


RESOLUTION

R-18-100

CITY HALL: April 5, 2018

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

DOCKET NO. UD-18-02

**RESOLUTION AND ORDER OPENING A DOCKET REGARDING ELECTRIC
VEHICLES CHARGING AND RELATED REGULATORY ISSUES**

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, LLC (“ENO”) is a public utility providing electric and natural gas service to all of New Orleans; and

WHEREAS, pursuant to its powers of supervision, regulation, and control over public utilities, the Council is responsible for granting utility franchises related to wireless and wireline telecommunications; and

WHEREAS, neither the Home Rule Charter nor the City Code defines “utility” or “public utility” it is within the authority of the Council from time to time to determine if a particular activity

or function reasonably falls within those terms as used in the Home Rule Charter and/or the City Code; and

WHEREAS, the Home Rule Charter clearly includes ENO within the definition of a “utility” or “public utility” making it fully subject to the utility regulatory authority of the Council; and

WHEREAS, the City Administration, based upon the recommendations of the City’s Environmental Advisory Committee, has proposed the adoption of policies and legislation to allow and encourage the construction, location and operation of electric vehicle charging stations throughout the City on both public and private property; and

WHEREAS, the proposals of the City Administration include allowing for owners, operators and providers of electric vehicle charging stations to charge a fee for providing access to and use of the stations; and

WHEREAS, the question has arisen as to whether the charging of fees for providing access to and use of electric vehicle charging stations falls within the terms “utility” or “public utility” as those terms are used in the City Charter and the City Code; and

WHEREAS, the demand for electric vehicles nationwide is growing and many states and municipalities have already taken actions to encourage the use of such vehicles, including encouraging the construction, location and operation of electric vehicle charging stations; and

WHEREAS, the Council agrees that the use of electric vehicles is in the public interest and is consistent with Council Resolution Nos. R-17-428 (Resolution Regarding Climate Action for a Resilient New Orleans Strategy) and R-17-303 (resolution supporting the Paris Agreement) and should therefore be encouraged; and

WHEREAS, the Council also agrees that the construction, location and operation of electric vehicle charging stations is in the public interest and should be encouraged; and

WHEREAS, the developing national consensus is that the construction, location and operation of such charging stations by a person or entity that is not otherwise a "utility" or "public utility," does not make such person or entity a "utility" or "public utility;" and

WHEREAS, the developing national consensus also concludes that the charging of fees for using such charging stations by a non-utility is not a "utility" or "public utility" activity or function , and, therefore not subject to regulation as such; and

WHEREAS, the Council has carefully examined this matter and determined that the charging of a fee for using such electric vehicle charging stations never was, and is not now, contemplated as a "utility" or "public utility" in form or function under the City Charter or City Code, provided that the charging station provider purchases the electricity from Entergy New Orleans or another utility regulated by the Council under the provisions of the City Charter; now therefore:

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

THAT:

1. That the Council finds that encouraging the use of electric vehicles is in the public interest and consistent with the policies of this Council as expressed in Resolution Nos. R-17-428 and R-17-303.
2. That the construction, location and operation of electric vehicle charging stations on both private and public property should be encouraged.
3. That a person or entity that purchases electricity from Entergy New Orleans or another utility regulated by the New Orleans City Council and furnishes such electricity exclusively

to charge electric vehicles, to or for the public, for compensation, never was, and is not now, a utility or public utility as those terms are used in the New Orleans Home Rule Charter and the New Orleans City Code, and is not subject to the Council's utility regulatory authority.

4. That the determination that such activity or function is not subject to the Council's utility regulatory authority does not affect any other regulatory authority of the Council or the City, including, but not limited to, uses of public rights-of-way, zoning and other land use regulations, master plan requirements, safety and permit requirements, public works requirements and finance and revenue requirements.
5. That because there are other regulatory related matters concerning electric vehicles and electric vehicle charging stations that go beyond the limited issue addressed in this resolution the Council establishes Docket No. UD-18-02 for the consideration of matters related to electric vehicles and electric vehicle charging and directs the Council Utility Advisors to propose and implement a process for the gathering of additional information, including public comment, and developing additional proposed actions as are deemed necessary with a preliminary report to be made to the Council within ninety (90) days of this resolution.

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

YEAS: Brossett, Cantrell, Gray, Guidry, Head, Ramsey - 6

NAYS: 0

ABSENT: Williams - 1

AND THE RESOLUTION WAS ADOPTED.

THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY
Lara W. Johnson
CLERK OF COUNCIL