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January 2, 2019

**Via Hand Delivery**

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

***In Re: Resolution Initiating a Show Cause Proceeding Regarding Imposition of  
Sanctions Against ENO Based Upon Report of Independent Investigators  
Filed with the Council on October 29, 2018  
CNO Docket NO.: UD-18-\_\_***

Dear Ms. Johnson:

Please find enclosed for your further handling an original and three copies of Entergy New Orleans, LLC's ("ENO") Response and Objections to Council Resolution R-18-474 Concerning Community Relations and Customer Engagement Plan. Please file an original and two copies into the record, and return a date stamped copy to our courier.

Thank you for your assistance with this matter.

Sincerely,

Brian L. Guillot

Enclosure

cc:

Honorable Helena Moreno (*via electronic mail*)  
Honorable Jason Rogers Williams (*via electronic mail*)  
Honorable Joseph I. Giarrusso (*via electronic mail*)  
Honorable Jay H. Banks (*via electronic mail*)  
Honorable Kristin Gisleson Palmer (*via electronic mail*)  
Honorable Jared C. Brossett (*via electronic mail*)  
Honorable Cyndi Nguyen (*via electronic mail*)  
Erin C. Spears (*via electronic mail*)  
City Attorney: Sunni LeBeouf, Esq. (*via electronic mail*)  
Clint A. Vince, Esq. (*via electronic mail*)

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

**IN RE: RESOLUTION INITIATING A )  
SHOW CAUSE PROCEEDING )  
REGARDING IMPOSITION OF )  
SANCTIONS AGAINST ENO BASED ) DOCKET NO. UD-18-\_\_\_\_  
UPON REPORT OF INDEPENDENT )  
INVESTIGATORS FILED WITH THE )  
COUNCIL ON OCTOBER 29, 2018 )**

**ENTERGY NEW ORLEANS, LLC'S  
RESPONSE AND OBJECTIONS TO COUNCIL RESOLUTION R-18-474  
CONCERNING COMMUNITY RELATIONS AND CUSTOMER ENGAGEMENT PLAN**

NOW BEFORE THE COUNCIL OF THE CITY OF NEW ORLEANS (the "Council"), through the undersigned counsel, comes Entergy New Orleans, LLC ("ENO" or the "Company"), which respectfully submits this Response and Objections to the provisions of Council Resolution R-18-474 that address ENO's preparation and filing of a Community Relations and Customer Engagement Plan ("Plan").

**I. Introduction**

In Resolution R-18-474, adopted on October 31, 2018, the Council made clear its displeasure that individuals were paid to attend public meetings and/or speak in support of the New Orleans Power Station ("NOPS"), ordered ENO to show cause why penalties and sanctions should not be imposed on ENO, and directed ENO to file with the Council a Community Relations and Customer Engagement Plan ("Plan").

The Company filed its Response to Show Cause on November 30, 2018, which is incorporated herein *in extenso*. Because the requirement that ENO develop and file the Plan is connected to Resolution R-18-474's expressed intention to assess penalties and sanctions against

ENO, however, the Company respectfully objects to the terms set forth in the resolution for the reasons given in the Response to Show Cause pertaining to penalties and sanctions. ENO further objects to the extent that Resolution R-18-474 goes too far in exercising managerial authority over ENO's business and is inconsistent with the prudent investment rule.

Subject to and without waiving the objections stated herein, the Company shares the Council's goal of fostering a productive, collaborative relationship among the Company, its customers, the Council, and the New Orleans community and will engage the Council and its Advisors to receive necessary clarifications and feedback regarding several issues related to the Plan, which will hopefully result in a mutually acceptable path forward.<sup>1</sup>

## **II. ENO's Objections and Proposed Path Forward Regarding the Development of a Community Relations and Customer Engagement Plan**

The Company states that if Resolution R-18-474's directive to develop the Plan was intended to be connected to the expressed intention to assess penalties and sanctions against ENO, including but not limited to the language in Resolution R-18-474 stating that "ENO shall exclude all costs and penalties associated with this resolution, as well as their related regulatory ratemaking effects, from prospective rate action filings and clearly demonstrate the methodology by which such have been excluded," then the Company respectfully objects and states that this undertaking should occur through the normal ratemaking process. *See* Company's Response to Show Cause. The development of such a Plan will be both timely and costly given the needed community involvement and the engagement of an expert to determine industry best practices to assist in its development, as required by the Resolution. Consistent with normal practice, such an effort should proceed through the normal ratemaking process.

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<sup>1</sup> To the extent that a consensus path cannot be reached, the Company maintains its objections detailed herein.

ENO further objects to the extent that Resolution R-18-474<sup>2</sup> The Council has historically observed the following important limitation on its regulatory authority:

While the Home Rule Charter of the City of New Orleans vests the Council with the authority to supervise, regulate and control all utilities providing service in the City, that authority does not allow the Council, or other parties for that matter, the ability to substitute their own decisions for those of the utility.<sup>3</sup>

In this instance, the Council is indeed treading into managerial policy, in violation of this sound regulatory principle.

Subject to and without waiving these objections, however, the Company reiterates that it will work with the Council and its Advisors to receive needed clarifications regarding, among other things, the content being requested in such a Plan, and to determine the process to accomplish the Council's goals. With the benefit of such feedback, the Company will be in a better position to develop a usable and workable plan and engage an expert to assist with its development.

The Company needs certain clarifications regarding the Council's intentions and expectations, as the Company already regularly engages its customers with respect to important matters and there has been no allegation or finding of fact that the Company has inappropriately engaged its customers or the community, or that it did not provide enough community/customer outreach throughout the NOPS case.

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<sup>2</sup> See *Gulf States Utils. Co. v. La. Pub. Serv. Comm'n*, 578 So. 2d 71, 85 (La. 1991) (“[U]nder the prudent investment rule, a utility is compensated for all prudent investments at their cost when made, irrespective of whether they are deemed necessary or beneficial in hindsight.”); *So. Cent. Bell Tel. Co. v. La. Pub. Serv. Comm'n*, 594 So. 2d 357, 366 (La. 1992) (characterizing the prudent investment rule as a “constitutional touchstone” and holding that “a regulatory commission that does not take into account all prudently incurred investment has acted arbitrarily.”).

<sup>3</sup> Council Resolution R-17-332, *In Re: Rulemaking Proceeding Regarding Integrated Resource Planning*, Docket No. UD-17-01 (“Council Resolution R-17-332”), at 18.

Accordingly, the Company will work with the Council and its Advisors to develop a mutually agreeable path forward and to receive clarification that the development and implementation of a Community Relations and Customer Engagement Plan is not connected to the penalties objected to in the Company's Response to Show Cause and are recoverable through the normal ratemaking process.

Respectfully submitted:

BY:



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