

RESOLUTION

NO. R-16-332

CITY HALL: August 11, 2016

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

**APPLICATION OF ENTERGY NEW ORLEANS, INC. FOR APPROVAL TO
CONSTRUCT NEW ORLEANS POWER STATION AND REQUEST FOR COST
RECOVERY AND TIMELY RELIEF**

**RESOLUTION AND ORDER ESTABLISHING A PERIOD OF INTERVENTION
AND OTHER PROCEDURAL REQUIREMENTS FOR THE CONSIDERATION OF
THE APPLICATION OF ENTERGY NEW ORLEANS, INC. FOR APPROVAL TO
CONSTRUCT NEW ORLEANS POWER STATION AND REQUEST FOR COST
RECOVERY AND TIMELY RELIEF**

DOCKET NO. UD-16-__

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"), 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 four operating companies are Entergy Arkansas, Inc. ("EAI"), Entergy Louisiana, LLC

("ELL"), Entergy Mississippi, Inc. ("EMI"), and Entergy Texas, Inc. ("ETI"). These five operating companies are referred to collectively as the ("Operating Companies"); and

WHEREAS, on June 1, 2016, ENO deactivated Michoud Units 2 and 3 as a result of economic decisions based on maintenance and operational issues resulting in the loss of approximately 781 MW of local capacity; and

WHEREAS, ENO sought approval to acquire the 500 MW Power Block 1 of the Union Power Station ("Power Block 1") located in El Dorado, Arkansas in an effort to partially offset the anticipated loss of the Michoud capacity with a form of more efficient generating capacity; and

WHEREAS, on November 19, 2015, the Council approved Resolution R-15-542 authorizing ENO to acquire Power Block 1 subject to certain terms and conditions; and

WHEREAS, on March 3, 2016, ENO acquired Power Block 1 and its related common assets; and

WHEREAS, ENO has indicated to this Council that it has a remaining long-term peaking/capacity need requiring new resource(s) capable of meeting those needs; and

WHEREAS, on June 20, 2016, ENO filed an Application for Approval to Construct New Orleans Power Station and Request for Cost Recovery and Timely Relief ("Application"); and

WHEREAS, the Application seeks approval to construct the New Orleans Power Station ("NOPS"), an advanced 226 MW (nominal) combustion turbine ("CT") located at ENO's Michoud facility in New Orleans East; and

WHEREAS, in addition to a finding that NOPS is in the public interest, ENO also requests approvals relating to appropriate cost recovery, a construction monitoring plan, and a

procedural schedule to permit a Council decision on its Application by January 31, 2017 which would result in commercial operation of NOPS in October 2019; and

WHEREAS, in support of its Application, the Company submitted the Direct Testimonies of Charles L. Rice, Orlando Todd, Seth E. Cureington, Jonathan E. Long, Charles W. Long, Shauna Lovorn-Marriage, and Robert A. Breedlove; and

WHEREAS, ENO asserts in its Application that it has a remaining overall long-term capacity need of approximately 124 MW in 2016 and up to 205 MW by 2030; and

WHEREAS, in addition to the total capacity shortfall, the Company indicates that it has a greater shortfall of two specific types of capacity than it does of capacity as a whole. The Company's current projections indicate that ENO has an existing long-term need for approximately 288 MW of peaking and 118 MW of reserve capacity resources (total of 406 MW) in 2016 which need is expected to persist throughout the long-term planning period; and

WHEREAS, ENO also states that its resource needs come at a time when the MISO South capacity market is expected to tighten and reach equilibrium (the point at which supply and demand meet) by 2022; and

WHEREAS, the Company asserts that although it continues to seek opportunities to offset some of its capacity needs with energy efficiency and demand-side management ("DSM") programs, as well as adding renewable resources to its generation portfolio, such resources are not alternatives to NOPS and cannot fill the long-term peaking/reserve capacity deficit in a cost effective manner during the long-term planning period; and

WHEREAS, ENO maintains that its long-term planning indicates a need for a local resource that can support local reliability, reduce reliance on transmission and resources outside of Orleans Parish and facilitate storm restoration; and

WHEREAS, according to ENO's Application, the current estimated cost to construct NOPS is \$216 million, which reflects the use of a fixed-price, fixed duration form of engineering, procurement, and construction services contract; and

WHEREAS, the Company also asserts that the construction of NOPS is expected to have a positive impact on the economies of the State of Louisiana and Orleans Parish, including hundreds of millions of dollars in economic benefits in terms of new business sales, household earnings, and jobs in both the State and Parish economies; and

WHEREAS, ENO's application also states that the Integrated Resource Planning ("IRP") process, conducted in Council Docket No. UD-08-02 and upon which the Council has yet to act, identified an overall long-term need for capacity as well as a need for long-term peaking and reserve resources; and

WHEREAS, the Company conducted a DSM Potential Study, Generation Technology Assessment, and Portfolio Evaluation, which evaluated a range of viable supply and demand-side alternatives and ENO asserts that the results of the Final IRP support the conclusion that a CT resource is the lowest reasonable cost resource addition capable of meeting the Company's overall capacity needs; and

WHEREAS, the Application includes a proposed cost recovery plan which identifies certain cost recovery mechanisms to be utilized by the Company to recover non-fuel costs, Long Term Service Agreement expenses, fuel expenses and any revenue or expense resulting from MISO market settlements; and

WHEREAS, ENO seeks approval of its proposed Monitoring Plan whereby the Company would make periodic progress reports to the Advisors and the Council during the construction phase of the project; and

WHEREAS, the Company proposes the following procedural schedule in order to facilitate a January 2017 decision by the Council:

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| Discovery | Commencing on the Issue date of Procedural Schedule Resolution and Ending 15 Days Prior to Hearing |
| Direct Testimony of Intervenors | October 3, 2016 |
| Direct Testimony of Advisors | October 24, 2016 |
| Rebuttal Testimony of ENO | November 14, 2016 |
| Evidentiary Hearing | December 5, 2016 |
| Hearing Officer to Certify Record | December 12, 2016 |
| Council Decision | by January 31, 2017 |

WHEREAS, ENO requests that the Council grant the following approvals and relief:

1. Find that the Company’s construction of NOPS serves the public convenience and necessity and is in the public interest, and is therefore prudent;
2. Confirm that the Company’s investments made pursuant to a public interest determination by the Council are presumed prudent and eligible for recovery from customers, and that the Company will have the full and fair opportunity to recover all prudently-incurred costs of the project;
3. Find that retail non-fuel revenue requirement associated with the Project (to be determined in a subsequent revenue requirement filing) is deemed eligible for recovery in the first billing cycle in the month following commercial operation of NOPS via applicable PPCACR Rider, which would be modified for such purpose, or a similar exact cost recovery rider;

4. Approve recovery, through the applicable FAC, of the energy costs and expenses incurred under NOPS' LTSA;
5. Approve the Monitoring Plan under which the Company will:
(i) report to the Council Advisors on a quarterly basis the status of NOPS, including schedule, costs and other critical associated activities, and (ii) receive written acknowledgement from the Council Advisors;
6. Rule that, with respect to the Project described in the Application, the Company has complied with, or is not in conflict with, the provisions of all applicable Council resolutions;
7. Grant a waiver of any applicable requirement to the extent that such waiver may be required to facilitate approval of the transaction described in this Application;
8. Develop and implement appropriate procedures to facilitate a Council decision on the Application no later than January 31, 2017;
and
9. Order such other general and equitable relief as to which the Company may show itself entitled; and

WHEREAS, on June 27, 2016, the Alliance for Affordable Energy ("Alliance") filed a Petition for Intervention and Inclusion on Service List, and Reply Motion ("Intervention and Reply Motion"). In its Intervention and Reply Motion, the Alliance seeks Intervenor status and asks that the Council reject ENO's proposed procedural schedule and set a different schedule; and

WHEREAS, the Alliance requests that the Council (1) first convene a status conference before adopting a procedural schedule to ensure alignment in scope and schedule between the IRP, ENO's proposal for new generation, and examination of specific transmission constraints, local installed capacity requirements, and resource alternative options; (2) open a new docket to study transmission constraints, local installed capacity requirements, and resource alternatives for meeting those requirements and to culminate in a Technical Report prepared by the Council's

Advisors to be completed and entered into the record prior to procedural action related to ENO's proposed CT plant; and (3) set a second status report after completion of the Technical Report to determine next steps for consideration of the proposed CT plant; and

WHEREAS, on July 15, 2016, ENO submitted an Opposition to the Alliance for Affordable Energy's "Reply Motion". ENO urges the Council to deny the Alliance's Reply Motion to Suspend Procedural Schedule, but did not raise any objection to the Alliance's request to intervene; and

WHEREAS, on July 15, 2016, PosiGen of Louisiana, LLC filed a Petition for Intervention and Inclusion on Service List, which also included substantive comments in opposition to ENO's Application; and

WHEREAS, no objections to the requests for intervention of the Alliance or PosiGen were submitted to the Council; and

WHEREAS, the Council intends to provide the residents of the City of New Orleans with an open and transparent process that will allow for multiple opportunities for the public to communicate its views to ENO and the Council as they relate to the construction of the proposed project; and

WHEREAS, it is also 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 Application; and

WHEREAS, the Council is concerned that the project has been proposed before the Council has ruled on ENO's IRP filing, and thus may or may not be consistent with the IRP ultimately approved by the Council; and

WHEREAS, the Council is not at this time ready to approve either ENO's proposed procedural schedule or the Alliance's proposed schedule. The Council will address the substantive arguments raised by ENO, the Alliance, and PosiGen in a future Resolution, but in the interest of allowing the proceeding to move forward will at this time establish the docket and allow the parties to begin exchanging information; **NOW THEREFORE**

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

1. The Company's Application shall be reviewed in a new docket designated as Docket Number UD-16-02.
2. The Honorable Jeffrey Gulin is appointed as Hearing Officer 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, the Alliance for Affordable Energy, Posigen, and the Council's Advisors are designated parties to these proceedings. Additionally, a period of 30 days from the adoption of this Resolution is established for interventions in this docket. Persons desiring to intervene shall do so by filing a motion to intervene with the Clerk of Council, with a copy submitted to Director, Council Utilities Regulatory Office ("CURO"), Room 6E07 City Hall, 1300 Perdido Street, New Orleans, LA 70112. The Council's requirements for motions to intervene may be found in the City Code (which is available on the Council's website) at sections 158-236, 158-240, 158-286, 158-287, 158-288, 158-322, and 158-324. All fees associated with the filing of interventions in this proceeding are hereby waived, in accordance with Section

158-286 of the City Code. Objections to motions to intervene shall be filed within 7 days of such requests. Timely-filed motions to intervene 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 (to be set in a future Resolution). Discovery requests must be made in time that responses may 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 10 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. 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.
6. 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.
7. In light of the considerable public interest in this particular proceeding, interested persons wishing to receive email notices of any public meetings or public hearings regarding the CT application shall submit their email addresses to CURO at

pthomas@nola.gov, wtstrattonjr@nola.gov, and careed@nola.gov, and following which CURO will forward such notices of public meetings or public hearings to the persons who submit their email addresses.

8. To the extent that the City Clerk's office closes before 5:00 pm on the date of any deadline contained therein, the deadline shall be extended to the next business day.
9. The Council shall set remaining procedural schedule dates in a future Resolution.

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.