

RESOLUTION

NO. R-15-436

CITY HALL: September 3, 2015

BY:  COUNCILMEMBERS WILLIAMS, HEAD, GUIDRY, BROSSETT AND GRAY

SUPPLEMENTAL AND AMENDING APPLICATION OF ENTERGY NEW ORLEANS, INC. FOR APPROVAL TO PURCHASE POWER BLOCK 1 OF THE UNION POWER STATION, FOR COST RECOVERY AND REQUEST FOR TIMELY RELIEF

DOCKET NO. UD-15-01

RESOLUTION AND ORDER ESTABLISHING A PERIOD OF INTERVENTION AND PROCEDURAL SCHEDULE FOR THE CONSIDERATION OF SUPPLEMENTAL AND AMENDING APPLICATION OF ENTERGY NEW ORLEANS, INC. FOR APPROVAL TO PURCHASE POWER BLOCK 1 OF THE UNION POWER STATION, FOR COST RECOVERY AND REQUEST FOR TIMELY RELIEF

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"), effective September 1, 2015, is a public utility providing electric and natural gas service to all of New Orleans; and

WHEREAS, ENO is a wholly-owned subsidiary of Entergy Corporation ("Entergy"). The other five Entergy operating companies are Entergy Arkansas, Inc. ("EAI"), Entergy Gulf

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States, Louisiana, L.L.C. (“EGSL”), Entergy Louisiana, LLC (“ELL”), Entergy Mississippi, Inc. (“EMI”), and Entergy Texas, Inc. (“ETI”). The six operating companies are referred to collectively as the “Operating Companies”; and

WHEREAS, on December 9, 2014, Entergy announced that EAI, EGSL, and ETI had signed an agreement to acquire the Union Power Station located near El Dorado, Arkansas; and

WHEREAS, Entergy stated that the Union Power Station is a highly-efficient, natural gas-fired electric generating facility that entered commercial service in 2003 and that the plant is being purchased for \$948.0 million (\$497/kW), subject to adjustments, which is approximately half the cost to build a comparable new combined-cycle gas turbine (“CCGT”) electric generation facility; and

WHEREAS, the proposed transaction initially contemplated that EGSL will acquire two of the four power blocks (“Power Blocks 3 and 4”). Power Blocks 3 and 4 are collectively capable of providing 990 MW of capacity and energy. EAI and ETI would each acquire one of two remaining 495 MW power blocks and EGSL, EAI and ETI would also acquire an undivided pro rata interest in common assets that are not specific to any individual power block; and

WHEREAS, on February 9, 2015 ENO filed an Application of Authorization from the Council to Enter into a Contract for the Purchase of Capacity and Energy from Power Blocks 3 and 4 at Union Power Station, for Cost Recovery, and Request for Timely Relief and accompanying Direct Testimony (“Union Application”); and

WHEREAS, in the Union Application, ENO sought approval of a cost-based power purchase agreement (“PPA”) with EGSL priced pursuant to Master Service Schedule MSS-4 of the Entergy System Agreement (or its FERC-approved successor), entitling ENO to twenty

percent (20%) of the capacity and related energy generated by Power Blocks 3 and 4 at Union Power Station on a life-of-unit basis; and

WHEREAS, as a result of the proposed allocation, ENO would be allocated approximately 200 MW of capacity and energy from Power Blocks 3 and 4; and

WHEREAS, on April 9, 2015, by Resolution No. R-15-134, the Council established Docket No. UD-15-01 to examine and consider ENO's Union Application and issued a procedural schedule setting certain deadlines, including a period for interventions; and

WHEREAS, on May 29, 2015, the Council's Advisors filed their Direct Testimony raising several important issues discovered as a result of a thorough review of ENO's Union Application; and

WHEREAS, subsequent to the filing of the Advisors' Direct Testimony, ENO and the Advisors agreed to engage in settlement negotiations in an attempt to resolve all outstanding issues related to ENO's Union Application; and

WHEREAS, on June 12, 2015, ENO and the Advisors did, in fact, reach an agreement and executed an Agreement in Principle ("Union Power AIP") settling all issues in this docket and recommending approval of ENO's Union Application subject to certain terms and conditions; and

WHEREAS, on June 18, 2015, in Resolution No. R-15-258, the Council found that the Union Power AIP is just, reasonable and in the public interest and approved ENO's request for authorization to enter into a contract for the purchase of twenty percent (20%) of the capacity and related energy from Power Blocks 3 and 4 at Union Power Station on a life-of-unit basis; and

WHEREAS, on July 17, 2015, together with the other parties in a proceeding before the Public Utility Commission of Texas ("PUCT"), ETI filed a motion to dismiss its application requesting a Certificate of Convenience and Necessity for one of the four 495 MW generating units at the Union Power Station near El Dorado, Arkansas ("Power Block One"); and

WHEREAS, in anticipation of the PUCT's dismissal of ETI's application, ENO announced that it intended to acquire Power Block One at an unadjusted purchase price of \$237.0 million, subject to the approval of the Council and the satisfaction of other conditions to close the transaction ("Power Block One Purchase"); and

WHEREAS, on August 21, 2015, ENO filed a "Supplemental and Amending Application Of Entergy New Orleans, Inc. For Approval To Purchase Power Block 1 Of The Union Power Station, For Cost Recovery And Request For Timely Relief" ("Supplemental and Amending Application") in Council Docket No. UD-15-01 seeking, among other things, a Council determination that the proposed acquisition of the 495 MW Power Block 1 is in the public interest; and

WHEREAS, if the Council approves ENO's Power Block One Purchase, such approval will be in lieu of and will supersede the 200 MW PPA previously approved by the Council in Resolution No. R-15-258; and

WHEREAS, it is the Council's desire to establish a procedural schedule that will allow the parties to this proceeding to rigorously investigate the Application, conduct discovery, file testimony and otherwise establish a record upon which the Council may use to render a decision regarding ENO's Supplemental and Amending Application; **NOW THEREFORE**

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

1. The Company's Supplemental and Amending Application shall be reviewed in this existing docket.
2. The Honorable Jeffrey Gulin is appointed to preside over the proceedings in this docket and shall rule on procedural disputes, including motions and discovery, and shall certify the record of the proceedings to the Council without recommendation.
3. ENO and the Council's Advisors are designated parties to these proceedings. Additionally, a period of 15 days from the adoption of this Resolution is established for interventions in this docket. Persons desiring to intervene shall do so by filing an intervention request with the Clerk of Council, with a copy submitted to Director, Council Utilities Regulatory Office, Room 6E07 City Hall, 1300 Perdido Street, New Orleans, LA 70112; and to persons on the Official Service List of Docket UD-15-01, which is available at the Council Utilities Regulatory Office. Objections to intervention requests shall be filed within 5 days of such requests. Timely-filed intervention requests not objected to within that time period shall be deemed GRANTED.
4. A period of discovery is established herein, and it shall extend from the date of the adoption of this Resolution through 8 days prior to the date of the Evidentiary Hearing (discovery requests must be made in time for responses to be received prior to the close of the discovery period). Responses to data requests shall be made on a rolling basis and shall be due in hand within 7 calendar days of receipt. Parties are encouraged to submit their data requests and responses electronically, where appropriate. Objections to data requests shall be filed within 5 days of receipt. The

parties are encouraged to attempt to resolve their discovery disputes amicably prior to seeking the intervention of the Hearing Officer or appealing to the Council.

5. Direct Testimony of Intervenors shall be filed not later than September 28, 2015.
6. Direct Testimony of Advisors shall be filed not later than October 5, 2015.
7. Rebuttal Testimony of ENO shall be filed not later than October 12, 2015.
8. The evidentiary hearing shall take place on October 21, 2015.
9. The Hearing Officer shall certify the record of these proceedings to the Council not later than October 25, 2015.
10. To the extent technical conferences or settlement negotiations are required, they are to be arranged by the parties with the assistance of the Hearing Officer, if necessary.
11. 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 set forth herein.
12. It is anticipated that during discovery, the parties may be required to produce documents or information that is deemed confidential and/or highly sensitive and, accordingly, the Council adopts for use in 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.

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

YEAS:

NAYS:

ABSENT:

AND THE RESOLUTION WAS ADOPTED.