

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

**REVISED APPLICATION OF)
ENTERGY NEW ORLEANS, LLC FOR)
A CHANGE IN ELECTRIC AND GAS) DOCKET NO. UD-18-07
RATES PURSUANT TO COUNCIL)
RESOLUTIONS R-15-194 AND R-17-504)
AND FOR RELATED RELIEF)**

**OPPOSITION OF THE UTILITY ADVISORS OF THE COUNCIL
OF THE CITY OF NEW ORLEANS TO CRESCENT CITY POWER USERS' GROUP'S
MOTION FOR EXTENSION OF TIME TO FILE DIRECT TESTIMONY**

NOW COME the Utility Advisors of the Council of the City of New Orleans (“Advisors”), through undersigned counsel, in opposition to the Crescent City Power Users’ Group’s Motion for Extension of Time to File Direct Testimony, filed before the Council on November 7, 2018,¹ and in support thereof, state:

1.

The Crescent City Power Users’ Group’s (“CCPUG”) motion in this proceeding seeks a six-week extension of the deadline for the intervenors’ direct testimony from December 7, 2018 to January 18, 2019, without adjustment of any other procedural deadlines in this case.² The Advisors are also aware that other Intervenors have filed in support of CCPUG’s request for an extension of time,³ and therefore file this opposition to the request.

¹ Crescent City Power Users’ Group’s Motion for Extension of Time to File Direct Testimony, UD-18-07, filed Nov. 7, 2018 (“CCPUG Motion”).

² CCPUG Motion at 2-3.

³ The Alliance for Affordable Energy Support for Crescent City Power Users’ Group Motion for Extension of Time, UD-18-07, filed Nov. 6, 2018; City of New Orleans’ Support for and Joinder in Crescent City Power Users’ Group’s Motion for Extension of Time for Intervenors to File Direct Testimony, UD-18-07, filed Nov. 7, 2018, Building Science Innovators, LLC Support for Crescent City Power Users’ Group Motion for Extension of Time, UD-18-07, dated Nov. 8, 2018.

2.

CCPUG's proposal would shorten the time the Advisors have to conduct any discovery on and incorporate any response to the intervenors direct testimony from eight weeks (including the holiday season) down to only two weeks. CCPUG acknowledges this, writing:

The Advisors' direct testimony is due on February 1, 2019, therefore, extending the deadline for intervenors' direct testimony to January 18, 2019 will provide the Advisors two (2) weeks to review and conduct discovery on intervenors' direct testimony. Considering that the Advisors' primary objective is to analyze ENO's application and supporting testimony, two (2) weeks should be sufficient to address intervenors' direct testimony.⁴

3.

Allowing the Advisors only two weeks to conduct discovery on and respond to testimony from a currently unknown number of intervenors in this proceeding is unreasonable. The CCPUG's assertion that the Advisors need only two weeks because their primary objective is to analyze ENO's application and supporting testimony is based on a fundamental misunderstanding of the role of the Advisors. The role of the Advisors is to analyze all information presented in the docket by all parties, assess it, and provide the Council with the Advisors' best technical and legal advice on the most appropriate course of action. The Advisors cannot properly advise the Council on the assertions and testimony set forth by the intervenors if the Advisors do not have sufficient time to conduct discovery, analyze the information and prepare testimony.

⁴ CCPUG Motion at 3.

4.

Limiting the Advisors to only two weeks to conduct discovery on and respond to testimony from a currently unknown number of intervenors, as suggested by CCPUG's proposal, would allow the Intervenors' testimony to escape careful scrutiny. The CCPUG's proposal would give the Intervenors 15 weeks from the time ENO's filing was noticed (17 weeks from the time it was filed at the Council and made publicly available) to respond to ENO's testimony and give the Advisors only 2 weeks to respond to all Intervenor testimony, from an as-yet undetermined number of Intervenors, which may very well raise new issues for the first time in this proceeding. There is no circumstance under which this is a fair or reasonable result and it would deprive the Council of effective counsel from its Advisors.

5.

Moreover, the Advisors do not expect the Intervenors to speak with one voice in this proceeding, and expect that various Intervenors may take positions on issues regarding which ENO has no position so long as ENO is held revenue neutral. CCPUG's motion also shortens the time that Intervenors have to respond to each other's testimony by 6 weeks, leaving them with approximately one month to answer each other's testimony (again with a currently unknown number of intervenors). For example, to the extent that intervenors representing one set of customers file testimony arguing that costs should be shifted onto other customer groups, or should they propose a new or different rate design, the other intervenors will have less than half the previously granted amount of time to conduct discovery and respond to such arguments.

6.

Delaying the deadlines in this docket could have a detrimental effect on ratepayers and deprive the Council of sufficient time to consider the matter before voting on ENO's rate proposal. Under City Code section 158-91 "Upon such acceptance [of the filing], the council shall have 12 months in which to review the filing and to render a determination as to the proper rates to be charged by the utility. If the council has not made this determination by 12 months plus one day after the date of acceptance, the rates as submitted by the utility in the accepted filing shall become effective subject to refund." The date of acceptance of the filing was Oct. 6, 2018, so the Council has until Oct. 7, 2019 to render a decision or ENO's proposed rates automatically go into place, subject to refund.

7.

In Resolution No. R-18-434, the Council, recognizing that despite ENO's withdrawal and refiling of the Application, the proposed decrease in ENO's rates should be implemented as if there had been no withdrawal, held:

The rates approved in this proceeding will be effective as of the first billing cycle August 2019 even though a Council decision may not be issued by that time. ENO shall make the necessary adjustments to customer bills retroactively to the first billing cycle of August 2019 to reflect the appropriate amounts due based on the Council approved rates.⁵

⁵ *Resolution and Order Establishing A Period of Intervention and Other Procedural Requirements for the Consideration of the Revised Application of Entergy New Orleans, LLC for a Change in Electric And Gas Rates Pursuant to Council Resolutions R-15-194 and R-17-504 and for Related Relief*, Docket No. UD-18-07, Resolution R-18-434 at 12.

8.

Due to the operation of Section 158-91, if the Council does not render a decision until after October 7, 2019, ENO's proposed rates would go into effect, subject to refund, from that date until the Council issues a resolution. This would result in ENO having to calculate refunds and/or surcharges for two different periods, once for the difference between the approved rate and the proposed rate for the period from the Council's decision back to October 7, 2019 and again for the difference between the approved rate and ENO's current rates for the period from October 6, 2019 back to August 19, 2019. Delay in Council action would result in customers whose rates go down as a result of the final decision having to pay rates that are higher than they should be for an extended period of time while waiting for a refund, and those customers for whom rates increase as a result of the final decision could end up with a bill in late 2019 reflecting several months of additional charges owed for the period from August 19, 2019 forward. The Advisors object to either result. Ratepayers should have rate certainty as soon as possible.

9.

For these reasons, the Advisors oppose the proposed extension of time for Intervenors. To the extent that the Hearing Officer determines that it is appropriate to grant an extension of time for Intervenor direct testimony in this proceeding, the Advisors object to shortening the time that the Advisors have to respond to Intervenor testimony as this would unreasonably deprive the Council of the effective counsel of its Advisors.

10.

To the extent that the Hearing Officer determines that it is appropriate to extend the deadline for Intervenor testimony, the Advisors request that the following dates be adjusted:

1. The Intervenors direct testimony will be extended until February 1, 2019;
2. ENO Rebuttal Testimony will be extended to March 22, 2019;
3. The Intervenor Cross-Answering Testimony would be delayed until April 19, 2019;
and
4. ENO's Rejoinder Testimony will be extended to May 17, 2019.

This proposed change in procedural dates allows more time for the Intervenors to prepare and file their direct testimony without prejudicing the Advisors' opportunity to analyze, conduct discovery and respond to the Intervenors' direct testimony while allowing sufficient time for the Council to render a decision in a timely manner:

The resulting procedural schedule would be as follows:

1. Direct and Answering Testimony of Intervenors and Advisors shall be filed not later than February 1, 2019.
2. Rebuttal Testimony of ENO shall be filed not later than March 22, 2019.
3. Intervenor and Advisor Surrebuttal and Cross-Answering Testimony shall be filed not later than April 19, 2019.
4. Rejoinder Testimony of ENO shall be filed not later than May 17, 2019.
5. The evidentiary hearing shall be conducted on June 10-14, 2019.

6. The Hearing Officer is to certify the record of these proceedings to the Council not later than June 21, 2019.
7. Initial briefs shall be filed not later than July 3, 2019.
8. Reply briefs shall be filed not later than July 19, 2019.

WHEREFORE, the Advisors pray that the CCPUG Motion for Extension of Time to File Direct Testimony be denied, or, if it is granted, that the remainder of the procedural schedule be adjusted as set forth herein, and for all other relief available to the Advisors under the facts and law.

Respectfully submitted:



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CERTIFICATE OF SERVICE

I hereby certify that on this day a copy of the foregoing Opposition of the Utility Advisors of the Council of the City of New Orleans to Crescent City Power Users' Group's Motion for Extension of Time to File Direct Testimony has been sent to the official service list by email and/or served by United States mail, postage prepaid, through their representatives at the following addresses:

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New Orleans, Louisiana, this 14th day of November, 2018.

A handwritten signature in blue ink, appearing to be "J. A. Beatmann, Jr.", enclosed in a thin black rectangular border.

J. A. "Jay" Beatmann, Jr.

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REVISED APPLICATION OF)	
ENTERGY NEW ORLEANS, LLC FOR)	
A CHANGE IN ELECTRIC AND GAS)	
RATES PURSUANT TO COUNCIL)	DOCKET NO. UD-18-07
RESOLUTIONS R-15-194 AND R-17-504)	
AND FOR RELATED RELIEF)	

ORDER

Upon consideration of the Crescent City Power Users’ Group’s Motion for Extension of Time to File Direct Testimony filed November 7, 2018; The Alliance for Affordable Energy Support for Crescent City Power Users’ Group Motion for Extension of Time, filed November 6, 2018; the City of New Orleans’ Support for and Joinder in Crescent City Power Users’ Group’s Motion for Extension of Time for Intervenors to File Direct Testimony, filed November 7, 2018, The Building Science Innovators, LLC, Support for Crescent City Power Users’ Group Motion for Extension of Time, dated November 8, 2018; and the Opposition of the Utility Advisors of the Council of the City of New Orleans to Crescent City Power Users’ Group’s Motion for Extension of Time to File Direct Testimony, filed November ____, 2018, in the above captioned matter,

IT IS HEREBY ORDERED, that the Hearing Officer hereby denies the Crescent City Power Users’ Group’s Motion for Extension of Time to File Direct Testimony.

Thus done and signed this 14th day of November, 2018.

Honorable Jeffrey S. Gulin
Hearing Officer