

**MOTION
(LYING OVER)
(AS AMENDED)
NO. M-17-217**

CITY HALL: April 20, 2017

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

WHEREAS, During the recent Request for Qualifications process to select Council Utility Advisors, the Utilities, Cable, Telecommunications and Technology Committee (UCTTC) and the Council expressed support to develop and adopt billing guidelines for the Advisors; and

WHEREAS, Draft billing guidelines were prepared by the Council Utilities Regulatory Office (CURO) and subsequently submitted by CURO to the Office of Inspector General (OIG); and

WHEREAS, in response, the OIG made several observations that should inform the UCTTC and the Council going forward. Most significantly, the OIG noted “the proposed guidelines suggested that the Council and the UCTTC have not yet engaged in a thoughtful and deliberate process to establish CURO’s role in the regulatory process... [a]ttempting to alter the Council’s regulatory practices and its relationship with advisors – the long-standing regulatory culture – through a complex set of billing guidelines would be difficult if not impossible.”; and

WHEREAS, heeding the advice of the OIG, it is incumbent upon the Council to ameliorate that problem; and

WHEREAS, Chairman Williams circulated a draft of CURO Protocols to the Council and CURO March 17, 2017; and

WHEREAS, the UCTTC recommends the attached CURO Protocols (Exhibit A) and move to the Council for adoption; **NOW THEREFORE**

BE IT MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That the CURO Protocols recommended by the UCTTC, march 29, 2017 and set forth in Exhibit “A” be and are hereby approved by the Council.

MAY 4, 2017

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

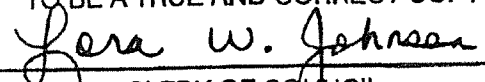
YEAS: Brossett, Gray, Guidry, Head, Williams - 5

NAYS: 0

ABSENT: Cantrell, Ramsey - 2

AND THE MOTION, AS AMENDED, WAS ADOPTED.

**THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY**


CLERK OF COUNCIL

SUBSTITUTE EXHIBIT A TO MOTION M-17-217

**Utility, Cable, Telecommunications and Technology
Committee (UCTTC) Operating Protocols for the Council
Utilities Regulatory Office (CURO)**

COUNCIL UTILITIES REGULATORY OFFICE (CURO) PROTOCOLS

During the recent RFQ process to select Council Utility Advisors, the UCTTC and the Council expressed support for a process to develop and adopt billing guidelines for the Advisors. Draft billing guidelines were prepared by CURO, which were subsequently submitted by CURO to the Office of Inspector General (OIG).

In response, the OIG made several observations that should inform the UCTTC and the Council going forward. Most significantly, the OIG noted that **“the proposed guidelines suggest that the Council and UCTTC have not yet engaged in a thoughtful and deliberate process to establish CURO’s role in the regulatory process.... [a]ttempting to alter the Council’s regulatory practices and its relationship with the advisors – the long-standing regulatory culture – through a complex set of billing guidelines would be difficult if not impossible.”**

While we regret the suggestion that we have not engaged in a thoughtful and deliberate process, we recommend the following explication of CURO’s role and responsibilities.

....
The authority to grant franchises and to regulate public utilities within the City of New Orleans is granted exclusively to the Council by the Home Rule Charter and the City Code. The authority is not delegable. However, the Council has chosen to exercise that authority initially through the UCTTC subject to Council approval of all recommendations and actions.

Accordingly, with respect to franchise and utility regulatory matters, policy decisions are the exclusive province of the UCTTC and the Council. CURO does not establish policy, as the ultimate determination of policy remains with the Council. CURO provides research and recommendations, oversees the responsibilities and activities of the Advisors and serves as the initial public interface among the UCTTC, the Council, and the public, including all participants and stakeholders in the utility regulatory process.

Accordingly, the following are a starting point for defining the role of CURO in the Council’s regulatory process:

1. CURO shall function as the regulatory and administrative support staff to the UCTTC. CURO shall regularly communicate with the Chair regarding current committee priorities.
2. CURO shall keep a record of all meetings conducted by CURO, including conference calls, related to utility and telecommunications matters.
3. To ensure effective contract management and reduce regulatory costs when possible, CURO shall monitor work assigned to Advisors. The Chair, UCTTC and individual Councilmembers retain the authority to assign work either to CURO or the utility Advisors. This work and records thereof will be maintained and monitored by CURO with monthly written reports provided to the Chair for billing review.

4. The established process of the utility Advisors communicating directly with the Chair, UCTTC members, and Council members is encouraged and is not altered by the expansion of CURO. The established process of other communications or meetings being conducted by the Advisors shall be subject to the oversight of the Chair and the UCTTC and not CURO.
5. CURO shall use best efforts to support public participation in the regulatory system, including cooperation with stakeholders and the general public by marshalling and providing information, as requested. CURO shall develop and present for approval a detailed internal policy for disseminating documents and information to the public.
6. CURO shall be responsible for receiving and handling questions and complaints from residents and consumers regarding utility matters including, but not limited to, questions about utility bills, including an explanation of line-by-line charges and matters related to customer service. In support of this function, CURO shall acquire and maintain in-depth knowledge about ratepayer bills, including all factors that create variations in monthly billings.
7. Similarly, CURO shall acquire and maintain in-depth knowledge about customer service issues including a process for obtaining and disseminating information about blackouts, service disruptions and service restoration. In support of this function, CURO shall develop in-depth knowledge on the Service Regulations Applicable to Electric and Gas Service by Entergy New Orleans, Inc. approved April 7, 2016 per Council Resolution R-16-105. CURO shall also develop and maintain statistical data with respect to recurring outages to identify and inform the UCTTC about areas of potential structural and/or functional deficiencies.
8. CURO shall be responsible for overseeing and implementing the Utility Customer Complaint and Dispute Processes approved by the Council and detailed in "Your Rights as a New Orleans Electric and Gas Utility Customer."

CURO shall be initially responsible for assisting the UCTTC with the responses to public records requests related to matters under the jurisdiction of the UCTTC, including consulting with the law department with respect to legal issues related to requests. CURO shall also consult with the utility Advisors with respect to matters unique to utility regulation, such as the designation of materials as highly sensitive protected material (HSPM) and how to deal with such materials, where there is uncertainty about whether confidentiality has been asserted. Generally it is expected that CURO will follow the process outlined in Resolution R-07-432 dated September 20, 2007, adopting the New Official Protective Order, and future modifications thereof, establishing the process to receive and handle materials marked Highly Sensitive Protective Materials (HSPM). CURO shall also be responsible for amassing and producing all documents and other information required and fulfilling valid requests.

9. CURO shall also develop materials for public dissemination that describe the Council's various levels of regulatory authority, or lack thereof, as it relates to

public utility, telecommunications and franchise services. Such materials should be drafted to ensure that the public understands what degree of authority the Council has, over which matters, and how problems can be addressed.

10. CURO shall be responsible for continuing efforts to develop and implement an electronic filing system for utility-related filings and to provide user-friendly access to all public documents related to utility regulatory and/or franchise matters. CURO shall also be responsible for enhancing and improving the UCTTC website to provide maximum information related to utility regulatory and franchise matters for public access.
11. CURO shall maintain records and documents from utility dockets sufficient to allow CURO to have complete, up-to-date records on all utility dockets and documents. CURO shall have as a goal sufficient access to and knowledge about utility dockets and documents to allow CURO to answer questions about dockets and to provide documents without the need to involve the utility Advisors. CURO should be able to answer procedural questions about the status of open dockets without involving the utility Advisors.
12. CURO shall be responsible for administering all Council utility dockets in coordination with the Council's Administrative Hearing Officer.
13. CURO shall be responsible for reviewing the existing utility regulatory procedures, formal and informal, to identify and determine if existing procedures are clearly available in an accessible and usable format to assist all interested parties in understanding how to intervene or participate in any pending docket. CURO, in consultation with the Advisors, shall also be responsible for proposing any needed codifications of or revisions to existing procedures to make them more accessible, user friendly, transparent and fully functional to maximize participation in utility regulatory matters.
14. CURO shall be responsible for overseeing all Council procedures to ensure that all legislative instruments are properly and timely prepared and routed through and approved by each required office or agency to comply with all procedural requirements. CURO shall also be responsible for ensuring that all required lie-over periods, notifications and publications are achieved consistent with all procedural requirements. CURO should achieve the goal of being the experts on Council practices and procedures with respect to utility regulatory matters and franchise applications.
15. CURO shall propose draft committee agendas to the Chair. As needed, CURO will obtain recommendations from the Advisors with respect to agenda matters. CURO shall be responsible for preparing and noticing agendas and meetings. CURO shall also be responsible for scheduling and otherwise arranging for Council briefings by the Advisors in connection with UCTTC meetings. UCTTC and Council members may schedule meetings and briefings directly with Advisors at any time.

16. CURO shall be responsible for preparing and presenting for approval the budget for CURO staff and internal CURO operations. CURO shall be responsible for seeking approval of any external expenditures by any member of CURO staff, i.e. travel related costs and extraordinary administrative office related costs. CURO shall be responsible for obtaining preapproval for travel from the UCTTC. CURO shall also be responsible for administering the process to obtain timely annual approval of any Advisor contract amendments.
17. CURO shall be responsible for reviewing Advisor bills consistent with billing guidelines. Upon the completion of that bill review, CURO shall:
 - a. Provide a monthly billing review memo to the Chair of the UCTTC (as per protocol 3),
 - b. Follow up with the appropriate advisors based upon the recommendation from the Chair with regard to any objections to and questions about submitted bills, and
 - c. Present a brief bill review memorandum of each bill to the UCTTC with the final approval for payment directed by the Chair.
18. CURO shall be responsible for keeping abreast of state, regional and national regulatory and legislative rulings and decisions and providing a periodic report to the UCTTC on such matters. CURO shall also monitor FCC regulations and rulings that might affect the scope of Council authority over telecommunication and data services. CURO shall also be responsible for developing a program for the use of interns to assist in this function for consideration and approval by the UCTTC.
19. CURO shall be responsible for participating in and interacting with other regulatory commission staffs and regulatory trade associations and agencies such as SERUC, NARUC and FCC and making periodic reports to the UCTTC with respect to information gathered from these commissions, associations and agencies. CURO shall participate in matters related to ENO's membership in MISO, OMS and ERSC, however all policy positions and decisions on voting matters and filings with these organizations shall be made by the UCTTC.
20. CURO shall also be responsible for administering the Council's franchising process, including developing and proposing improvements to the currently confusing process for telecommunications franchise applications. CURO shall be responsible for preparing franchise agreements and ordinances for consideration by the Administration and the Council. CURO shall also manage the franchise ordinance approval process.
21. CURO shall be responsible for receiving and responding to questions, complaints and inquiries about Cox cable TV services under its franchise agreement.

22. CURO shall be responsible for overseeing and monitoring PEG Access TV, including management of the contract between the Council and the PEG Access administrator. CURO shall develop and implement reporting requirements to ensure that all PEG contract requirements are being performed in a timely fashion, including annual audits. CURO shall provide quarterly reports to the UCTTC and the Council on PEG Access performance and compliance and to recommend changes to improve performance.
23. CURO shall be responsible for researching and collecting all PEG related rules, regulations, policies and procedures that govern programming, including but not limited to, those relating to commercial activity, obscenity, First Amendment rights, etc. Further, CURO shall monitor enforcement of all such matters and, when appropriate, recommend modifications thereto to the UCTTC.
24. CURO shall be responsible for monitoring the payment of the PEG Access fee by Cox.
25. CURO shall be responsible for administering the Cox Grants program.
26. CURO shall submit a written quarterly report to the Chair with copies to UCTTC members. The Chair shall conduct a quarterly review and evaluation of CURO's performance and the performance of the CURO Chief-of-Staff and the CURO Director.

The report shall include, among other relevant data, the following:

- a. a summary of all customer service matters and complaints, the basis of said complaint, and actions taken by CURO to resolve the complaint;
- b. a summary of matters discussed by CURO in meetings and phone calls with representatives of Entergy New Orleans, Inc. and Entergy;
- c. the location and number of recurring outages (both gas and electric), number of customers affected and actions taken by ENO to ameliorate the recurring problem;
- d. a status report on CURO's efforts to implement an electronic filing system for utility-related filings and to provide user-friendly access to all public documents related to utility regulatory and/or franchise matters;
- e. a summary of all training and conferences attended and the benefits of such attendance;
- f. a status report and current calendar for each Council docket; and
- g. all such other matters as requested by the Chair or members of the UCTTC