July 6, 2016

By Hand Delivery and Email

Ms. Lora W. Johnson, CMC
Clerk of Council
Room 1E09, City Hall
1300 Perdido Street
New Orleans, LA 70112

Re: AN INQUIRY INTO ENTERGY NEW ORLEANS, INC.’S UTILITY OPERATIONS, Utility Docket UD-16-01.

Dear Ms. Johnson:

Enclosed please find an original and three copies of the Alliance for Affordable Energy’s motion in the above mentioned docket. Please file the attached motion and this letter in the record of the proceeding and return one time-stamped copy to our courier, in accordance with normal procedure.

Thank you for your time and attention.

Sincerely,

Logan Atkinson Burke
Alliance for Affordable Energy
Before
The Council of the City of New Orleans

In Re: AN INQUIRY INTO ENTERGY NEW ORLEANS, INC.’S UTILITY OPERATIONS, Docket NO. UD-16-01

Alliance for Affordable Energy comments and proposed order.

The Alliance for Affordable Energy (“the Alliance”) respectfully offers these comments and a proposed order in response to the New Orleans City Council’s Resolution No. R-16-263 to initiate a Show Cause proceeding.

The Alliance provides the following comments but notes that these may not be construed as an exhaustive list of concerns regarding Docket No. UD-16-01 and reserves the right to submit other comments and concerns into this docket.

The Alliance is reassured that the New Orleans City Council (“the Council”) is responding to broad frustration from stakeholders, including Entergy New Orleans Inc. (“ENO”) ratepayers, following earnest attempts by intervenors and interested parties to work in a respectful and collaborative spirit. It is clear the vision of the Council, defined by strong, forward looking leadership over the last several years, has not been carried out by ENO, despite requirements and directions laid out by the Council and planning carried out by the Advisors. It is the Alliance’s sincere hope that this Show Cause proceeding will help to solve the obstructions to progress that have been built by ENO’s conduct.

IRP Stakeholder Process

The Alliance sincerely believes that robust Integrated Resource Planning is still a valuable tool in developing an energy future for New Orleans that best serves the city and its residents. Unfortunately, the product of three years of work on the 2015 IRP has not resulted in the best plan. ENO’s unwillingness or inability to provide an IRP comparable to national peers has led to multiple extensions in order to offer the kind of planning the Council has requested and ordered, including increased demand side management and the addition of renewables. Stakeholders remain baffled as ENO reports renewables costs significantly higher than the rest of the nation, even as the city’s own residents invest in rooftop solar in record numbers.
Opaque agreements between ENO and their contracted companies relied upon for DSM and renewables data has further obscured facts used by the utility to come to its conclusions.

**Proposed Combustion Turbine Generation**

ENO has made clear, in their filing (at page 12), that not only did the company negotiate contracts without a public process, they have also shown their intention to own specific technology in Orleans Parish. This is in direct conflict with Council’s wishes that a vigorous process, designed to include and inform the community, be completed before approval for cost recovery is considered.

This contract negotiation is one of a string of similar secretive contractor selection and negotiation processes entered into by ENO in the last 12 months, including but not limited to the Entergy Smart Behavior Program, the Energy Smart Direct Load Control Program, and Advanced Metering for the service territory. These private and invite-only Request for Proposal processes leave the Council in the dark, restrain the competitive process, and result in rushed agreements without transparency and erodes public trust in the utility.

This most recent attempt to force the Council into a false choice, as constructed by ENO’s negotiated contract on the CT, holds the Council hostage, lest additional fees be added to capital costs that would no doubt accrue to the ratepayers.

**Competitive Procurement and Pre-Certification**

In researching and preparing for its role as a public advocate in dockets UD-16-01 and UD-16-02, it came to the Alliance’s attention that there are no formal procedural rules for utility applications to build generating capacity or enter into purchase power contracts. As Entergy New Orleans’ application to build the CT plant is the first time the company has ever applied to the City Council for self-build generating capacity, the Alliance respectfully requests the Utility Committee to consider the following as a potential structure to govern not only this application but future applications. The Alliance has noted that this is not the first time ENO has created a rushed procedural schedule for the Utility Committee to follow, nor is it the first time that ENO has chosen a contractor through opaque selection processes. The following proposed rule would address both of these situations, creating a more transparent procurement process from the beginning. It is our hope that an order like the one proposed below would offer a solution to frustration by stakeholders and potential bidders that the private RFP processes has caused over the past two years of ENO’s contractor procurements.
PROPOSED ORDER:

1. The utility responsible for providing electricity to the Greater New Orleans area ("the utility"), subject to the jurisdiction of the New Orleans City Council Utility Committee ("the Committee") shall employ a competitive procurement process in order to acquire the generating capacity or purchase power contracts intended to serve the New Orleans rate-payers. The results and analysis from employing this process shall serve as part of the “justification” required in paragraph twelve (12) below.

2. The following generating capacity investments or contracts do not require the formal use of a competitive procurement process:
   a. resources less than 35 MW;
   b. modification to an existing unit which expand the unit’s capacity either by less than 10 percent or by less than 50 MW;
   c. return to service of a unit in extended reserve shutdown if the total refurbishment costs (inclusive of new environmental controls and start up O&M) are less than $100 per KW;
   d. a project whose incremental installed cost for the increased capacity is less than $100 per kW;
   e. contracts for the purchase of economy energy or emergency power; or
   f. contracts of one year or less in duration, provided that the utility expects to receive power supply under the contract within one year of contract execution.

3. The competitive procurement process shall be an open, public, and competitive Request for Proposal (RPF) solicitation process. The utility may propose an alternative market-based procurement process or procedure if it can demonstrate that circumstances indicated that a formal RFP would not be in the public interest.

4. Any capacity investment exempt from the competitive procurement process must be supported with the appropriate justification at the time the utility seeks the Committee’s approval or rate recovery for that investment. For any such exempt capacity addition or purchase power contract, the utility retains the obligation to prudently implement, construct, and/or manage the resource consistent with the objective to provide reliable service at the lowest reasonable cost.

5. In order to implement the competitive procurement process for capacity investments or purchase power contracts, the utility is required to submit an informational filing with the Committee containing, but not limited to, the following items:
   a. A description of the utility’s proposed capacity addition including timing, amount, and type;
b. In the case the utility’s proposal is to construct generating capacity, a detailed estimate of the project cost, revenue requirement impacts, and support for that cost estimate;

c. Supporting information and documentation justifying the amount of capacity needed and the proposed resources to be acquired;

d. Supporting information and documentation justifying the type of resources, which the electric utility proposes or expects to construct and/or acquire; along with resource alternatives considered but rejected.

e. The utility’s proposed schedule for conducting and completing its RFP process and resource acquisition process. This would include the anticipated schedule for undertaking and completing any proposed power plant construction. This prosed schedule for conducting the RFP shall include adequate time for Committee, their Advisors, and intervenor review and discovery.

f. A description of the methods and criteria that the utility intends to use and evaluate RFP bid responses;

g. A draft purchase power agreement or a description of key contract elements;

h. A draft RFP solicitation document; AND

i. A draft or sample confidentiality agreement.

Requirements 5(a)-(d) may be met through the completion of an Integrated Resource Planning (IRP) cycle. Utility planning data and its own power plant cost estimates may be submitted subject to appropriate confidentiality protections. Certain commercially sensitive information may be denied to potential bidders.

6. The electric utility shall hold one or more technical conferences with Advisors, participating intervenors, and participating organizations to review the filing and proposals. The electric utility may proceed with the RFP process after completion of a consultation process with Staff and participants.

7. The electric utility shall provide RFP bid results and its evaluation of those bids to Staff and participating organizations deemed eligible to review such material subject to appropriate confidentiality protections. The electric utility shall provide an opportunity for Staff and eligible participant consultation before selecting purchase power contract offers and/or rejecting RFP bids in favor of its own capacity construction process.

8. The utility shall conduct its planning and RFP process with the objective being the provision of reliable electric service at lowest reasonable cost. The selection of projects or purchase power contracts also may consider public interest criteria such as: project or contract risk attributes; fuel diversity; and other factors deemed relevant.
9. If a utility’s corporate affiliate submits a bid in the RFP process, the utility must ensure that the affiliate has no preferential access to information or has any unfair advantage over other potential bidders.

10. At the conclusion of the RFP process, including Advisor and participant consultation, the implementation of the proposed purchase power contract and/or utility capacity construction project, shall be subject to a certification of public convenience and necessity process described in paragraphs eleven (11) through seventeen (17).

11. Without first having applied for, and received, from the New Orleans City Council Utility Committee (“the Committee”) a certification that the public convenience and necessity would be served, no public utility responsible for providing electricity to the Greater New Orleans area, subject to the jurisdiction of the Committee shall:
   a. Commence on any construction activity, or enter into any contract for the construction, or conversion of, electric generating facilities;
   b. Contract for the purchase of capacity or electric power, other than emergency or economy powered purchases; NOR
   c. Contract to purchase land for the siting of any planned generating facility.

12. Feasibility and engineering studies, and related activities preliminary to a determination of the desirability or need for plant construction or conversion on purchase power contracts are exempted from this requirement.

13. Applications submitted pursuant to this order shall include the specific data, utilized by the utility in justification of the generation project or purchased power agreement, the source of that data, an itemized projection of the total costs, the scheduled completion date with appropriate time schedules for the percentage of the total project to be completed by specific target dates, and, in cases of purchased power or capacity agreements, the proposed contract in its entirety.

14. If at any time the project or contract costs exceed those included in the application for certification, or a change in completion date for commercial operations is extended, the Committee shall be immediately notified. This provision applies to both applications for generation projects, purchase power agreements, or capacity agreements.

15. Failure to comply with this order may result in the exclusion of some or all of the cost of the project or contract from rate base or expenses for ratemaking purposes. If a utility continually fails to comply with this order, the Committee may choose to exercise its authority to municipalize the utility.

16. Upon completion of the competitive procurement process and the receipt of an application for certification, the Committee shall promptly schedule a public hearing
and render a decision within 120 days of the application for certification filing date. The utility may request the issuance of a Committee.

17. Any utility capacity project or purchase power agreement subject to the competitive procurement process and certification by the Committee remains subject to prudence reviews in subsequent rate and/or fuel clause audit proceedings with respect to the utility’s obligation to prudently implement, construct, and/or manage the capacity project or purchase power contract consistent with the objective of providing reliable service at the lowest reasonable cost.

Respectfully Submitted,

Logan Atkinson Burke

Alliance for Affordable Energy
Certificate of Service Docket No. UD-16-01

I hereby certify that I have this 6th day of July, 2016, served the required number of copies of the foregoing motion upon all other known parties of this proceeding, by electronic mail.

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Logan Atkinson Burke

Alliance for Affordable Energy
ENTERGY NEW ORLEANS, INC
IN RE: PROPOSED RULEMAKING TO ESTABLISH INTEGRATED RESOURCES PLANNING COMPONENTS AND REPORTING REQUIREMENTS FOR ENTERGY NEW ORLEANS, INC.
UTILITY DOCKET NO. UD-08-02

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