:

20           Your Honor, may I approach the  
21           witness and give him what I'm going to  
22           ask him about?

23           JUDGE GULIN:

24           Yeah, please.

25           This is an existing exhibit?

1 MR. SMITH:

2 It is not. This is -- These are  
3 pre-marked exhibits that I'd like to ask  
4 him about and I will move to introduce  
5 them as evidence in the record.

6 JUDGE GULIN:

7 Okay. Is everyone out who's not  
8 signed the proper agreement?

9 MR. REED:

10 Your Honor, would it be useful if  
11 counsel for Entergy can identify which  
12 individuals have actually signed? Are  
13 you aware which -- I think there's some  
14 confusion by some of the individuals here  
15 as to whether or not they had or had not  
16 because of their lack of understanding of  
17 the distinction between HSPM and CEII.  
18 I'm just making that clarification.

19 MR. GUILLOT:

20 I don't think we have a list.

21 MR. REED:

22 Okay.

23 JUDGE GULIN:

24 Off the record.

25 (Whereupon a discussion was held off

1 the record.)

2 JUDGE GULIN:

3 Back on the record.

4 Firstly, everyone in the back,  
5 please nod your head in agreement if you  
6 have signed the CEII.

7 And so there's no one here who has  
8 not?

9 Counsel who are here at the counsel  
10 tables, everyone has signed CEII except  
11 for Mr. Piontek? Okay.

12 Mr. Piontek, as I understand it,  
13 you've indicated before we went back on  
14 the record, you have not been given the  
15 opportunity to sign the CEII but you are  
16 representing to me that you will sign it  
17 as soon as it's presented to you?

18 MR. PIONTEK:

19 That is correct.

20 JUDGE GULIN:

21 Even though you haven't seen it nor  
22 read it, you're going to make that  
23 representation?

24 MR. PIONTEK:

25 I've read similar ones at the LPSC.



1 I know pretty much what it says. I  
2 commit to signing it.

3 JUDGE GULIN:

4 Okay. All right. So the exhibits  
5 have been marked as SC, for Sierra Club,  
6 No. 1 through 4.

7 All right. They're not in evidence  
8 obviously, so proceed.

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JUDGE GULIN:

You're not going to have any more  
questions regarding confidential  
information?

MR. SMITH:

No.

JUDGE GULIN:

Okay. Could I ask someone to invite

1 in the other people who were -- who left  
2 and any other counsel?

3 Off the record.

4 (Whereupon a discussion was held off  
5 the record.)

6 JUDGE GULIN:

7 Thank you all. We apologize for the  
8 inconvenience. I'm guessing this is  
9 going to happen a good number of times  
10 over the next six days, so there's no way  
11 to avoid that.

12 Mr. Smith.

13 MR. SMITH:

14 Thank you, Your Honor.

15 EXAMINATION BY MR. SMITH:

16 Q. I'd like to go back to your  
17 Exhibit --

18 JUDGE GULIN:

19 I'm sorry.

20 And so we're back into regular  
21 session. The prior testimony that was  
22 confidential has been segregated in the  
23 transcript and then we'll continue back  
24 in regular session. Thank you.

25 EXAMINATION BY MR. SMITH:

1 Q. I'd like you to look back at your  
2 Exhibit CWL-7 at page 7 for now. Are you  
3 there?

4 A. Yes.

5 Q. And so just for clarity, the  
6 Exhibit CWL-7 was your corrected analysis for  
7 the 200 megawatts of solar, 2 percent DSM, no  
8 NOPS?

9 A. That's right.

10 Q. Can you briefly describe what the  
11 correction was?

12 A. The correction was we made a mistake  
13 in modeling the DSM. It was under assumed in  
14 the case.

15 Q. And by doing that, you over  
16 estimated the stress on the transmission  
17 system, didn't you?

18 A. Yes.

19 Q. So in 2027 in your analysis here, we  
20 finally get to some additional transmission  
21 upgrades that are required. And on page 8, you  
22 have two additional upgrades you name,  
23 specifically, the Almonaster -- and I apologize  
24 if I butcher the pronunciation here --  
25 Almonaster to Curran and South Port to Joliet



1 is what I'm going to try --

2 A. You got it.

3 Q. And that's approximately  
4 \$23 million; is that right?

5 A. Yeah, that's right. If we get the  
6 solar output and the DSM goal met, that's  
7 what's left.

8 Q. And then I want you to flip back to  
9 your supplemental and amending testimony,  
10 Exhibit CWL-6.

11 A. What date?

12 Q. Let me ask one more follow-up  
13 question on the exhibit we were on a second ago  
14 just for clarity for the record.

15 That corrected analysis didn't  
16 have -- Again, we talked about the MTEP  
17 projects that are assumed as part of the  
18 baseline. But aside from those transmission  
19 projects, that corrected analysis did not have  
20 any additional transmission upgrades required  
21 until 2027; is that right?

22 A. Are you talking about these two  
23 upgrades on CWL-7, page 8?

24 Q. Correct.

25 A. Yeah. Those are 2027 requirements.

1 Q. Okay. But in this presentation  
2 here, aside from those upgrades and aside from  
3 the MTEP upgrades we talked about, there is no  
4 other transmission requirements, upgrades that  
5 you're assuming in this particular scenario?

6 A. In the scenario where you get the  
7 solar and the DSM, that's right.

8 Q. Yes.

9 A. Let me point out one other thing,  
10 too, about the years. It's for us to have a  
11 project in service in 2027. We can't wait till  
12 2027 to start. We have to start many years in  
13 advance of that. That's just the year that it  
14 needs to be.

15 I also point out, we didn't study  
16 every year in between. We studied 2024 and  
17 2027, so it could be 2026 or 2025, but by 2027,  
18 certainly they're needed.

19 Q. Okay. Thank you.

20 Now, I do want to flip you back to  
21 your supplemental testimony, CWL-6. And if you  
22 turn to page 6 of that exhibit, page 6 of  
23 CWL-6, we're looking at what's labeled at the  
24 top a hundred and ten megawatt NOPS resource;  
25 is that right?

1           A.    Yes.  This was one of the early ones  
2 we did before we knew an exact size.  So it's  
3 slightly less than the unit that we ultimately  
4 requested.

5           Q.    This is in testimony that you  
6 submitted, though, in July 2017?

7           A.    Yes.

8           Q.    Okay.

9           A.    We had done this -- We had done, you  
10 know, steps along the way.  We didn't know  
11 exactly where it would be.  We had done this.

12          Q.    I believe you used a hundred and ten  
13 megawatt, as a -- you said a proxy, I think,  
14 for --

15          A.    Yes.

16          Q.    And in that situation, there's no  
17 transmission in that 110 megawatt scenario.  
18 There are no transmission upgrades that are  
19 required until 2027; is that right?

20          A.    Well, it would be required prior to  
21 2027, sometime between 2024 and 2027.

22          Q.    And if you look at page 8 of that  
23 exhibit --

24          A.    Yes.

25          Q.    -- those are the same two lines that

1 were -- you're required to upgrade under the B2  
2 scenario; right?

3 A. Yeah, that's correct. To completely  
4 eliminate the upgrades, we need and we would  
5 prefer the 226. And me as the transmission  
6 planner, I would prefer the 226 unit because it  
7 eliminates all of the transmission risk. But  
8 in this case, it's similar to the upgrade cost  
9 if you were to get all of the solar, the  
10 200 megawatts of solar in the right area and  
11 the DSM all the way to 2 percent in the right  
12 area, it's the same.

13 THE COURT REPORTER:

14 All the way?

15 MR. CHARLES LONG:

16 If you were to get all 200 megawatts  
17 of the solar interconnected, you know, in  
18 the right location and you were to get  
19 the 2 percent DSM, you've got all of that  
20 goal, then the upgrades in this scenario  
21 and that scenario are the similar.

22 They're the same.

23 JUDGE GULIN:

24 Mr. Long, just for your  
25 clarification, when the court reporter

1 asks you, she's just asking you to repeat  
2 something, not to provide an alternate  
3 explanation.

4 MR. CHARLES LONG:

5 Okay.

6 JUDGE GULIN:

7 She just didn't hear one or two  
8 things.

9 MR. CHARLES LONG:

10 I apologize.

11 JUDGE GULIN:

12 That's okay. Just save us some  
13 time.

14 MR. CHARLES LONG:

15 Yes, sir.

16 EXAMINATION BY MR. SMITH:

17 Q. And you said that the transmission  
18 upgrades required in 2027 are the same under  
19 both scenarios; right?

20 A. Right.

21 Q. In your supplemental testimony  
22 regarding the RICE unit, you indicated that  
23 those marginal -- that marginal overload in  
24 2027 gives us, quote, I think you said, quote,  
25 plenty of time to plan; isn't that right?

1           A.     You'd have to show me where I said  
2     it, but it does -- it's ten years out, so  
3     there's enough time to begin a transmission  
4     upgrade if we needed to on that.

5           Q.     Okay. Thank you. I don't -- unless  
6     you want to see it -- if you want to see it --  
7     I don't think you need to see it. You answered  
8     the question.

9           A.     I just don't know if it's plenty of  
10    time. It just takes a long time to build. All  
11    this takes a long time to build, so I doubt I  
12    said plenty, but we have enough time if we  
13    start it. If we decided to go and bank on all  
14    this other stuff and do transmission, this one  
15    we could get -- or these two, we've got time to  
16    get done. We don't have time to get done with  
17    the others that we need, but these two in this  
18    scenario, we have time.

19           JUDGE GULIN:

20                    We're showing three minutes  
21                    remaining.

22           MR. SMITH:

23                    Thank you.

24           EXAMINATION BY MR. SMITH:

25           Q.     I want to ask you just a couple

1 quick questions about constructability issues  
2 that you talk about at length in your  
3 testimony. Do you recall that?

4 A. Yes.

5 Q. I believe you acknowledged at your  
6 deposition, however, that you're not an expert  
7 in those issues, are you?

8 A. In constructability issues?

9 Q. Yeah.

10 A. I don't think I acknowledged that.  
11 You've got to show me.

12 MR. SMITH:

13 May I approach, Your Honor?

14 JUDGE GULIN:

15 Yes.

16 What are you handing the witness?

17 MR. SMITH:

18 I'm handing the witness a copy of  
19 his deposition that was taken on December  
20 7th, 2017.

21 EXAMINATION BY MR. SMITH:

22 Q. Does that look familiar?

23 A. Yes.

24 Q. And you reviewed this; correct?

25 A. Yes.

1 Q. And I think you signed off that it  
2 was accurate; is that correct?

3 A. I made a few changes. I don't know  
4 if --

5 MR. GUILLOT:

6 Your Honor, this is improper. I  
7 mean, he's trying to impeach the witness  
8 about a question he's never asked?

9 JUDGE GULIN:

10 No. He just asked the question.  
11 He's disputing the answer to the  
12 question.

13 That's fine. You can continue.  
14 Just make sure you get the page number  
15 we're talking about --

16 MR. SMITH:

17 Yes.

18 JUDGE GULIN:

19 -- in the deposition.

20 MR. SMITH:

21 Yes.

22 JUDGE GULIN:

23 What do you want him to review in  
24 his deposition?

25 MR. SMITH:



1 I'd like for him to look at page 85  
2 at line 11. Actually starting at line 9  
3 on page 85 of his deposition.

4 JUDGE GULIN:

5 And read how far?

6 MR. SMITH:

7 Through to line 11.

8 JUDGE GULIN:

9 Okay. Go ahead and do that, please,  
10 Mr. Long.

11 MR. EDWARDS:

12 Your Honor, I didn't hear him say  
13 what --

14 What are you asking him to read  
15 from?

16 MR. SMITH:

17 I asked him -- The question  
18 previously was whether he was an expert  
19 on constructability issues.

20 MR. EDWARDS:

21 Well, what are you asking him to  
22 read from?

23 MR. SMITH:

24 Oh, I'm sorry. Page 85 of his  
25 deposition, line 9 through 11.

1 MR. EDWARDS:

2 Okay. No wonder I don't --

3 MR. GUILLOT:

4 I think the question that counsel

5 asked him was, Didn't you in your

6 deposition --

7 MR. SMITH:

8 Can he --

9 JUDGE GULIN:

10 Hold on. Hold on. Go ahead,

11 Mr. Guillot.

12 MR. GUILLOT:

13 I think the question counsel asked

14 was, Did you not admit in your deposition

15 that you were not an expert on

16 constructability?

17 JUDGE GULIN:

18 Okay.

19 MR. GUILLOT:

20 That's different than the question

21 of, Are you an expert in

22 constructability, and then, you know,

23 showing him some answer.

24 JUDGE GULIN:

25 The witness said no. The witness

1           said he didn't say that. Now he's been  
2           shown a deposition in which counsel  
3           believes there is a contradiction. So  
4           let's see if there's a contradiction.  
5           And let me expedite this a little bit.

6                     Having reviewed that, Mr. Long, does  
7           that refresh your recollection with  
8           respect to this issue?

9           MR. CHARLES LONG:

10                    Yes, it does.

11           JUDGE GULIN:

12                    Okay. Do you want to change your  
13           answer?

14           MR. CHARLES LONG:

15                    I do not.

16           JUDGE GULIN:

17                    Okay. Next question.

18           EXAMINATION BY MR. SMITH:

19                    Q. Are you an expert in  
20           constructability issues?

21                    A. I'm an expert in constructability  
22           issues and transmission. This asked if I'm  
23           familiar with these issues with generation.  
24           I'm not a generation expert.

25           JUDGE GULIN:

1 I'm going to give you one more  
2 minute, sir.

3 MR. SMITH:

4 Thank you.

5 EXAMINATION BY MR. SMITH:

6 Q. You talk at length about  
7 constructability issues, that these would make  
8 it extraordinarily difficult to get these  
9 transmission upgrades done; is that correct?

10 A. Yes.

11 Q. But you could do it -- The company  
12 could, in fact, do it; is that correct?

13 A. I don't know that we could do it or  
14 not honestly. With enough time and enough  
15 money and accepting enough risk, anything is  
16 potentially possible, but I have serious doubts  
17 that we could implement all of those  
18 transmission upgrades without having a big  
19 event.

20 Q. But you never fully evaluated  
21 whether that could be done?

22 A. We did not go and do the detailed  
23 engineering that would be required because that  
24 cost a lot of money. It takes a lot of time.  
25 But I've been doing this a very long time.

1 I've been a part of many, many projects like  
2 this. These would be very, very difficult,  
3 very time consuming, would take much longer and  
4 have much more risk than just building a  
5 generator on the site that we already own.

6 Q. And you did not cost it out, did  
7 you, fully cost out an estimate?

8 A. We used some initial estimates,  
9 which we do to just give a ballpark. They are  
10 likely low estimates. And when we actually go  
11 to do these types of analyses, typically cost  
12 goes up because there are unknown challenges  
13 that you only find when you do a long, detailed  
14 engineering.

15 JUDGE GULIN:

16 Thank you, Mr. Smith. We're going  
17 to end it there. And given that the next  
18 cross is listed as two and a half hours,  
19 this would be a propitious time to take a  
20 lunch break. Let's try to keep it to 45  
21 minutes and be back here at 1:00 P.M.

22 Thank you all.

23 (Whereupon the lunch recess began at  
24 12:10 P.M., and the proceedings  
25 reconvened at 1:00 P.M.)

1 JUDGE GULIN:

2 So before we went on the record,  
3 Mr. Smith would like to know if it would  
4 be all right -- Ms. Susan Stevens Miller  
5 has offered him some of her time so he  
6 can continue with his cross examination,  
7 and I want to know if there's any  
8 objection to that.

9 MR. GUILLOT:

10 Your Honor, we object.

11 JUDGE GULIN:

12 Okay.

13 MR. REED:

14 Yeah. We would object too, Your  
15 Honor.

16 JUDGE GULIN:

17 All right.

18 MR. SMITH:

19 Excuse me. Is that an objection?

20 MR. REED:

21 Yes.

22 JUDGE GULIN:

23 Two objections.

24 So based on that, I think I'm going  
25 to have to deny that request. This was

1 an agreed schedule, and I'm going to have  
2 to move on to the cross-examination by  
3 Alliance for Affordable Energy by  
4 Ms. Susan Stevens Miller. I have a  
5 feeling we're going to see some notes  
6 being passed back and forth.

7 Whenever you're ready.

8 MS. MILLER:

9 Thank you, Your Honor.

10 EXAMINATION BY MS. MILLER:

11 Q. Good afternoon, Mr. Long.

12 A. How are you?

13 Q. In your current position, you're  
14 responsible for essentially overseeing  
15 Entergy's entire transmission system for all  
16 the affiliates; is that correct?

17 A. We provide the planning for all the  
18 affiliates, the transmission planning.

19 Q. Could you go into a little more  
20 detail about your specific responsibilities?

21 A. I oversee a group of managers who  
22 have a group of engineers that work for them  
23 who do the planning analysis for each of the  
24 operating companies.

25 Q. Does your team, for want of a better

1 word, actually come up with proposals and  
2 recommendations that they give to each  
3 operating company?

4 A. Yes. We would generally identify  
5 the issues or the needs of the system and then  
6 we would develop the proposals for how to  
7 address those.

8 Q. Now, a number of utilities perform  
9 what they call ten-year plans where essentially  
10 you have a ten-year planning horizon and  
11 analyze what the transmission needs might be  
12 over that ten-year period. Does your team do  
13 something similar to that?

14 A. NERC requires that you plan it for  
15 ten years.

16 Q. What year did you start including  
17 the deactivation of Michoud in your  
18 transmission analysis?

19 A. I believe in 2015, we ran scenarios  
20 with and without Michoud to assess its impact.

21 Q. In your direct testimony at page 5  
22 through 6, you discuss how MISO takes  
23 reliability into account during the unit  
24 commitment process. Can you very basically  
25 describe MISO?



1 A. Basically describe MISO?

2 Q. Yes. What's its role?

3 A. MISO is the regional transmission  
4 operator for the MISO South, which includes the  
5 Entergy operating companies' transmission  
6 systems.

7 Q. And it's a nonprofit that was  
8 essentially created by the Federal Energy  
9 Regulatory Commission to ensure that the  
10 transmission system that's in MISO's service  
11 area all run as an integrated whole; is that  
12 correct?

13 A. I don't know what you mean by  
14 "integrated whole."

15 Q. That the system all works together  
16 regardless of whether it's owned by individual  
17 utilities or not?

18 A. They assess the transmission  
19 performance of the whole system, the whole MISO  
20 system, which includes all of the operating  
21 companies and other transmission owners as  
22 well.

23 Q. Now, in your testimony at page 5 to  
24 6, you say that they take reliability into  
25 account for the unit commitment process. Do

1 they also take reliability into account when  
2 considering the deactivation of a unit?

3 A. Well, the commitment process that  
4 I'm speaking of there is an operating horizon  
5 process, so that's different than what they do.  
6 But they look at deactivations for the first  
7 three years of that ten-year horizon that NERC  
8 requires you to look at. They look at the  
9 first three years and they look at the  
10 violations to some of the pieces or some of the  
11 planning events that are in the NERC TPO  
12 process and, you know, determine if -- Their  
13 process is designed to see can you get by for  
14 three years without the unit while other  
15 improvements are made if they're needed.

16 Q. So when would MISO have begun  
17 renewing the deactivation of the Michoud units,  
18 approximately what year?

19 A. I don't remember what year we  
20 requested them to begin to look at them. It  
21 would have been when we submitted our  
22 Attachment Y request.

23 Q. Can you describe generally what  
24 analysis MISO uses to determine the  
25 deactivations effect on reliability?

1           A.     They do a subset of the TPO type  
2     planning events for the first three years of  
3     the ten-year horizon and then they attribute  
4     any upgrades they identify or any violations  
5     they identify to the unit based on a filtering  
6     process where they filter out some of the --  
7     They basically assign the most attributable  
8     upgrades that the unit deactivation may cause  
9     to that retirement.

10           Q.     So how does MISO determine which  
11     subsets of NERC contingencies they will  
12     examine?

13           A.     I don't know how they decide or how  
14     they choose.

15           Q.     On page 7 of your rebuttal, you  
16     state that, MISO's MTEP '17 report identifies  
17     the P6 contingency. (As read.) Where in the  
18     MISO report does it identify that?

19           A.     What line are you talking about?  
20     Page 7?

21           Q.     Page 7 of your rebuttal, lines 11  
22     and 12.

23           A.     Page 7. Yes, in the MTEP '17  
24     report -- I don't know what page it's on, but  
25     it's in the CEII version of the MTEP '17

1 report. It's in one of the appendixes, but I  
2 don't recall the name of it.

3 Q. I'm going to ask you to look at the  
4 section of the MISO MTEP '17 report.

5 MS. MILLER:

6 May I approach, Your Honor?

7 JUDGE GULIN:

8 Please.

9 MS. MILLER:

10 I labeled this Alliance/350  
11 Exhibit 1.

12 JUDGE GULIN:

13 Okay. We're going to call that  
14 AAE/350 No. 1.

15 EXAMINATION BY MS. MILLER:

16 Q. If you turn to essentially what's  
17 marked as page 87, this shows -- The charts  
18 labeled Table 5.3-7 shows the contingency  
19 evaluated in our no harm analysis; is that  
20 correct?

21 A. Which table?

22 Q. Table 5.3-7.

23 JUDGE GULIN:

24 You've seen this before right,  
25 Mr. Long?

1 MR. CHARLES LONG:

2 I've seen MTEP reports before.

3 JUDGE GULIN:

4 Have you seen this one?

5 MR. CHARLES LONG:

6 This is an excerpt. It's a piece of  
7 the MTEP report. I'm not sure if I've  
8 read this part of the report or not.

9 JUDGE GULIN:

10 Okay. What's the question again,  
11 please?

12 EXAMINATION BY MS. MILLER:

13 Q. The Table 5.3-7, does that show what  
14 contingencies MISO's examined?

15 A. I can't tell from this what portion  
16 of the study they're doing. It does list  
17 contingencies, but I can't tell what this  
18 analysis is --

19 Q. Okay.

20 A. -- from just the table.

21 Q. Below that, they discuss congestion  
22 in the Downstream of Gypsy section; is that  
23 correct?

24 MR. GUILLOT:

25 Your Honor, I'm going to object to

1 the extent that she's going to continue  
2 to ask questions about a document that  
3 the witness just testified that he has  
4 not reviewed.

5 MS. MILLER:

6 Your Honor, he cited the MTEP '17  
7 study in his comments. This is part of  
8 the MTEP '17 study. I'm going to ask him  
9 a question about one paragraph. He can  
10 either answer it or he can't.

11 JUDGE GULIN:

12 Okay. I'll allow you to do that. I  
13 haven't offered it into evidence and I  
14 haven't made any decision as to whether  
15 it's going into evidence and under what  
16 circumstances.

17 But you can continue.

18 EXAMINATION BY MS. MILLER:

19 Q. If you want to read from where it  
20 starts -- where it's labeled DSG on page 87  
21 through the -- just above the map on page 88  
22 and let me know when you're done.

23 A. I did read that just now. That  
24 section describes the -- or just states that  
25 there's congestion in the Amite South and DSG

1 region. That's, you know, for import  
2 limitations of the transmission system into the  
3 area and it's limited economic generation  
4 resources available in the load pockets.

5 THE COURT REPORTER:

6 Say the last part again.

7 MR. CHARLES LONG:

8 They discuss congestion in Amite  
9 South and they talk about the import  
10 limitations into -- of the transmission  
11 system and the limited economic  
12 generation resources available inside the  
13 Amite South and DSG load pockets.

14 EXAMINATION BY MS. MILLER:

15 Q. And their conclusion, which is just  
16 above the map there, says that there are  
17 transmission expansions or the transmission  
18 expansions that they approve led to a reduction  
19 in congestion in this DSG and the remaining  
20 congestion in the area is not sufficient to  
21 justify robust and cost effective transmission  
22 solutions. (As read.)

23 Is that a correct reading of what  
24 their conclusion was?

25 A. Yeah. They're broadly talking about

1 DSG in general. There are some projects that  
2 are occurring on the western side of the DSG  
3 interface into this area. So they're talking  
4 about some improvements that are either  
5 underway or planned that will help import more  
6 power into DSG.

7 I'll point out, though, that this is  
8 not the same area. While New Orleans is within  
9 DSG, the area that we're concerned about with  
10 this case and where we site the generator is on  
11 the eastern side of DSG and the projects that  
12 we have ongoing on the other side, they're  
13 constructible. We can get outages over there  
14 on the western side. Over here, we can't.

15 But this appears to refer -- And,  
16 again, this is only a couple of pages of the  
17 report and I haven't read the preceding or  
18 other pages, but it looks like they're just  
19 saying there's congestion in the area. There's  
20 transmission improvements in the DSG area.

21 And I'll also point out that our  
22 corrective action plan is, you know, part of  
23 the company's plans to mitigate this is  
24 additional capacity of Michoud, dispatchable  
25 capacity. So from a long-term planning



1 perspective, that's part of the corrective  
2 action plan.

3 MR. GUILLOT:

4 Your Honor, I just want to make a  
5 continuing objection. I believe the  
6 witness should be allowed to see the  
7 pages that come before this and the pages  
8 that, you know, follow it.

9 MS. MILLER:

10 Your Honor, I'm done asking him  
11 questions, but it's a 400-page report on  
12 transmission planning in MISO that he  
13 referenced in his testimony.

14 JUDGE GULIN:

15 And you're not offering it into  
16 evidence; right?

17 MS. MILLER:

18 No, sir.

19 JUDGE GULIN:

20 Okay. You can continue.

21 EXAMINATION BY MS. MILLER:

22 Q. What date did the Michoud units  
23 retire?

24 A. I believe it was June of 2016.

25 Q. Were you involved or your office

1 involved in evaluating the reliability impacts  
2 of retiring those units?

3 A. We evaluated the transmission  
4 reliability impacts, yes.

5 Q. At what point prior to the actual  
6 deactivation would the transmission planning  
7 division have begun its analysis?

8 A. We would have began, I believe, in  
9 2015, early in 2015, perhaps late 2014 subject  
10 to check. I don't remember exactly, but it  
11 would have been around that time we would have  
12 started to review with and without Michoud.

13 Q. Can you discuss generally what type  
14 of analysis you would have performed to  
15 determine the effect of the deactivation?

16 A. We would have performed the NERC  
17 reliability analysis and developed corrective  
18 action plans for whatever violations  
19 identified. I think in 2016 -- by 2016, the  
20 corrective action plan was to replace some of  
21 the capacity that we had lost at Michoud.

22 JUDGE GULIN:

23 Just for clarification of the  
24 record -- I'm probably talking mostly to  
25 Ms. Hand here -- the chart should reflect

1           that that Exhibit No. 1 was not offered  
2           for any purpose.

3           EXAMINATION BY MS. MILLER:

4           Q.     Did you provide the results of this  
5           analysis to ENO or Entergy New Orleans?

6           A.     Which analysis?

7           Q.     The analysis that you did where you  
8           started looking at the reliability effects of  
9           the deactivation.

10          A.     We would have provided the results  
11          of the analysis.

12          Q.     What date did you provide that  
13          analysis to ENO?

14          A.     I don't know. It would be reflected  
15          at some point in our assessments that we do for  
16          NERC reliability. That would be the primary  
17          place.

18          Q.     Did that analysis include any  
19          recommendations to ENO?

20          A.     I think all along the analysis  
21          suggested that the transmission upgrades were  
22          going to be overwhelming and that a much  
23          simpler and effective option would be to  
24          replace -- at that time, I think back then, we  
25          were in the 250 megawatt range for a generator,

1 a local generator. So I think that what --  
2 early on, that's what we would have  
3 recommended, that we include 250 megawatts  
4 probably of capacity at Michoud.

5 Q. Is that analysis a part of the  
6 record in this case as far as you're aware?

7 A. I believe we provided the  
8 assessments that we do, the reliability  
9 assessments, and it would have been reflected  
10 in that.

11 Q. You also conduct annual reliability  
12 assessments for ENO; is that correct?

13 A. That's what I referred to just now.

14 Q. That's the annual reliability  
15 assessment that you were referring to.

16 So around 2015 is when the  
17 transmission planning division essentially  
18 recommended generation at Michoud; is that  
19 correct?

20 A. I don't know when the specific  
21 recommendation was made. I know the analysis  
22 was done largely in 2015 to look at with and  
23 without Michoud.

24 Q. And when did you start including the  
25 NOPS in your plans with MISO and NERC then?

1           A.     I believe that would have been 2016.

2           Q.     So you included the NOPS in these  
3 plans prior to seeking City Council approval  
4 for the construction of NOPS?

5           A.     We did, yes.  You know, it's -- As a  
6 transmission planner -- and I've spent my  
7 career building transmission lines -- so as a  
8 transmission planner, far and away the best  
9 choice is to replace the generation you lose.  
10 A generator there unloads all the transmission  
11 lines, not just the ones that we need to  
12 upgrade.  It's not a very elegant solution for  
13 the reliability issues that we face there.

14          Q.     In those reliability analyses where  
15 you assumed the new capacity, did you also run  
16 the analysis without that capacity?

17          A.     In 2015, we looked at with and  
18 without Michoud.  In 2016, we identified the  
19 need for replacing some of Michoud capacity and  
20 it was part of the base case assumptions that  
21 we made from that point forward.

22          Q.     In your supplemental testimony at  
23 page 7 --

24                 MR. GUILLOT:

25                         Of what, Counsel?

1 MS. MILLER:

2 Supplemental testimony.

3 MR. EDWARDS:

4 What page, Counsel?

5 MS. MILLER:

6 Seven.

7 MR. EDWARDS:

8 Thank you.

9 MR. CHARLES LONG:

10 Okay.

11 EXAMINATION BY MS. MILLER:

12 Q. You list how many generation  
13 shortfalls have occurred since the  
14 deactivations of the plant. How does this  
15 relate to the number that occurred prior to the  
16 retirement, say, 2013 or 2014?

17 A. The ones in DSG which would -- of  
18 course, this is the eastern piece of DSG --  
19 they've increased. After Michoud retired, they  
20 certainly increased. The generation, the load  
21 shed notices increased in DSG and it was  
22 because of Michoud. That was the primary cause  
23 of the increase.

24 Q. Is that -- Is it in the record  
25 what -- how many generation shortfalls occurred

1 in 2013 and 2014?

2 A. No. I don't think we provided  
3 earlier ones. I just know from monitoring  
4 things that they have gotten worse.

5 Q. The company, Entergy, is required to  
6 maintain the plant to ensure compliance with  
7 NERC reliability; is that correct?

8 A. I'm sorry. Repeat the first part.

9 Q. Entergy is required to maintain a  
10 plan to ensure compliance with NERC  
11 reliability; correct?

12 A. We are required to comply with the  
13 reliability standards, yes. They're subject to  
14 fine if we don't. I mean, we could pay the  
15 fines, but it wouldn't make a lot of sense to  
16 do that, so, yeah.

17 Q. Okay. Do you know, what was the  
18 first year that the NOPS plant was included in  
19 the plan to ensure NERC compliance?

20 A. 2016, the same year we -- Those  
21 assessments that we do, that's what they're  
22 for, NERC compliance.

23 Q. Well, what company, such as Entergy,  
24 includes in this compliance plan is the choice  
25 of the company; correct? NERC and MISO don't

1 tell you what to include in your compliance  
2 plan?

3 A. No. They don't select the projects  
4 for you. They will, however, require that you  
5 make good faith efforts to implement those  
6 plans and you would be -- I would not want to  
7 go into an audit with a plan I didn't think I  
8 could implement. I would want to make sure  
9 that it was something that reasonable people in  
10 my profession would agree is something that  
11 would alleviate the issues and be attainable.

12 Q. Now, if you don't get permission to  
13 build either of the NOPS plants, you would have  
14 to essentially reassess the plan that you  
15 provided to NERC; isn't that correct?

16 A. If we did not get permission to  
17 build a dispatchable resource, then we would  
18 begin alternative plans. I would not sleep  
19 very well, but we would begin that planning  
20 process and we would identify what was  
21 necessary to do it without dispatchable  
22 resource.

23 We've talked about this, and I think  
24 you're multiple years beyond the in-service  
25 date of NOPS to get transmission upgrades done,



1 if they're possible at all. And for that  
2 entire time, you have the risk that you have  
3 today and getting worse, and while you try to  
4 do those upgrades, you take a lot of risk  
5 during the outages to do the upgrades.

6 Q. Now, one of the reasons that you  
7 would be behind by so many years is because  
8 your planning constantly assumed the approval  
9 of the NOPS; isn't that correct?

10 A. Well, yes. You have to make  
11 assumptions when you do plans, and the most  
12 reasonable assumption, because it was the most  
13 effective solution, was to replace some of the  
14 capacity that was lost at Michoud when it --  
15 you know, when it failed. So, yeah, from that  
16 point forward, we -- we add -- replaced  
17 capacity in the plan at Michoud. It varied in  
18 size from 250 down to what's 128, I think we're  
19 talking about today. But that was the best way  
20 to meet the need.

21 Q. In pages 6 through 7 of your direct  
22 testimony, you state that without NOPS, the  
23 alternative plan would involve transmission  
24 upgrades. And then you go on to state that  
25 construction of all new transmission facilities

1 would be required. (As read.)

2 Well, transmission upgrades and new  
3 transmission facilities are two separate  
4 concepts, aren't they?

5 A. Well, what I mean here is anything  
6 that we replace would be new, so we put new  
7 poles up and new wire, that would be new, but I  
8 suspect that if we were to attempt to do the  
9 transmission upgrades, we would -- as we got to  
10 the time when we needed to take outages, those  
11 outages would be denied and then we would have  
12 to then alternatively look for new paths for  
13 new transmission into the city.

14 So I use the term interchangeably  
15 probably where talking about new lines or  
16 upgrades to lines. Upgraded lines include new  
17 equipment, but also new lines that are likely  
18 to be part of this solution if we tried to do  
19 this. I just don't think we'll get the outages  
20 that we need.

21 The outages that are required to do  
22 this type of upgrade, where our -- we need them  
23 out for a long time. It's not just a few days  
24 or a few hours. It would span many months over  
25 many peak hours and you have to be able to

1 withstand that risk of having them out while  
2 you do that, and I don't see that as a viable  
3 plan to get from here to there reliably. Once  
4 we got there, then we got there, but getting  
5 from here to there, I just don't see a path.

6 Q. Did you or someone else at ENO model  
7 the alternative for a new upgrade in  
8 transmission from either a transmission or an  
9 economic perspective or both?

10 A. I'm sorry. Say again.

11 Q. Sure. Did you or someone else at  
12 your division model the alternative for a new  
13 upgrade or a new transmission line from  
14 either -- for lines from either a transmission  
15 or an economic perspective or both?

16 A. We modeled the upgrades that we  
17 identified as necessary and then re-ran the  
18 analysis to ensure that those upgrades took  
19 care of the NERC violations.

20 Q. What is the age of the transmission  
21 lines that would have to be upgraded or  
22 replaced?

23 A. I don't know how old each of the  
24 lines are. They last a long, long, long time,  
25 but I don't know how old they are. I just

1 don't know.

2 Q. On page 7 of your direct testimony  
3 at Footnote 3, you state that Entergy  
4 Louisiana's St. Charles Power Station was  
5 factored into your compliance plan. I believe  
6 Entergy New Orleans has approximately eight  
7 other generating stations that are in its IRP  
8 over the next ten years. Were any of those  
9 factored into your compliance plans?

10 A. We include all the generation that's  
11 reasonably expected to be built. I don't know  
12 what plans are in the IRP. I know Louisiana's  
13 got St. Charles Power Station, Lake Charles  
14 Power Station, WPEC, which is up in -- across  
15 the lake. Those were included. I don't know  
16 about the other plants. They probably are in  
17 various stages of firmness. We wouldn't model  
18 those until we felt like they were going to  
19 happen.

20 Q. But the two you just mentioned are  
21 the other two that you recall were included in  
22 the model?

23 A. Yeah. We add the Washington Parish  
24 and the Lake Charles and St. Charles in the  
25 plan, in the analysis. Similarly to NOPS, you

1 know, for similar reasons.

2 Q. On page 13 of your supplemental  
3 testimony, you state that the company could  
4 construct transmission upgrades to comply with  
5 NERC reliability standards; is that correct?

6 A. Show me where I say that.

7 Q. On page 13.

8 A. What line?

9 Q. I have to find it.

10 MR. GUILLOT:

11 Which one are we in, Susan?

12 MS. MILLER:

13 Supplemental.

14 EXAMINATION BY MS. MILLER:

15 Q. Lines 4 through 5.

16 A. Yeah. What I see there is if we  
17 don't add local generation, then we would be  
18 required to come up with an alternate plan,  
19 which would be the plan, fund, and construct  
20 transmission upgrades. We would be required to  
21 do that. That would be our plan. Whether we  
22 could implement that plan is a different story,  
23 but that would -- we would have no other  
24 alternative but to do that.

25 Q. I believe you stated several times

1 that in order to get detailed estimates, you  
2 have to spend a significant amount of time and  
3 money doing preliminary engineering, surveying,  
4 and things of that nature. Is that a correct  
5 statement?

6 A. To refine the cost estimates, we  
7 would need to do that, and then to plan the  
8 work would take many months, nine months, a  
9 year for each of the upgrades to go out and  
10 make a plan. You would make a plan. Then when  
11 you got two or three or four years down the  
12 road, when you were ready to take the outage,  
13 only then would you find out if that plan is  
14 viable. You can't predict years in advance  
15 whether you're going to be able to take outages  
16 on the facilities and when you can get them.

17 Generally what we have to do if  
18 we're going to take something out that's really  
19 heavily loaded, let's say we need a line out  
20 for a year, we would take it out for a month in  
21 the fall and then a month in the spring in the  
22 first years. Then the next year, we'll do a  
23 little more, a month in the fall, a month in  
24 the spring, or a couple of months. So it can  
25 take many, many years. Even though you need

1 12 months, it can take many years to get those  
2 12 months of outages because you can only do it  
3 at the lowest load times.

4 Q. On page 17 of your supplemental  
5 testimony, I believe you state that the company  
6 has not conducted detailed planning level cost  
7 estimates for the transmission upgrades  
8 identified because these upgrades will not be  
9 necessary if NOPS option is constructed; is  
10 that correct?

11 A. That's correct. It would not make  
12 sense to go spend the time and money to develop  
13 estimates if NOPS is the choice.

14 Q. So your division chose not to fully  
15 evaluate the transmission alternative; is that  
16 correct?

17 A. We evaluated the alternatives to the  
18 extent necessary to determine that we didn't  
19 think it was a feasible plan to implement. We  
20 also used some broad assumptions on costs,  
21 which are minimal, and once detailed  
22 engineering is done on those projects, I would  
23 expect that cost to go up, but I put what we  
24 use as a baseline in there. And so it's not  
25 that we didn't want to do the estimate. It

1 just doesn't make any sense to do it if it's  
2 the wrong upgrade or the wrong way to approach  
3 this issue.

4 Q. The broad estimate you were  
5 referring to, is that the 57 million?

6 A. Yes.

7 Q. On page 22 of your supplemental  
8 testimony, focusing on your discussion of the  
9 failure of the circuit breaker at Nine Mile,  
10 your description is that the failure of the  
11 circuit breaker was identified by MISO as a  
12 critical contingency during the retirement of  
13 Unit 3; is that correct?

14 A. Yes. MISO identified that during  
15 the Attachment Y process.

16 JUDGE GULIN:

17 Ms. Miller --

18 MS. MILLER:

19 Yes.

20 JUDGE GULIN:

21 -- when you tend to read out of an  
22 existing document, you tend to speed up,  
23 and I understand why that's intuitive to  
24 do that, but the court reporter doesn't  
25 have that document in front of her.



1 MS. MILLER:

2 I'll try to read a little bit  
3 better.

4 JUDGE GULIN:

5 Thank you.

6 EXAMINATION BY MS. MILLER:

7 Q. And the breaker is now operated only  
8 when a breaker failure event could produce a  
9 reliability issue; is that correct?

10 A. That breaker is part of a bigger  
11 system at Nine Mile where we have other systems  
12 interconnected to that. That particular  
13 breaker is open, left open, which degrades the  
14 system reliability in that area. It doesn't  
15 degrade it as much as operating with it closed  
16 does. There are bigger risks with operating  
17 with it closed than operating with it open so  
18 we chose to open it. And that is a temporary  
19 get us by until we can fully eliminate the  
20 issues, which is -- as we said, you know, it's  
21 replacing the capacity. But it's operated open  
22 all the time right now.

23 Q. And this temporary solution will  
24 have been going on for at least three years,  
25 assuming that the timeline for construction is

1 met. Has ENO analyzed any other solutions to  
2 solve this specific issue?

3 A. To solve the breaker failure issue?

4 Q. Yes.

5 A. It would be the transmission  
6 upgrades that we don't think we can accomplish.  
7 That would be what you would have to do. You  
8 would have to go do the upgrades if you don't  
9 build NOPS.

10 Q. In your supplemental testimony at  
11 page 29, you state that, Provided the  
12 distribution system is sufficiently robust to  
13 service a load, the ability to black start  
14 enables the company to restore power; however,  
15 the current distribution system for ENO is not  
16 robust; isn't that correct? (As read.)

17 A. I don't agree with that. When I  
18 talk about robustness here, I talk about if you  
19 have some distribution facilities and customers  
20 ready to accept power, that the RICE units can  
21 black start and provide that and some of that  
22 may be critical loads, which is what we focus  
23 on first in a restoration. So while a  
24 distribution system is certainly impacted by a  
25 storm, there are facilities that remain

1 available to be served and then we focus on the  
2 critical ones first.

3 Q. But ENO is currently having a  
4 significant problem with the distribution  
5 system even on fair weather days, isn't it?

6 A. It's important to understand the  
7 difference between distribution outages to  
8 happen to a few customers in a neighborhood or  
9 on one small feeder with what we're talking  
10 about the risk is for transmission outages.  
11 There are distribution outages all the time in  
12 any distribution system.

13 The systems are -- That's just  
14 they're in neighborhoods and there's trees over  
15 the top of them and all that, but the outages  
16 that we could experience on the transmission  
17 system would outage thousands of customers at  
18 the same time and without warning. And so  
19 there are distribution outages, but the outages  
20 that can be caused by the transmission issues  
21 that we talk about are far, far greater than  
22 that.

23 Q. Well, my question goes to your  
24 comment that the distribution system was  
25 robust, and essentially I think that the City

1 Council has actually ordered a proceeding to  
2 examine ENO's distribution system and is  
3 considering penalties to ENO for its  
4 distribution system.

5 MR. GUILLOT:

6 Your Honor, I object. Counsel is  
7 testifying.

8 JUDGE GULIN:

9 Make that a question.

10 EXAMINATION BY MS. MILLER:

11 Q. Isn't the City Council currently  
12 instituting a proceeding to examine ENO's  
13 distribution system and the problems associated  
14 with that and considering instituting a penalty  
15 against ENO?

16 A. I don't know. What I talk about  
17 here is specific to storm restoration. It's  
18 not daily operations on the distribution  
19 system. What I speak to here is that if there  
20 were connections to critical loads on the  
21 distribution system, the RICE units can black  
22 start and serve those loads.

23 Q. But how likely is it if you can't  
24 keep people connected to the distribution  
25 system when there aren't weather events that

1 you can keep them connected during?

2 A. We keep them connected during every  
3 weather event, some loads connected. Some go  
4 out. Some are connected, you know. During  
5 hurricanes even, some stay connected.

6 Q. Back to your direct testimony on  
7 page 13. You discuss the different hurricanes  
8 that have occurred in New Orleans over the  
9 years. Has Entergy modeled how likely the  
10 scenario is that you-all could experience  
11 significant transmission damage from a storm  
12 event, but that no damage would occur to a  
13 generator that is situated in a critical flood  
14 zone?

15 A. Could we --

16 Q. You want me to do it again?

17 A. Please.

18 Q. Okay. Has Entergy modeled how  
19 likely the scenario would be that New Orleans  
20 would experience significant transmission  
21 damage caused by a storm event, but that no  
22 damage would occur to a generator that is  
23 situated in a critical flood zone? Essentially  
24 did you do a model of that?

25 A. We don't model hurricanes. There's

1 just no way to predict what that's going to  
2 look like. I think what I'm saying here is the  
3 footprint of NOPS is a very small footprint.  
4 The footprint of the transmission system that  
5 feeds the city is enormous in comparison. It's  
6 hundreds of miles of exposed to the elements,  
7 transmission elements. So it is certainly  
8 possible that given storm paths, you could have  
9 significant damage to transmission between,  
10 say, New Orleans and Baton Rouge where all the  
11 imports come from, but the Michoud area not  
12 have damage, you know, the Michoud generator  
13 run fine.

14 Q. Wouldn't the availability of a NOPS  
15 unit to serve the citizens of New Orleans after  
16 a storm depend on a variety of factors, such as  
17 the availability of natural gas?

18 A. Well, you would need fuel in the  
19 generator to run the generator. That's true.

20 Q. And wouldn't it also depend upon the  
21 conditions of the substations in the vicinity  
22 of the NOPS plant?

23 A. For NOPS to run?

24 Q. Yes, or for NOPS to get power to  
25 people?

1           A.    Well, for -- Whatever loads are  
2 served have to be connected to the system. I'm  
3 not sure I understand your question.

4           Q.    Well, the ultimate availability of a  
5 NOPS unit to serve the citizens of New Orleans  
6 depends on the sub -- conditions of the  
7 substations in the vicinity of the NOPS power  
8 plant; is that correct?

9           A.    Not -- If one path exists from NOPS  
10 to a load, you can serve that load. If three  
11 paths exist, you can serve three paths. It  
12 just depends. But if there are outages to --  
13 on those paths, some paths can be out, some  
14 paths can be in, so, I mean, the amount of load  
15 you can serve is certainly impacted by how  
16 severe the damage is.

17          Q.    On page 30 of your rebuttal  
18 testimony, you discuss Hurricane Isaac. You  
19 state that what happened during Hurricane --

20          A.    I'm sorry. Give me just one second.

21          Q.    I'm sorry.

22          A.    Page 30 of rebuttal?

23          Q.    Page 30 of rebuttal.

24          A.    Yes.

25          Q.    And you state essentially that What

1 happened during Hurricane Isaac demonstrated  
2 that the levees' improvements have been tested.  
3 (As read.)

4 Is that a correct summary of your  
5 statement?

6 A. I think what we say is that the  
7 improvements that have been made to the levee  
8 systems in that area have decreased the  
9 likelihood of flooding.

10 Q. But Hurricane Isaac did not actually  
11 hit New Orleans directly, did it?

12 A. I don't remember the direct path of  
13 Isaac. I don't -- I don't know.

14 Q. Did your office develop a timeline  
15 for how long the transmission upgrade  
16 alternatives to NOPS would take, just  
17 estimates?

18 A. We've talked at a high level about  
19 how long they would take. Again, to -- You  
20 wouldn't know until you got done how long they  
21 took because you're not going to be able to  
22 make a -- you're not going to be able to plan  
23 everything in advance, but we have talked in  
24 general about how long they would take and, you  
25 know, I think it's going to be eight to ten



1 years probably before we finished all the  
2 transmission upgrades.

3 Q. Now, any transmission alternative  
4 upgrade plan would be a series of transmission  
5 upgrades. So what would be the possible  
6 expected effect on a P6 contingency as each  
7 upgrade was completed in terms of the  
8 probability of a P6 occurring?

9 A. Well, while you take the outage, the  
10 possibility of a P6 event is a hundred percent  
11 because you have one line out already. So  
12 you're already -- MISO is required to operate  
13 as if the next contingency has occurred. So if  
14 you take one out for maintenance or  
15 reconstruction or whatever it is, MISO assumes  
16 and operates as if the next line is open, too.

17 So what I was trying to say about  
18 the upgrades, why they're just so difficult to  
19 do, is when you take that line out, when you  
20 take any of these lines out for upgrade, you're  
21 going to be exposed to that P6 risk, which --  
22 for all of those periods, and, yes, you have to  
23 do one and then when that one's done, go do the  
24 other and then when that one's done, go do the  
25 other until you're done.

1 Q. On page 20 of your rebuttal --

2 A. Yes.

3 Q. -- you state you did a preliminary  
4 analysis with regard to volume service to the  
5 Sewerage and Water Board?

6 A. Yes.

7 Q. When did you start that preliminary  
8 analysis?

9 A. I don't remember when we started.  
10 It's been in the last few months, though.

11 Q. Was it prior to the advisors filing  
12 their testimony on November 20th?

13 A. It was probably prior to that, yeah.  
14 I think so.

15 Q. How much would a full analysis cost?

16 A. I have no idea how much a full  
17 analysis would cost. I think to do a full  
18 analysis, we would need to work on some of the  
19 details with that -- This is HSPM. Is that  
20 okay?

21 MR. GUILLOT:

22 We need to clear the room. If you  
23 want an answer to that question, we'll  
24 just clear the room and --

25 JUDGE GULIN:

1 I think he's answered the question.  
2 He doesn't know how much it would cost.  
3 Let's move on.

4 EXAMINATION BY MS. MILLER:

5 Q. Do you know how long such a full  
6 analysis would take?

7 A. It's hard to say without working  
8 with them directly.

9 Q. How long is the cranking path from  
10 Michoud to the Sewerage & Water Board?

11 A. I'm not sure how far it is. The --  
12 And this is CEII.

13 JUDGE GULIN:

14 What you can do is if you have an  
15 issue with confidential information, you  
16 can just look at me and say, "Can we go  
17 off the record," and then we can have a  
18 discussion. Okay?

19 Let's go back to the original  
20 question. What was the question?

21 MS. MILLER:

22 How long would the cranking path be  
23 from Michoud to the Sewerage & Water  
24 Board?

25 JUDGE GULIN:

1           In order to answer that question, do  
2           we need to go into confidential session?

3           MR. CHARLES LONG:

4           No. I don't know.

5           MR. GUILLOT:

6           I think, Your Honor, if the witness  
7           does have an explanation that needs to  
8           get into CEII, I think he should be  
9           allowed -- unfortunately, I'm sorry about  
10          that, but I would submit that he should  
11          be allowed to explain.

12          THE COURT REPORTER:

13          Will you speak into the microphone,  
14          Brian?

15          MR. GUILLOT:

16          Sorry. I'm very sorry about this,  
17          Your Honor, but I think if the witness  
18          needs to provide an explanation that  
19          contains CEII information, that he should  
20          be given an opportunity to do that.

21          JUDGE GULIN:

22          I fully agree if it's responsive to  
23          the question. He didn't seem to think  
24          any further explanation would be  
25          responsive to the question.

1                   Did you need to -- a further  
2                   explanation?

3                   MR. CHARLES LONG:

4                   I could draw a comparison to another  
5                   facility to explain it further. I  
6                   answered the question, but I could  
7                   explain it further by drawing a  
8                   comparison.

9                   JUDGE GULIN:

10                  Do you want him to explain it  
11                  further?

12                  MS. MILLER:

13                  He said he doesn't know. If he  
14                  doesn't know, he doesn't know.

15                  JUDGE GULIN:

16                  Okay. Next question.

17                  EXAMINATION BY MS. MILLER:

18                  Q. Did Entergy look at whether Nine  
19                  Mile would be a better choice to provide  
20                  service to the Sewerage & Water Board?

21                  MR. CHARLES LONG:

22                  Okay. Now we need to go off the  
23                  record.

24                  MR. GUILLOT:

25                  Here we go again.

1 MR. CHARLES LONG:

2 We may need to go off the record now  
3 to talk about this.

4 JUDGE GULIN:

5 Okay. I have to ask everyone who  
6 has not signed the appropriate  
7 agreements, please leave the room. We  
8 will notify you when you can come back  
9 into the room. That applies to counsel  
10 and everyone else. Thank you.

11 MS. HARDY:

12 Your Honor, would you mind  
13 clarifying which confidentiality?

14 JUDGE GULIN:

15 Which agreement?

16 MR. CHARLES LONG:

17 CEII.

18 MR. GUILLOT:

19 CEII.

20 JUDGE GULIN:

21 CEII. It's the higher level.

22 And this part of the transcript  
23 until further notice will be segregated.

24 All right. Do you want the question  
25 repeated?

1 MS. MILLER:

2 May I suggest we go back a couple of  
3 questions because I think there were a  
4 couple of questions that he was hesitant  
5 to ask [sic] because it might be CEII?  
6 If his answers are the same, that's fine.

7 MR. CHARLES LONG:

8 Where I was going to go was where  
9 you were already going, so I think it  
10 will answer it.

11 MS. MILLER:

12 Okay.

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JUDGE GULIN:

Do you think you might have any  
other questions requiring --

MS. MILLER:

No. I think that's all my questions  
about the Sewerage & Water Board.

JUDGE GULIN:

Okay. Please bring in the people  
that left. And that will end the session  
of the transcript that's to be segregated  
and sealed.

(Whereupon a pause occurred in the  
proceedings.)

JUDGE GULIN:

Thank you.

EXAMINATION BY MS. MILLER:



1 Q. Did Entergy study the feasibility of  
2 combining some minimum amount of bulk battery  
3 storage at the site in order to help resolve  
4 some of the problems or some of the concerns  
5 regarding reliability?

6 A. Some what battery storage?

7 Q. Bulk battery storage.

8 A. Oh, bulk. I'm sorry.

9 We did not explore batteries as part  
10 of the solution because we needed dispatchable  
11 resource. And batteries -- first of all, they  
12 have to be charged and you have to use the  
13 system to charge them and they -- you use more  
14 energy to charge them then they return to the  
15 system. And then when they do return to the  
16 system, they only can discharge for a few  
17 hours. So they're just not -- They're not a  
18 dispatchable resource like NOPS where we can  
19 turn it on and run it for whatever hours we  
20 need it.

21 Q. So you didn't examine what other  
22 utilities are doing with regard to bulk battery  
23 storage such as how California added  
24 70 megawatts of battery storage in six months  
25 when Aliso Canyon went out?

1           A.    We did not study what other  
2 utilities were doing in terms of how it related  
3 to our needs.  We did our own analysis,  
4 performed our own assessments, and battery  
5 storage is just not -- because of its  
6 intermittency, it's not going to solve our  
7 reliability problems.

8           Q.    But you didn't actually study  
9 battery storage?

10          A.    Well, I know if a generator can only  
11 make power for four -- or a battery can make  
12 power for four hours and I have an outage  
13 longer than four hours, that it won't work, and  
14 I routinely have outages much longer than four  
15 hours.

16          Q.    So it's your assumption that bulk  
17 batteries can only make power for four hours?

18          A.    You can continue to add batteries  
19 and stack them and stack them and stack them  
20 and get more, but the cost is obviously going  
21 to go very high for that.  I think -- And I  
22 think there was some battery storage from an  
23 economic perspective done, some economic  
24 analysis done you can talk to Mr. Cureington  
25 about, but, again, from a technical

1 perspective, it is not a solution that I'm  
2 willing to count on for reliability.

3 Q. Did you analyze or assess whether  
4 there was some combination of dynamic voltage  
5 support, additional DSM, solar and battery  
6 storage, and some combination at or downstream  
7 of the units that would reduce the amount of  
8 transmission enforcement that would be needed?

9 A. I don't remember the beginning part  
10 of what you said. I'm sorry. I don't do well  
11 with these long, long ones.

12 Q. No. No problem.

13 Did you analyze or assess whether  
14 there was some combination of dynamic voltage  
15 support, additional DSM, solar and battery  
16 storage, and some combination at or downstream  
17 of the units that would reduce the amount of  
18 transmission reinforcement that would be  
19 needed?

20 A. Well, we looked at the advisor stuff  
21 where we looked at DSM and solar. As I said,  
22 we didn't look at batteries because it's not  
23 technically a feasible solution. But did we  
24 look at combination of that? No, we didn't,  
25 and the reason we would not is solar is

1 intermittent. It only makes energy when the  
2 sun's shining and we need it all the time.

3 We have -- You know, DSM is -- there  
4 are goals, but there's no way to guarantee that  
5 we will attain those goals.

6 And then -- So they're all -- None  
7 of them are sure bets. They're all speculative  
8 and they don't guarantee that I'll be able to  
9 produce energy at that location when I need it.

10 Q. Now, when you talk about DSM, you  
11 seem to only be referring to energy efficiency;  
12 is that correct?

13 A. I'm talking about anything that we  
14 can't count on directly to produce load that's  
15 attainable.

16 Q. But aren't there DSM programs that  
17 essentially the utility controls, say, a  
18 residential customer's air-conditioning unit so  
19 they control when it goes on and off?

20 A. If those customers agree to that,  
21 that's the part that we don't know. I mean,  
22 you know, it's tough to get somebody to do  
23 without something, and sometimes people sign up  
24 to do without and then when you actually do  
25 without, it's not what they thought it was.

1 So, again, it's not something I can count on  
2 because it's not a guarantee.

3 Q. Did you analyze the minimum amount  
4 of megawatts needed to meet the most pressing  
5 reliability contingencies?

6 A. Well, we have to mitigate all the  
7 reliability issues, not just the most pressing  
8 ones. All of them. And the 128 unit gets rid  
9 of almost all of them. There's one upgrade  
10 still in 2027 and we've compromised on that  
11 point. And, you know, again, as a transmission  
12 guy, I would rather see a bigger unit to get  
13 rid of all of it. But given that it's in 2027,  
14 the 120 -- we would not want to go lower than  
15 128 because that really isn't enough. It's  
16 enough to make us feel okay about waiting a  
17 couple of years to see what happens, but I  
18 would submit that 128 is the minimum. I would  
19 be uncomfortable with anything smaller.

20 Q. But my understanding is that the  
21 lowest that you actually looked at was a  
22 hundred and ten megawatts; isn't that correct?

23 A. Yeah. And there were still  
24 overloads at a hundred and ten as well. We  
25 need more than 110.

1 MS. MILLER:

2 Your Honor, I want to apologize.  
3 Based on some of Mr. Long's problems --  
4 I'm sorry. Based on some of Mr. Long's  
5 answers, there are followup questions  
6 that I discovered I don't need to ask so  
7 I'm afraid I'm done.

8 JUDGE GULIN:

9 Okay. That's fine.

10 Let's see. The next cross is  
11 scheduled for 45 minute by Air Products.  
12 Would y'all like to take a break now or  
13 wait till 45 minutes?

14 MR. EDWARDS:

15 I'd like to take a break now since  
16 I'm the one that's going to ask the  
17 questions. It's 45 minutes, not a  
18 25-minute schedule.

19 JUDGE GULIN:

20 No. I said 45.

21 Okay. We'll take a ten-minute  
22 break.

23 MR. EDWARDS:

24 Thank you.

25 (Whereupon a recess was taken.)

1 JUDGE GULIN:

2 Back on the record. Please take  
3 your seats.

4 And Mr. Edwards.

5 EXAMINATION BY MR. EDWARDS:

6 Q. Good afternoon, Mr. Moore [sic]. My  
7 name is Lanny Edwards, and I represent Air  
8 Products, one of your larger customers.

9 If you would -- I think we can save  
10 a little time if you would turn to your  
11 supplemental testimony and read to yourself  
12 page 11, particularly lines 4 through 14.

13 A. Okay.

14 Q. Thank you, sir.

15 Do I understand correctly based  
16 thereon that if the hundred and twenty-eight  
17 megawatt alternate peaker is constructed, you  
18 believe that the reliability concerns would be  
19 largely taken care of until about 2027? Is  
20 that correct?

21 A. At this point, the only thing we see  
22 is a transmission upgrade at 2027. So the  
23 128 megawatt unit is barely good enough to get  
24 us there. Yeah.

25 Q. Okay. And do I understand your

1 testimony that it is your recommendation that  
2 if the alternate peaker is constructed, it  
3 would be appropriate to wait and see ten years  
4 into the future whether or not additional  
5 transmission upgrades are necessary?

6 A. That's correct. If we -- Since it's  
7 ten years out that we see the need, we can wait  
8 to see if it continues to show up as we move  
9 forward.

10 Q. So if this system goes into place in  
11 2019, 2020, then you're actually looking at  
12 2030?

13 A. No.

14 Q. No?

15 A. No. It would be 2027, a hard date  
16 of 2027.

17 Q. No problem. Thank you.

18 And that analysis is based on the  
19 sort of a marker that you looked at at the  
20 hundred and ten megawatt unit instead of a  
21 hundred and twenty-eight; right?

22 A. Right. It's important to note, too,  
23 that when we were doing these original  
24 assessments, we were just using some generic  
25 numbers. We didn't know details.



1           Given that the RICE unit actually is  
2 seven individual units, it would be -- it's a  
3 hundred and twenty-eight, but we will have some  
4 times when we need to take one or more of those  
5 units, those individual pieces, out and during  
6 those times, it will be reduced. So while  
7 it's -- That's why I said it's a good proxy  
8 because when you take one unit out, you're  
9 going to have a reduced capability.

10           Q.     And each of those units is, what, a  
11 little more than 18 megawatts?

12           A.     I recall around 18 megawatts, yes.

13           Q.     You don't really expect to be using  
14 all seven of them all the time, do you?

15           A.     No. We do. I would expect to use  
16 all seven of them on occasion, yes.

17           Q.     On a constant basis?

18           A.     Well, not every hour of the year,  
19 but I would expect that when transmission risks  
20 associated with some of the -- it could happen  
21 off peak if we're, you know, have unseasonably  
22 warm temperatures or any other time, but there  
23 will be times when all 128 would run, in my  
24 expectation, to manage transmission  
25 reliability.

1 Q. So if you reduced the number that  
2 you had operating at any moment in time to  
3 five, that would be 90 megawatts; right?

4 A. My math's not that good. Something  
5 like that, yeah. It wouldn't be enough.

6 Q. Okay.

7 A. It would be -- You know, it would  
8 be -- I think that would be too thin. That  
9 wouldn't be enough megawatts to mitigate. You  
10 know, it's borderline at 128 and then we would  
11 have some periods to maintain the units.

12 Q. Look at your rebuttal testimony,  
13 page 15, please, lines 17 through 20.

14 A. Okay.

15 Q. You talk about the declining rate of  
16 installation of behind-the-meter solar  
17 installations; right?

18 A. Yes.

19 Q. In your opinion, did the joint  
20 public intervenors' witnesses encourage ENO to  
21 rely more upon behind-the-pipe solar generation  
22 to serve the needs of ENO's customers?

23 A. I think that's one of the things  
24 that they propose to do, I guess, load  
25 reductions in the city. You know, I think it's

1 the -- you know, whether it's rooftop solar or  
2 behind the meter or ahead of the meter or  
3 transmission connected or whatever, it has the  
4 same limitations of you need sunshine.

5 Q. Behind-the-meter solar generation is  
6 not dispatchable, is it?

7 A. Generally not. It's produces when  
8 the sun is up and does not when the sun is  
9 down.

10 Q. It's either on or off?

11 A. It's either on or off. Solar  
12 generation is on when the -- and it can go up  
13 and down. It's not full capacity or zero. It  
14 can be in between, but it's either producing  
15 some level when the sun is shining or it's not  
16 producing anything.

17 Q. But ENO doesn't have any control  
18 over a customer simply disconnecting it or  
19 turning it off, do they?

20 A. To my knowledge, they do not.

21 Q. Does ENO have any ability to know  
22 that the behind-the-pipe solar generation is  
23 completely functional at any point in time?

24 A. As far as I know, we do not know  
25 what level is being -- what output level on any

1 of that at any given time, whether it works,  
2 doesn't work, or produces or not. Operators  
3 would see the impacts on load potentially if  
4 it's behind the meter, but they wouldn't know  
5 what the solar system is doing.

6 Q. Thank you.

7 Does ENO have any way of knowing  
8 whether or not the installation of behind  
9 the --

10 MR. SMITH:

11 Your Honor, I object to this line of  
12 questioning. This is friendly cross at  
13 this point.

14 MR. EDWARDS:

15 I beg your pardon? I'm friendly  
16 only to my client. I have no  
17 relationship to ENO or to the advisors.

18 MR. SMITH:

19 I think you understood what I mean.  
20 We object to this line of questioning.  
21 It's clearly intended to go at our expert  
22 witness's opinion and intended to bolster  
23 his preferred -- his client's preferred  
24 choice of the RICE units.

25 JUDGE GULIN:

1 Well, that's sort of contradictory  
2 in a sense.

3 MR. SMITH:

4 No, it's not.

5 JUDGE GULIN:

6 Well, in some sense, it's friendly  
7 cross, but in another sense, it's  
8 unfriendly cross, depending on how you  
9 want to interpret it, I guess. You know,  
10 I think that this is a rather informal  
11 type of proceeding of the -- One can make  
12 all kinds of arguments, such as we have  
13 joint intervenors who are separate  
14 parties who have virtually identical  
15 interests and they're given the  
16 opportunity for individual cross.

17 I understand your point. I really  
18 do. And I have some sympathy to it, but  
19 given the way this is going, I think it's  
20 been hopefully a rather amicable type of  
21 arrangement. I think all the parties  
22 have been pretty reasonable. I'm going  
23 to allow this.

24 So go ahead, Mr. Edwards.

25 MR. EDWARDS:

1 Thank you, Your Honor.

2 EXAMINATION BY MR. EDWARDS:

3 Q. Does ENO have to have generators  
4 spinning and ready to substitute for the loss  
5 of solar if you raise it to the level you  
6 talked about, 200 megawatts?

7 A. It depends on how much information  
8 you have and the robustness of the control  
9 systems that interconnect all of the solar.  
10 Generally if you have no knowledge, then, yes,  
11 you have to spend reserves to offset the sudden  
12 loss of solar in a general sense. If you can  
13 forecast it, if you can forecast that there  
14 will be reduction in the solar, then you can  
15 use quick start resources perhaps, but you  
16 would still have to have dispatchable  
17 resources.

18 One of the things about the RICE  
19 unit is that, you know, once the basic needs  
20 are met in the city for transmission  
21 reliability, then you can do some of those  
22 other things and not have to worry about  
23 reliability. Some of the other alternatives  
24 that, you know, people are interested in like  
25 solar, batteries, and DSM, but we're behind

1 right now. We need to establish a basic level  
2 of reliability, then some of that stuff is more  
3 feasible. And the RICE unit is really good, I  
4 think, for that kind of thing because it's so  
5 flexible.

6 Q. Thank you.

7 Your original testimony supports  
8 construction of the 226 megawatt generator;  
9 right?

10 A. That's right.

11 Q. And why did ENO choose as an  
12 alternate peaker a hundred and twenty-eight  
13 megawatt, seven Wartsila RICE -- Charles RICE  
14 units?

15 A. I think that from what I could tell,  
16 there was interest in not building too much.  
17 From my perspective, 227 is not too much. But  
18 that's not the only consideration, and the CT  
19 has some detractors in relation to the RICE  
20 units that -- you know, there's some good  
21 things about the RICE units, even though  
22 they're smaller. Black start capability is  
23 really nice to have in an area where there's a  
24 lot of hurricane risk, and then they're very  
25 flexible, dispatchable from very minimum levels

1 to their maximum, which is helpful when you try  
2 to integrate some other type of resource  
3 renewables.

4 Q. From your level of expertise in  
5 transmission, is the seven Wartsila hundred and  
6 twenty-eight megawatts adequate as an alternate  
7 peaker?

8 A. It is adequate from where I sit  
9 today. It could be five years from now, we  
10 discover that we need something else, but from  
11 where we can tell today, it will get us by.

12 Q. Thank you.

13 The load studies that are prepared  
14 upon which certain conclusions are reached  
15 regarding the need for additional power or is  
16 the power you've got adequate, do the existing  
17 studies show that the need for additional  
18 generation for the foreseeable future will not  
19 be needed if we have the RICE units put in  
20 place?

21 A. I'm not sure I followed that one.

22 Q. I'm not sure I followed my question  
23 either. I'm just trying to get the point  
24 across.

25 JUDGE GULIN:



1                   You want to rephrase?

2           MR. EDWARDS:

3                   I'm trying to think about it, Your  
4           Honor.

5           JUDGE GULIN:

6                   Okay.

7   EXAMINATION BY MR. EDWARDS:

8           Q.    If we install the seven RICE units,  
9   is there a foreseeable need known now for  
10   additional generation production?

11          A.    Not today, no.

12          Q.    Thank you.

13                   Can you see a circumstance once the  
14   seven units are put in place that there may not  
15   be a need to have all seven of them running at  
16   one time?

17          A.    Oh, certainly there would be times  
18   when you wouldn't need all seven. There would  
19   be times when you needed very little.  
20   Everything in between zero and 128 would be  
21   needed in the future.

22          Q.    Thank you.

23                   Look at your supplemental testimony,  
24   please, page 13.

25          A.    Okay.

1 Q. If you would, read line 7 through  
2 10.

3 A. It says, Adding a unit with an  
4 output of 226 megawatts -- (As read.)

5 Q. You don't have to read it out loud.

6 A. I'm sorry.

7 Q. It's all right.

8 A. Okay.

9 Q. Doesn't this testimony again support  
10 the alternate peaker of 128 through 2027  
11 subject to some minor issues in 2027?

12 A. That part of the testimony just says  
13 that we looked at two -- well, I reference two  
14 different levels of generation output that we  
15 would model at Michoud, one was a hundred and  
16 seventy megawatts and one was 226. And I just  
17 point out that both of those completely  
18 eliminate the reliability issues that -- the  
19 transmission reliability issues.

20 One of the -- The 128, the one thing  
21 it will do is -- as I said earlier, it doesn't  
22 just fix one line. It unloads all the  
23 transmission lines. So if we got to 2027 and  
24 we needed to do this transmission upgrade,  
25 we're much more likely to be able to get the

1 outage to do it, the planned outage to do that  
2 work if we have a local generator that we can  
3 run.

4 Q. Thank you, sir.

5 Did you use any of the recent  
6 updated load forecasts and reach any conclusion  
7 that the seven RICE units alternate generator  
8 was acceptable?

9 A. We used the latest load forecast  
10 when we reached that conclusion.

11 Q. Do you know whether that's been  
12 produced in this case?

13 A. I believe it has. I don't know if  
14 that forecast has been, but it's part of all  
15 the analysis.

16 Q. Let's look at your rebuttal, then  
17 I'm just about finished. Look at testimony  
18 beginning at line 17 and going over to --

19 A. I missed the page number.

20 Q. I'm sorry. Page 7, line 17, and  
21 going over to line 1 on page 8.

22 A. Okay.

23 Q. Actually, I think I've asked that  
24 question, so I'll skip it.

25 MR. EDWARDS:

1 I think you've answered all of my  
2 questions. I have none further. Thank  
3 you, sir.

4 MR. CHARLES LONG:

5 Thank you.

6 JUDGE GULIN:

7 Thank you, Mr. Long.

8 Was there any redirect?

9 MR. GUILLOT:

10 No, sir.

11 JUDGE GULIN:

12 Okay. You are excused at this  
13 point.

14 MR. SMITH:

15 Your Honor, may I? I'm sorry to  
16 interrupt you. Before Mr. Long leaves  
17 the stand, I was hoping we could get a  
18 final -- or a ruling on the exhibits that  
19 we proffered this morning -- this  
20 afternoon, Sierra Club 1 through 4.

21 JUDGE GULIN:

22 Did you have an opportunity to  
23 review those, Mr. Long?

24 MR. CHARLES LONG:

25 I did not.

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JUDGE GULIN:

You'll review them this weekend and counsel will let us know by Monday morning first thing, 8:30, what the status of that is.

Now, I don't even know if Jonathan Long is with us this afternoon, but I see no point in even getting started with him until the protagonists work out an agreement as to how his testimony is going to be handled, so I think -- Is there anything else that we can do?

MR. GUILLOT:

Not from our perspective, Your Honor.

JUDGE GULIN:

Then let's adjourn. And have a wonderful weekend.

MR. EDWARDS:

You, too, Your Honor.

(Whereupon the proceedings were recessed for the day at 2:22 P.M.)

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REPORTER'S CERTIFICATE

This certification is valid only for a transcript accompanied by my original signature and original required seal on this page.

I, Kathy Shaw-Gallagher, Certified Court Reporter in and for the State of Louisiana, as the officer before whom this testimony was taken, do hereby certify that this testimony was reported by me in stenotype reporting method, was prepared and transcribed by me or under my personal direction and supervision, and is a true and correct transcript to the best of my ability and understanding; that the transcript has been prepared in compliance with transcript format guidelines required by statute or by rules of the board, and that I am informed about the complete arrangement, financial or otherwise, with the person or entity making arrangements for deposition services; that I have acted in compliance with the prohibition on contractual relationships, as defined by Louisiana Code of Civil Procedure Article 1434 and in rules and advisory opinions of the board; that I have no actual knowledge of any prohibited employment or contractual relationship, direct or indirect, between a court reporting firm and any party litigant in this matter nor is there any such relationship between myself and a party litigant in this matter nor is there any such relationship between myself and a party litigant in this matter; I am not related to counsel or to the parties herein, nor am I otherwise interested in the outcome of this matter.

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