NO. R-09-267

BY: COUNCILMEMBERS MIDURA, CARTER, HEDGE-MORRELL AND WILLARD -LEWIS

RESOLUTION AND ORDER TO ESTABLISH PROCEDURAL SCHEDULE IN UTILITY DOCKET NO.

UD-08-02 TO IMPLEMENT THEENERGY SMART PLAN PURSUANT TO COUNCIL RESOLUTION

R-09-136 AND THE 2009 AGREEMENT IN PRINCIPLE DOCKET NO. UD-08-02

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” or “Company”) provides electric service to all of New Orleans,

except the Fifteenth Ward, Algiers, and gas service to all of New Orleans; and

WHEREAS, Council Resolution R-07-600 asserted the Council’s commitment to energy efficiency and the

development of a viable energy efficiency program in Orleans Parish; and

WHEREAS, the Council adopted Resolutions R-08-366 and R-08-601, which found that Energy Smart New

Orleans was a consensus plan developed by a widespread community stakeholder group; and

WHEREAS, Resolution R-08-295 established Docket UD-08-02, a rulemaking proceeding that required

ENO to develop, among other things, integrated resource (“IRP”) and demand side management

 (“DSM”) components, and to consider the effects of energy efficiency in ENO’s planning process

(collectively, the“IRP Filing”); and

WHEREAS, the Company made its public presentation of its IRP filing in September 2008, and held public

meetings to discuss the IRP Filing on November 19, 2008 and January 13, 2009; and

WHEREAS, the March 25, 2009 Agreement in Principle in Docket UD-08-03 (“2009 AIP”), adopted by

Resolution R-09-136, expressed the Council’s desire to have one unified energy conservation program

available to customers in the Company’s service area; and

WHEREAS, the 2009 AIP directed the Advisors to the Council to collaborate with the Company in the

further evaluation of the general concepts identified by the Council in Resolutions R-07-600 and R-08-

366 for the Company’s program, evaluation, design, and integration into the DSM/energy conservation

programs previously developed by the Company in Docket UD-08-02 for potential aggregation, as

appropriate, into a unified program, namely, the Energy Smart Plan; and

WHEREAS, the 2009 AIP provides that the Company will be held to the achievement of specific DSM and

energy conservation goals and targets for any programs approved by the Council in Council Docket

UD-08-02; and

WHEREAS, the 2009 AIP provides for an annual review by the Council to assess whether the Company

has attained the established targets/goals within the 12-month review period; and

WHEREAS, the 2009 AIP also provides that the Council’s annual review will include an evaluation of the

appropriateness of goals/ targets for the prospective 12-month review period and, if necessary,

adjustment of the stated goals/targets, shall be accomplished through a sub-docket of the Council in

 Docket UD-08-02; and

WHEREAS, the Company will design, select and implement either itself or through contractors, and with

the approval of the Council, demand side programs which are to benefit all customer classes that

support such programs through their electric rates; and

WHEREAS, all programs approved by the Council, with the exception of low income weatherization and

domestic solar water heating programs, prior to implementation, must be determined to be cost-

effective under the industry accepted testing criteria of the Total Resource Cost (“TRC”) Test and the

Program Administrator Cost (“PAC”) Test as defined in the California Standard Practice Manual,

“Economic Analysis of Demand-Side Programs and Projects,” October 2001; and

WHEREAS, in the Council’s determination of whether a program, or a component of a program, is to be

administered and implemented by the Company or a third party, the following criteria are to be

considered:

1. cost effectiveness of such action; (2) the maintenance of customer commercially sensitive or
2. confidential information; (3) feasibility (demand response, time of use rates, AC cycling); (4) other criteria that may be identified by the Company and determined appropriate by the Council; and

WHEREAS, the Company shall utilize deemed savings as verified appropriate by the Council (with

appropriate monitoring and verification in support thereof) to measure the effects of the Energy Smart

Plan’s programs and in determining whether it has met or exceeded its goals/targets; and

WHEREAS, DSM/EE targets should be set based on approved funding levels and based on a set of

 specific approved programs with calculated deemed savings and estimated market participants for

those designed programs, and such targets shall be established by the Council in its order in Council

Docket UD-08-02 and will be reviewed annually to account for changes in funding, program design and

market conditions; and

WHEREAS, within ninety (90) days of the approval of the settlement of Docket UD-08-03 by the Council,

the Company shall file in Docket UD-08-02 a list of recommended programs, complete with sufficient

detail to enable the Council to evaluate the cost-effectiveness and energy and demand savings

associated with same for implementation in the area where the Company provides electric service in no

less detail than that provided in discovery responses of the Company of December 23, 2008 in Council

Docket UD-08-02 and such other information as may be deemed relevant by the Council; now therefore:

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS that in order to facilitate the

implementation of the Energy Smart Plan pursuant to Resolution R-09-136 and the 2009 agreement in

principle, the following procedural schedule is hereby adopted:

1. Procedural Schedule:

ENO shall file in Docket UD-08-02 a list of recommended programs for the Energy Smart Plan pursuant to Paragraph 48 of 2009 AIP, and post this filing on ENO’s website July 2, 2009

Public presentation of ENO’s filing July 9, 2009

Beginning of period for posting of informational questions by the public on ENO’s website regarding

ENO’s filing; such informational questions must be germane to the subject matter of ENO’s initial filing.

ENO shall have 5 business days to respond to each informational question. An objection to a question

shall be filed within two (2) business days of the question’s posting. July 9, 2009

Last day for posting informational questions by the public on ENO’s website July 24, 2009

Last day for ENO to respond to informational questions posted on its website July 31, 2009

Deadline for Intervenors to file written comments in response to ENO’s initial filing August 11, 2009

Deadline for ENO to reply to Intervenor comments August 25, 2009

Hearing Officer certifies the record in the proceeding September 4, 2009

Public hearing on filing by Council Utility Committee September 10, 2009

Decision by Council on ENO’s filing regarding programs and goals, and Council’s selection of Independent

Monitor September 17, 2009

2. The Honorable Jeffrey Gulin is hereby appointed as the Hearing Officer for the proceeding; the Hearing

Officer shall rule on procedural disputes and certify the record of the proceeding to the Council without

recommendation. For purposes of this proceeding, the aforementioned informational questions shall be

treated as interrogatories, and except as otherwise provided herein, shall be governed in accordance

with the rules of discovery set forth in Section 158 of the New Orleans City Code and the Louisiana Code

 of Civil Procedure. Such questions shall be limited in scope to inquiries regarding issues that are wholly

germane to ENO’s July 2, 2009 filing. For good cause shown and as required by the circumstances of the

 proceedings, the Hearing Officer shall have the authority to change or amend the dates established in

the schedule set forth above. Provided, however, the record of these proceedings must be certified to

the Council in time that the Council may make a decision on the merits of the proceedings by September

17, 2009

3. In the event that during the period of posting of questions, the parties may be required to produce

documents or information that is deemed confidential and/or highly sensitive and, accordingly, the

Council adopts for use in this docket its Official Protective Order adopted by Resolution R-07-432, a copy

of which can be obtained from the Council Utilities Regulatory Office.

4. Parties filing documents with the Council shall serve same via electronic mail upon all parties identified on the Official Service List of this docket on the date of filing.

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

ADOPTION THEREOF AND RESULTED AS FOLLOWS:

YEAS: Carter, Clarkson, Fielkow, Head, Hedge-Morrell, Midura, Willard-Lewis - 7

NAYS: 0

ABSENT: 0

AND THE RESOLUTION WAS ADOPTED.