



July 11, 2017

Via Hand Delivery

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

Re: Entergy New Orleans, Inc.'s Application for Approval to Construct New Orleans Power Station and Request for Cost Recovery and Timely Relief
Docket No. UD-16-02

Dear Ms. Johnson:

Undersigned counsel make this filing on behalf of Alliance for Affordable Energy, Deep South Center for Environmental Justice, Inc., and Sierra Club (collectively, "Public Interest Intervenor"). Enclosed please find the original and three copies of Public Interest Intervenor's Reply to Entergy New Orleans Inc.'s Proposed Procedural Schedule. Please file stamp the original and the copies, and return an extra file-stamped copy to our courier. Thanks for your assistance, and please let me know if you have any questions.

Sincerely,

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cc: UD-16-02 Distribution List

**BEFORE
THE COUNCIL OF THE CITY OF NEW ORLEANS**

IN RE: PUBLIC APPLICATION OF ENTERGY)	
NEW ORLEANS, INC. FOR APPROVAL TO)	
CONSTRUCT NEW ORLEANS POWER)	DOCKET NO. UD-16-02
STATION AND REQUEST FOR COST)	
RECOVERY AND TIMELY RELIEF)	

**THE ALLIANCE FOR AFFORDABLE ENERGY, DEEP SOUTH CENTER FOR ENVIRONMENTAL JUSTICE, INC. AND SIERRA CLUB
REPLY TO ENTERGY NEW ORLEANS, INC. PROPOSED PROCEDURAL
SCHEDULE**

The Alliance for Affordable Energy, Deep South Center For Environmental Justice, Inc. and Sierra Club (“Public Interest Intervenors”) respectfully request that the Council of the City of New Orleans (“City Council”) reject the procedural schedule proposed by Energy New Orleans Inc. (“ENO”) in its Supplemental and Amending Application for Approval to Construct New Orleans Power Station and Request for Cost Recovery and Timely Relief (“Second Application”). ENO is requesting a highly compressed schedule despite the fact that a substantial part of the proposal only became public on July 6, and the company primarily relies on need projections some 9 years in the future.

The schedule ENO requests is unnecessary and serves only to create a false sense of urgency and undermine the public’s right to fully participate in this proceeding. ENO’s proposed schedule would render independent analysis and input from stakeholders virtually impossible, and prevent input from the citizens who will be asked to pay for the plant and accept the burdens of its environmental impacts. The City Council rejected an unreasonable procedural schedule when ENO filed its Initial Application to build the CT gas plant, and the Council should do the same here. The parties and public will be best served by a procedural process that

recognizes 1) the importance of evaluating the critical facts and assumptions underlying ENO's proposals; 2) the benefits of independent expert analysis and meaningful stakeholder engagement; and 3) the essential right of the public to participate in the process and inform the City Council of their concerns.¹

In contrast to Entergy's request, the schedule proposed by the Public Interest Intervenors in this response provides the residents of New Orleans with an open and transparent process that will allow for multiple opportunities for the public to communicate their views to ENO and the City Council, and will allow for independent analysis and full participation by all parties.

DISCUSSION

A. Despite ENO's Characterization of Its Filing as an Amendment, the "Alternative Peaker Project" Discussed in the Second Application Constitutes a New Application Which Must Be Fully Vetted by the City Council

On June 20, 2016, ENO filed the Initial Application asking the City Council to approve ENO's request to spend hundreds of millions of dollars on a new gas-fired power plant in the City of New Orleans,² and to approve ENO recovering those costs from ENO customers along with an additional amount to pay ENO's shareholders a return on equity.³ As part of the application, ENO submitted the Direct Testimonies of Charles L. Rice, Orlando Todd, Seth E. Cureington, Jonathan E. Long, Charles W. Long, Shauna Lovorn-Marriage, and Robert Breedlove. At the direction of the City Council, ENO filed supplemental testimony on November 18, 2016. The Public Interest Intervenors filed their testimony on January 6, 2017,

¹ While at this juncture the Public Interest Intervenors are only objecting to ENO's proposed procedural schedule, Public Interest Intervenors reserve the right to raise any other objections to ENO's Second Application.

² The Initial Application sought approval to construct a 250 MW capacity (226 MW during summer conditions) combustion turbine ("CT").

³ Throughout this filing, the project which is at issue in ENO's Initial Application is referred to as the "CT Project."

demonstrating that ENO failed to establish that construction of the proposed CT gas plant is in the public interest.

On February 13, 2017, just days before the City Council Advisors' testimony was due to be filed, ENO disclosed that a new load forecast called into question the need for the CT Project. On February 14, 2017, ENO filed a motion to suspend the procedural schedule in order to allow ENO to evaluate the implications of the updated forecast. On March 6, 2017, Judge Gulin granted ENO's motion.

On July 6, 2017, ENO filed its Second Application.⁴ Thus, ENO had approximately six months to analyze the data it controls and prepare its new application and testimony. Not only does the Second Application include supplemental testimony from Charles Rice, Seth Cureington, Jonathan Long, Orlando Todd, Charles Long and Robert Breedlove; but ENO also filed the new direct testimony of Bliss Higgins and Dr. George Losonsky.

Even though this is a complicated and important matter, and ENO required six months to analyze the data and develop its own testimony, ENO requests that the City Council set an accelerated procedural schedule that would severely prejudice the Intervenor by giving those parties less than two months to issue data requests, analyze the information received, and draft their responsive testimony. Such a compressed schedule would limit the City Council's ability to obtain independent analysis of the facts and assumptions presented by ENO, would limit the ability of the City Council and stakeholders to obtain and consider expert guidance, and would prevent the City Council from obtaining meaningful public input.

⁴ The project which is at issue in the Second Application consists of seven generator sets ("Alternative Peaker Project").

For example, ENO now includes testimony asserting that the proposed plants will have no health concerns, since they will necessarily meet federal air quality standards. However, as ongoing research demonstrates, meeting federal air quality standards does not mean that air emissions have no health impacts. *E.g. Air Pollution and Mortality in the Medicare Population*, THE NEW ENGLAND JOURNAL OF MEDICINE, 2017; 3762513-2522 (“In the entire Medicare population, there was significant evidence of adverse effects related to exposure to PM_{2.5} and ozone at concentrations below current national standards. This effect was most pronounced among self-identified racial minorities and people with low income.”). These are issues that need to be rigorously reviewed for a sound decision.

ENO has failed to demonstrate any necessity for approving either the CT gas plant or the alternative seven gas engines by October 31, 2017. ENO concedes that the most substantial need for capacity from either project will not be for at least ten years.⁵ Moreover, according to ENO, the CT gas plant would take three years to construct and the alternative seven gas engines would take two years to construct. Taking an appropriate amount of time to address the necessity of constructing either project will not adversely affect electric service in New Orleans. Thus, the City Council should protect the other parties’ due process rights by enabling these parties to participate in a manner that affords sufficient time to conduct an independent analysis of the data and cogently present their information to the City Council.

Moreover, even though the City Council has repeatedly stressed the importance of public participation in the process, ENO once again fails to include any public meetings in its proposed procedural schedule. It should be noted that when the Council Utilities Regulatory Office

⁵*See, e.g.*, Seth Cureington Supplemental Testimony at pp.7-8. Mr. Cureington states that ENO will only have a capacity deficit of 99 MW at 2026 – the size of the 100 MW of new solar proposed – and 248 MW in 2036.

convened a public meeting on ENO's Initial Application on December 12, 2016, nearly 100 residents attended this meeting. This level of public participation clearly demonstrates that the residents have a strong public interest in expressing their views on the ENO proposals which will greatly impact their lives. The active and engaged community participation in that hearing is strong evidence of community interest in this matter and the value of their input cannot be over-estimated.

Simply put, ENO's proposed procedural schedule is designed to limit public participation in the process and pressure the City Council to make this important decision without a proper assessment of the facts and alternatives. Approving ENO's attempt to force an accelerated, limited schedule to evaluate the proposals to construct a new power plant in the City would be a rejection of the deliberate, open, and informed regulatory oversight by the City Council.

Finally, the City Council should bear in mind that the first time anyone other than ENO even learned of the alternative seven gas engines was when ENO filed the Second Application on July 6th.⁶ A defining feature of the City Council's regulatory oversight is the Integrated Resource Planning (IRP) process that purports to assure ENO invests in the mix of resources over the planning horizon that will provide the greatest value to customers, all things considered. The IRP process sets forth a method to evaluate the many options to meet the needs of the utility system and to consider the many values at stake in those choices. At least the highly flawed CT project was discussed in the IRP process. Because the alternative seven gas engines were never considered in the IRP process, and was proposed for the first time on July 6, 2017, a full and complete hearing regarding this alternative project is essential.

⁶ While ENO vaguely alluded to a second proposal in the Status Report, no substance regarding the project was provided. Moreover, discovery was suspended during this time period thereby preventing the parties from obtaining any information regarding the specifics of the project.

B. The Procedural Schedule Set Forth Below Will Protect Parties Due Process Rights and Ensure that the City Council Can Make An Informed Decision Regarding Whether Either Proposed Project Should be Constructed

In light of the foregoing, the Public Interest Intervenors respectfully recommend that the City Council adopt the procedural process set forth below.

- 1) Prior to September 30, 2017, ENO shall conduct a minimum of one public meeting in each of the seven City Council districts for the purpose of sharing information with and answering questions from the public related to ENO's Second Application for the proposed New Orleans Power Station. ENO shall provide adequate public notice of the public information meetings no later than 30 days prior to each meeting and such notification shall be published in *The Times Picayune*, *The Louisiana Weekly*, *Gambit*, *The New Orleans Advocate*, *The New Orleans Tribune*, and on ENO's website. Any public information meeting scheduled on a weekday shall take place after 5 pm. All public information meetings shall be scheduled prior to the public hearing. Within 7 days following each public information meeting, ENO shall file a written report in the official docket of this proceeding indicating the date, time and location of the meeting, including a list of individual attendees and representatives of any community, civic or other organizations present at the meeting.
- 2) In addition to the public information meetings, the City Council, through the Utilities Regulatory Office, shall conduct a public hearing prior to September 30, 2017, for the purpose of receiving public comments related to ENO's Second Application for the proposed New Orleans Power Station. A court reporter shall be present to record the statements made during the public hearing and the written transcript shall be filed in

the official docket in this proceeding and made available for review in the Clerk of Court's office upon completion.

- 3) A request to intervene in this docket (by any individual not already designated as a party to this docket) shall be filed no later than October 31, 2017. All filing fees are waived. An objection to an intervention request shall be filed within 7 calendar days of such request. Timely filed intervention requests not objected to within this time period shall be deemed GRANTED.
- 4) Direct Testimony of the Intervenors shall be filed no later than November 30, 2017.
- 5) Direct Testimony of the Advisors shall be filed no later than January 11, 2018.
- 6) Rebuttal Testimony of ENO shall be filed no later than February 2, 2018.
- 7) The evidentiary hearing shall take place on February 19 through February 23, 2018.
- 8) Opening briefs⁷ shall be filed no later than March 23, 2018.
- 9) Reply briefs shall be filed no later than April 20, 2018.

CONCLUSION

For the reasons set forth above, the City Council must reject ENO's unreasonable procedural schedule. The City Council should adopt the Public Interest Intervenors' proposed schedule because this schedule will allow New Orleans residents to have meaningful input, and provide sufficient time for the parties to rigorously investigate both projects, conduct discovery, file testimony and ultimately establish a record upon which the City Council can render a decision on ENO's Second Application that is in the public interest.

⁷ Briefing is an important tool which will greatly aid the City Council in reaching its decision. Briefs summarize the issues, demonstrate how the evidence provided resolves those issues, and present concise arguments explaining why the issues should be decided in a certain manner.

Respectfully Submitted:



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CERTIFICATE OF SERVICE
CNO Docket No. UD-16-02

I, the undersigned counsel, hereby certify that a copy of the above and foregoing has been served on all parties listed in the official e-mail distribution list the above docket by facsimile, by hand delivery, by electronic mail, and/or by depositing a copy of same with the United States Postal Service, postage prepaid.



Robert B. Wiygul