

**RESOLUTION
R-01-676
(Substitute)**

CITY HALL: October 18, 2001

BY: COUNCILMEMBERS SAPIR, CARTER, GUSMAN, SINGLETON AND WILLARD-LEWIS

**RESOLUTION ADOPTING A CODE OF CONDUCT
FOR ENTERGY NEW ORLEANS, INC.**

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

WHEREAS, the Council is responsible for making all necessary rules and regulations to govern applications for the fixing or changing of rates and charges of public utilities and all petitions and complaints relating to any matter pertaining to the regulation of public utilities; and

WHEREAS, Entergy New Orleans ("ENO") provides gas services to all of New Orleans and electric services to all of New Orleans except the Fifteenth Ward ("Algiers"); and

WHEREAS, Entergy Louisiana, Inc. ("ELI") provides electric services in Algiers; and

WHEREAS, in July 2000, Entergy Power Marketing Corporation and Koch Energy Trading, Inc. entered into a joint venture whereby the two companies now together provide energy marketing services, certain of which are sold to ENO; and

WHEREAS, ENO has twice entered into agreements for the purchase of energy and capacity from the River Bend facilities owned by ENO's Affiliate, Entergy Gulf States, Inc.; and

WHEREAS, Entergy Thermal, another ENO Affiliate, provides thermal heating and cooling services within the City of New Orleans; and

WHEREAS, on August 27,2001, ENO filed a redacted, non-confidential Application for prior approval by the Council of a plan to employ risk management tools for the purpose of stabilizing its purchased gas adjustment clause ("Plan"); and

WHEREAS, the Council finds that it is in the best interest of ratepayers that it protect against potential abuses that can arise due to the lack of "arms-length negotiation" that characterizes transactions among affiliates and that such protection should come in the form a Code of Conduct to govern the transactions of ENO and ELI with any and all of their respective Affiliates; now therefore

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

1. This Code of Conduct shall apply to ENO, ELI and each the respective Affiliates of each company, as defined herein, to the extent those Affiliates are engaged in the sale of electric, gas, heat, thermal energy or related services.

2. The following definitions shall apply to this Resolution:

A. Affiliates of ENO and ELI, as used in this Resolution, means:

(1) any person, corporation, utility , partnership, subsidiary , or any other entity that directly or indirectly owns, controls, or holds with power to vote, 5 percent or more of the outstanding securities of any other person, including, but not limited to any corporation, partnership, subsidiary, or any division thereof; or

(2) any person, corporation, utility, partnership, subsidiary, or any other entity 5 percent or more of whose outstanding voting securities are owned, controlled, or held with power to vote, directly or indirectly, by such specified company; or

(3) any person who is an officer or director of any other person, corporation, partnership, subsidiary , or any division of any company which is an affiliate of ENO or ELI under section (1) of this paragraph; or

(4) any person who, along with another person, is under the common control of a corporation, partnership, subsidiary , holding company, or any division thereof; or

(5) any person or class of persons that the Council determines, after thoughtful consideration and opportunity for comment, to stand in such relation to such other person, including, but not limited to any corporation, partnership, subsidiary, or any division thereof, that there is liable to be such absence of arm's-length bargaining in transactions between them as to make it necessary or appropriate in the public interest or for the protection of ratepayers and consumers that such person be subject to the obligations, duties, and liabilities imposed in this Code of Conduct upon Affiliates or upon ENO with respect to Affiliates.

B. Competitive Market Participants, as used in this Resolution, includes, and is not limited to:

(1) marketers, brokers, sellers of electric, gas, heat and thermal energy, and their respective agents;

(2) marketers, brokers, sellers of electric, gas, heat and thermal energy services, and their respective agents

- (3) end-users;
- (4) utilities; and
- (5) all Affiliates as defined herein.

C. Corporate Support Services, as used in this Resolution, means services shared by ENO or ELI and an Affiliate of joint corporate oversight, governance, support systems, and personnel. Examples of services that may be shared, include human resources, procurement, information technology, administrative services, real estate services, legal services, accounting, environmental services, research and development, internal audit, community relations, corporate communications, financial services, financial planning and management support, corporate services, corporate secretary, lobbying, and corporate planning.

D. Proprietary Customer Information, as used in this Resolution, means any information obtained or compiled by ENO in the normal course of providing electric, gas, heat, or thermal energy service that is specific to an individual customer and related to or derived from the electric, gas, heat, or thermal energy service provided to that customer. Such information includes, but is not limited to: the customer's name, address, account number, type or classification of service, historical electricity usage, expected patterns of use, types of facilities used in providing service, individual contract terms and conditions, price, current charges, billing records, inquiries regarding new service or changes to existing service, whether or not acted upon, or any information the customer expressly requests be kept confidential. Information that is generally publicly available is not considered Proprietary Customer Information for purposes of compliance with this Code of Conduct.

3. ENO and ELI shall each operate in a non-discriminatory fashion when dealing with all Competitive Market Participants, including any Entergy Affiliates, such that all Competitive Market Participants shall have the same access to information, including but not limited to: ENO's and ELI's respective energy purchases, sales, operations, and services, sales or purchase forecasts, general market trends, economic forecasts, regulatory trends, demographics, or technology trends, and customer information on an equal and non-discriminatory basis. To ensure equal and non-discriminatory access to information, ENO and ELI shall each post on their respective Internet website any of the above-referenced information that the company provides to an Affiliate. Such posting shall occur simultaneously with the disclosure of the information to an Affiliate.
4. To the extent that ENO or ELI exercises discretion in its consideration of offers for the sale of forward purchases of electricity, natural gas, heat, thermal energy or related services, ENO and ELI shall exercise this discretion in a non-discriminatory manner to all similarly situated Competitive Market Participants. ENO and ELI each shall maintain a record of instances in which the company exercised its discretion with respect to its consideration of offers for such sales, which record shall be made available to the Council for its review and consideration during any compliance audits to be initiated by the Council from time to time.
5. Neither ENO nor ELI shall represent that, as a result of the affiliation with the utility, its Affiliates or customers of its Affiliates will receive any different treatment by the utility than the treatment the utility provides to other, non-affiliated Competitive Market Participants or their customers.

6. To the extent there is no discretion in the risk management protocols to be adopted by ENO's or ELI's respective consideration of offers for the sale of forward purchases of electricity, natural gas, heat, thermal energy or related services, ENO and ELI each shall strictly enforce all such provisions of its risk management protocols for all Competitive Market Participants, including any Entergy Affiliates in a uniform manner.
7. Except for Customer Support Services, transactions between ENO and its Affiliates and between ELI and its Affiliates in excess of \$100,000 shall be limited to tariff products and services, the sale and purchase of goods, property, products or services made generally available by the utility or Affiliate to all Competitive Market Participants through an open, competitive bidding process.
8. Except when made generally available by ENO or by ELI through an open, competitive bidding process, if ENO or ELI offers a discount or waives all or any part of any other charge or fee to its Affiliates, or offers a discount or waiver for a transaction in which its Affiliates are involved, ENO or ELI, as the case may be, shall simultaneously make such discount or waiver available to all similarly situated Competitive Market Participants. Neither ENO nor ELI should not use the "similarly situated" qualification to create such a unique discount arrangement with its Affiliates such that no competitor could be considered similarly situated. ENO and ELI each respectively shall document the cost differential underlying the discount to its Affiliates and retain records of such discounts and of the cost differential for review as part of any audit each company's respective compliance with the Code of Conduct, as these audits may be initiated by the Council from time to time.
9. ENO and ELI each respectively shall process all offers for the sale of electricity, natural gas, heat, thermal energy or related services, including any forward purchase of these commodities, in the same manner and within the same time for its Affiliates and for all other Competitive Market Participants and their respective customers.
10. Where competitive bidding is employed, Affiliates of ENO and of ELI must participate in the competitive bidding process during the same period as all other Competitive Market Participants and are prohibited from submitting bidding proposals for consideration after conclusion of the competitive bidding process.
11. Neither ENO nor ELI shall not provide any undue preference (including but not limited to terms and conditions of service, pricing, or timing of service) to any Competitive Market Participant, including any Entergy Affiliates or their customers in the provision of services provided by the utility.
12. Neither ENO nor ELI shall condition or tie any service it provides to the provision of service or supply from any other Competitive Market Participant, including any Entergy Affiliates.
13. Neither ENO nor ELI shall accept as a condition regarding any purchase of electricity, natural gas, heat, thermal energy or related services the tying of any service from any other Competitive Market Participant, including any Entergy Affiliates.
14. To the greatest extent possible, while still maintaining benefits for ratepayers and subject to Council approval, ENO's employees and ELI's employees and the employees of their respective Affiliates, must function independently of each other.

15. Neither ENO nor ELI shall:
 - a. provide leads to its Affiliates;
 - b. solicit business on behalf of its Affiliates;
 - c. acquire Proprietary Customer information on behalf of or provide Proprietary Customer Information to its Affiliates;
 - d. share market analysis reports or any other types of proprietary or non- publicly available reports, including but not limited to market, forecast, planning or strategic reports, with its Affiliates;
 - e. request authorization from its customers to pass on customer information exclusively to its Affiliates;
 - f. give any appearance that it speaks on behalf of its Affiliates or its Affiliates speak on behalf of ENO.
16. The books of account and records for the regulated utility services provided by ENO and by ELI to their respective retail electric and gas customers will be maintained separately from any books of accounts and records kept by any Affiliate.
17. Except for customer accounting, billing, and collections, ENO and ELI each shall maintain contemporaneous records documenting all tariffed and non- tariffed transactions with their respective Affiliates, including but not limited to, all waivers or tariff or contract provisions and all discounts. ENO and ELI each shall maintain such records for a minimum of three years. However such time may be extended if required by the Councilor any other governmental agency with appropriate jurisdiction. ENO and ELI each shall make such records available for third party review upon 72 hours' notice, or a time mutually agreeable between the parties.
18. ENO and ELI each shall maintain a record of all contracts and related bids of their respective Affiliates and Competitive Market Participants for no less than three years. However such time may be extended if required by the Councilor any other governmental agency with appropriate jurisdiction.
19. Neither ENO nor ELI shall share office space, office equipment, services, and systems with its Affiliates, nor shall ENO or ELI access the computer or information systems of its Affiliates or allow its Affiliates to access its computer or information systems, except to the extent appropriate to perform shared Corporate Support Services. As part of each company's Compliance Plan, ENO and ELI each may propose safeguards and procedures each company would use that would permit the sharing of office space, equipment, services, and systems with an Affiliate while simultaneously precluding the transfer of Proprietary Customer Information or other confidential information to an Affiliate and precluding the creation of an opportunity for preferential treatment or unfair competitive advantage of an Affiliate ("Sharing Plan").
20. ENO and ELI each shall structure its respective operations and transactions in such a manner as to be in complete compliance with the requirements of this Resolution.
21. Nothing in this Resolution is intended to supplant or relieve ENO or ELI of the duty to comply with the requirements, policies, regulations or resolutions of the Council and this Code of Conduct does not supplant or relieve ENO or ELI of the duty to comply with the requirements, policies, regulations or resolutions of the Councilor of any State or Federal Regulatory body.
22. Nothing in this Code of Conduct shall preclude "ENO or ELI from providing information as necessary to Entergy Affiliates used to perform Corporate Support Services.

23. ENO and ELI are each hereby ordered to adhere to this Code of Conduct in any and all transactions and relationships with any and all Competitive Market Participants, including all Entergy Affiliates.
24. Within thirty (30) days of the adoption of this Resolution by the Council, ENO and ELI each shall file its respective plan for compliance ("Compliance Plan ") with this Code of Conduct for Council approval.
25. In addition to filing a Compliance Plan with the Council, ENO and ELI each also shall respond individually to each the following requests for information:
 - a. Identify the corporate position of the individual(s), including title and position description, responsible for updating the information posted on the company's website.
 - b. Prior to the Council's adoption of this Code of Conduct, how frequently was the company' s website updated? How frequently will the website be updated to comply with the Code of Conduct adopted herein?
 - c. Describe the current physical location of the company's, and all other Entergy Affiliates' places of business, including an explanation of how the companies are sited in proximity to one another.
 - d. Describe the extent to which employees are shared between the company and any Affiliate. For each shared employee, provide the employee's title, a descriptions and an explanation of the operational rules which will ensure that the shared employee complies with the Code of Conduct adopted herein.
 - e. Provide a detailed organizational chart showing the relationship between and among the company and all other Entergy Affiliates.
 - f. Describe the internal rules that will govern operations between and among the company and its Affiliates to ensure that they function independently to the greatest extent possible.
26. Recognizing that the electric and gas industries are under constant evolution, and recognizing that the Code of Conduct adopted herein has been developed and is appropriate for the current state of the industries, the Council reserves the right to review the appropriateness of this Code of Conduct and ENO's and ELI's respective compliance therewith from time to time, as may be warranted by changes in the way ENO or ELI conducts business and/or changes in the electricity and natural gas industries generally.
27. Should the Council find ENO or ELI to be deficient in adhering to the Code of Conduct adopted herein, the Council after a hearing, may assess any reasonable penalty it deems appropriate. To the extent necessary to ensure and

verify compliance with this Code of Conduct, ENO and ELI shall be subject to audit by the Council, through its Advisors, upon receiving adequate notice from the Council.

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

YEAS: Carter, Gusman, Sapir, Shea, Singleton, Thomas, Willard-Lewls -7

NAYS: 0

ABSENT: 0

AND THE RESOLUTION WAS ADOPTED.

THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY
Emma J. Williams
CLERK OF COUNCIL