

RESOLUTION
R-11- 175

CITY HALL: APRIL 28, 2011

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

RESOLUTION AND ORDER ACCEPTING THE APPLICATION OF ENTERGY NEW
ORLEANS, INC. TO RECOVER EMISSION ALLOWANCE EXPENSES INCURRED
VIA RESULT OF COMPLIANCE WITH THE CLEAN AIR INTERSTATE RULE

DOCKET NO. UD-08-03-A

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

WHEREAS, pursuant to its powers of supervision, regulation and control over public utilities, the Council is responsible for fixing and changing rates and charges of public utilities and making all necessary rules and regulations to govern applications for the fixing and changing of rates and charges of public utilities; and

WHEREAS, Entergy New Orleans, Inc. (“ENO” or “Company”) is a public utility providing electric service to all of New Orleans, except the Fifteenth Ward (“Algiers”), and gas service to all of New Orleans; and

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

ENO's Application

WHEREAS, on April 29, 2010, ENO filed its Application of Entergy New Orleans, Inc. to Recover Emission Allowance Expenses Incurred Via Result of Compliance with the Clean Air Interstate Rule ("Application"). The Company requested approval of an Environmental Adjustment Clause Rider ("EAC Rider") for recovery of emissions expenses incurred to date, all prospective Clean Air Interstate Rule ("CAIR") related expenses, as well as any other fuel-related environmental costs that may arise from future federal or state legislation; and

WHEREAS, ENO's Application also explained that CAIR was established by the United States Environmental Protection Agency ("U.S. EPA") in March, 2005, in order to reduce emissions of certain precursor pollutants, nitrogen oxides ("NO_x") and sulfur dioxide ("SO₂") that create ground-level ozone and particulate environmental issues in downwind states in the eastern United States, including Louisiana; and

WHEREAS, after after numerous administrative and legal challenges of CAIR,, the Court of Appeals remanded the issue to U.S. EPA to develop a new rule; however, the Court determined that the CAIR should remain effective while the U.S. EPA develops a replacement rule; and

WHEREAS, pursuant to the CAIR, the U.S. EPA requires certain entities, including ENO, which own designated generation units that exceed certain unit-specific allocation to comply with an overall emissions cap; and

WHEREAS, in order to comply with CAIR, ENO had the option to (1) install controls to reduce its emissions, (2) buy emission allowances from another party, or (3) use a combination of the two approaches; and

WHEREAS, according to its Application, ENO's CAIR compliance plan calls for the use of a combined "cap and trade" approach, such that the Company has installed cost-effective pollution controls to partially reduce excess emissions, and has purchased allowances to address any remaining excess emissions; and

WHEREAS, the Company presented several alternative recovery approaches for the Council's consideration. With regard to its 2009 CAIR related expenses, ENO proposed that the Council approve cost recovery through: (1) ENO's 2009 Formula Rate Plan ("2009 FRP") as a pro forma adjustment; or (2) through its proposed EAC Rider. With regard to its CAIR related expenses incurred in 2010, the Company proposed recovery via the EAC Rider. As a third alternative, ENO noted that the Council could approve any other form of recovery mechanism, through which ENO may recover, timely and fully, the expenses incurred in compliance with CAIR; and

WHEREAS, ENO proposed the EAC Rider to recover, from ratepayers, its costs for emission allowance purchases that are used to meet the CAIR requirements. The EAC would operate similarly to ENO's Fuel Adjustment Clause in that the CAIR charges, adjusted for any over or under collection, would be billed in the second preceding billing month; and

WHEREAS, ENO further proposed that if the Council approved ENO's application, costs associated with the EAC Rider would appear on the customer bill as a unique line item identified as "EAC Federal Emissions Costs"; and

2009 Compliance Costs

WHEREAS, on May 27, 2010, the Company submitted its 2009 FRP, which included a NO_x Emission Allowance Expense of \$1.852 million and a NO_x Seasonal Allowance Expense of \$0.109 million for a total of \$1.961 million. These compliance cost were recorded as expenses in

the FRP 2009 test year. As provided in subsequent filings, ENO asserts that the expenses incurred by the Company for emission allowances from January 2010 through January 2011 is \$474,223.76;

WHEREAS, on June 17, 2010, in Resolution R-10-274, the Council found it appropriate that the Company's CAIR Application be considered together with ENO's FRP filing. In that Resolution, the Council also established a procedural schedule to evaluate ENO's Application and directed ENO to provide supplements to its Application ("Compliance Filing") with updated expenses and supporting invoices throughout the discovery period; and

WHEREAS, as a part of their review of ENO's FRP filing, our Utility Advisors and ENO presented an Agreement in Principle regarding the 2009 FRP filing. The Advisors recommended that the proposed 2009 CAIR-related expenses be approved by the Council as recoverable in the 2009 FRP, subject to confirmation that the \$1.961 was in fact reasonable and recoverable in rates in a separate sub-docket. In addition, the Advisors recommended that if the amount of 2009 allowance expenses subsequently confirmed was a different amount, the difference should be trued up in the Company's 2011 FRP filing; and;

WHEREAS, on November 4, 2010, in Resolution R-10-479, as a part of our approval of an electric base rate reduction pursuant to the 2009 FRP Agreement in Principle, the Council also approved ENO's recovery of \$1.962 million of emissions allowance expenses incurred in 2009 through electric base rates. Accordingly, the CAIR allowance recovery is fully reflected in the resulting electric base rate decrease that was approved in Resolution R-10-479; and

2010 Compliance Costs and EAC Rider

WHEREAS, with respect to the proposed EAC Rider and the emission allowance costs related to compliance with CAIR expensed in 2010 and subsequent years, the Council

determined that it would address those costs and ENO's proposed EAC Rider in Council Sub-Docket No. UD-08-03-A upon review of the comments submitted by the Council's Advisors and the Company; and

WHEREAS, on August 18, 2010, pursuant to Resolution R-10-274, the Company filed its initial Compliance Filing, which was intended to update the Council with respect to allowance expenses incurred since the Company's initial filing of its CAIR Application. Additionally, ENO noted the correction of two errors in its initial Application; and

WHEREAS, on September 10, 2010, the Advisors provided responsive comments to ENO's initial compliance filing noting concerns regarding the errors and the scope of costs to be recovered under the EAC Rider. As a matter of principle, the Advisors support the notion that it is proper to include prudently incurred costs associated with complying with local, state, and federal environmental regulations in electric utility rates; however, environmental costs associated with complying with new legislation at the federal, state, or local levels should be reviewed by the Council on a case by case basis for possible inclusion in the EAC Rider or such other regulatory treatment as it may deem appropriate; and

WHEREAS, on September 30, 2010, ENO provided rebuttal comments in response to the Advisors comments which addressed the errors noted by the Advisors. The Company also commented on the scope of costs to be included under the EAC Rider. On October 12, 2010, ENO submitted a second Compliance Filing consisting of updated expenses and supporting invoices; and

WHEREAS, on March 11, 2011, Entergy Services, Inc. ("ESI") on behalf of ENO filed a "Motion for Leave to Supplement and Amend the Application of Entergy New Orleans, Inc. to Recover Emission Allowance Expenses Incurred via Result of Compliance with the Clean Air

Interstate Rule” (“Motion”). The Motion included (1) EAC Rider calculation worksheets and supporting invoices necessary for implementation of the proposed EAC Rider effective for bills rendered on or after the first billing cycle in April 2011 and (2) a supplemental affidavit and exhibits, which incorporated the Advisors proposed changes to the Rider; and

WHEREAS, in the Motion, ENO asks the Council to: (1) allow ENO additional time to supplement and amend its Application; (2) approve the implementation of ENO’s proposed EAC Rider, as amended, to be effective for bills rendered on or after the first billing cycle of April 2011; and (3) reserve its decision on the including any future environmental costs in the EAC Rider such time as the Company requests until such relief; and

WHEREAS, ENO’s proposed EAC Rider for bills rendered on or after the first billing cycle of April 2011 presents the following proposed rates:

<u>Rate Schedule</u>	<u>EAC Rider Rate (\$/kWh)</u>
Non-Transmission Service Voltage Level Rate	0.000151
Transmission Service Voltage Level Sales Excluding Rate Schedule EIS Available and Off-Peak Rate	0.000149
Rate Schedule EIS Available and Off-Peak Rate	0.000164

ENO also notes that for a typical residential customer utilizing 1,000 kWh per month the EAC rider for the month of April 2011 would add approximately 15¢ to the customer’s monthly bill; and

WHEREAS, having reviewed the proposed EAC Rider, the Council finds that it is comparable in form and operation with ENO’s currently approved Fuel Adjustment Clause. We

note that the price of allowances is uncertain and subject to volatility and, accordingly, appropriately recovered in the form of a rate rider that adjusts monthly to reflect fluctuations in the cost of allowances; and

WHEREAS, the Council also finds it appropriate to adopt the Advisors recommendation that environmental costs associated with complying with future legislation should be reviewed by the Council on a case by case basis prior to inclusion in the EAC Rider or such other regulatory treatment as may be appropriate at that time; and

WHEREAS, we are informed by our Advisors that ENO's Motion contains additional material and non-material errors or omissions in the filing which result in an incorrect EAC rider rate calculation; and

WHEREAS, the Council will direct ENO to make a further compliance filing that corrects the errors or omission as set forth below, now therefore

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

ENO's Application to Recover Emission Allowance Expenses Incurred in Compliance with the Clean Air Interstate Rule is **GRANTED**, subject to the conditions set out below.

BE IT FURTHER RESOLVED that ENO's Rider Schedule EAC is approved for implementation in the first billing cycle of May 2011, conditioned upon receipt, within seven days from the date of this Resolution, a filing from ENO which addresses the following errors and omissions errors identified by our Advisors:

1. Referring to pages 15 and 110 of Exhibit 1, the January Allowance inventory appears to be incorrect. ENO appears to accrue 220 Annual NO_x Allowances in January 2011 when an accrual should not have been necessary as the allowances granted the EPA for 2011 created a sufficient excess in allowances. Further, typically when allowances are accrued in a given month they are reversed in the following month to maintain the proper allowance balance. However, in the month of February 2011 the 220 allowances were not reversed and instead 27 allowances that appear to have been purchased in January 2011 were reversed. Accordingly, while the Company's records show a balance at the end of February 2011 of 616.1 Annual NO_x Allowances, it appears that ENO may have only 440.9 Annual NO_x Allowances. This changes the price of allowances expensed in the month of February from \$21,386 to \$5,124, if the January accrual is used and reversed, or \$12,724 if the accrual is not necessary. Assuming the latter, this would reduce the EAC rider NON-Transmission Service Voltage Level Rate by approximately 14 percent. While this is not a significant change in the typical customer's monthly bill, we believe the allowance accounting should either be corrected, or ENO should explain the rationale for the apparent discrepancy. Directly related to this issue is the lack of supporting invoices for the 27 Annual NO_x Allowances purportedly purchased in January.
2. There appears to be an error in the Annual NO_x true-up on page 25 of Exhibit 1. In calculating the true up for May, 101.1 allowances were utilized as the original total emissions. However, on page 12 of Exhibit 1 the Annual NO_x Inventory Including True-Ups shows 99.3 allowances consumed. This would result in an additional 1.8 allowances necessary to record as being consumed after the true-up. As the inventory

schedules for the Seasonal NO_x Allowances record 101.1 Allowances, it does not appear that a similar adjustment would be necessary for the seasonal allowances

3. The EAC rider workpapers included in Exhibit 1 attempt to cross-reference workpapers, however, unlike previous submissions, the workpapers are not numbered, and accordingly, need to be paginated.
4. On page 8 of Exhibit 1, which appears to be WP3.1 and is expected to calculate the energy input for the operations month, there appears to be missing data such that the sum of the parts does not equal the whole. It appears that the Company has omitted the energy from ENO's share of Grand Gulf and the ENO long-term purchase power agreements.
5. Page 2 of the Motion appears to include a typographical error indicating an expense for Annual NO_x Allowances of \$28,386 in January 2011 as compared to the \$21,386 in the EAC rider workpapers. This number will, of course, be revised if the aforementioned January and February 2011 discrepancies are not justified.

BE IT FURTHER RESOLVED that upon its implementation, the costs associated with the EAC Rider shall appear on customer's bills as a separate line item charge with a specific footnote that identifies the EAC as a costs that is mandated by federal regulation.

BE IT FURTHER RESOLVED that ENO's environmental costs associated with complying with future federal, state, or local legislation shall be reviewed by the Council on a case by case basis for possible inclusion in the EAC Rider or such other regulatory treatment as it may deem appropriate. In this regard, the Company shall be required to submit an application

for recovery of environmental compliance costs related to new legislation for Council approval prior to including those costs in the EAC Rider. The Company's application should include a detailed summary of the legislation, the proposed strategy for compliance, analyses justifying the appropriateness of the proposed strategy, and an estimate of costs.

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

YEAS: Clarkson, Fielkow, Gisleson Palmer, Guidry, Hedge-Morrell, Johnson - 6

NAYS: 0

ABSENT: Head - 1

AND THE RESOLUTION WAS ADOPTED.

THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY


CLERK OF COUNCIL