

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

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

**SURREBUTTAL TESTIMONY
OF
THOMAS J FERRIS
ON BEHALF OF
THE ADVISORS TO THE
COUNCIL OF THE CITY OF NEW ORLEANS**

APRIL 26, 2019

PREPARED SURREBUTTAL TESTIMONY

OF

THOMAS J FERRIS

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4 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND OCCUPATION.**

5 A. My name is Thomas J. Ferris. My business address is 1 Sugar Maple Trail, Madison,
6 Wisconsin. I am a Certified Public Accountant in the state of Wisconsin and a self-
7 employed Regulatory Utility Accounting Consultant working as a sub-contractor to
8 Bruno & Tervalon LLP, CPAs, New Orleans.

9 **Q. DID YOU PREVIOUSLY FILE DIRECT TESTIMONY IN THIS PROCEEDING?**

10 A. Yes. I filed direct testimony on behalf of the Council of the City of New Orleans
11 (“Council”) Accounting Advisors¹ (“Accounting Advisors”). The Council regulates the
12 rates, terms, and conditions of electric and gas service of Entergy New Orleans, LLC
13 (“ENO”). ENO is a subsidiary of Entergy Utility Holding Company, LLC (“EUH”).
14 EUH is itself directly and indirectly owned by Entergy Corporation (“Entergy”).

15 **Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY IN THIS**
16 **PROCEEDING?**

17 A. The purpose of my Surrebuttal Testimony is to respond to the rebuttal testimony of ENO
18 witness Mr. Joshua Thomas. Specifically, I will respond to Mr. Thomas’ rebuttal
19 testimony regarding my adjustment related to Entergy’s Restricted Stock Incentive Plan.

¹ Council Accounting Advisors refers to the accounting firm Bruno & Tervalon, LLP, CPAs.

1 Q. **PLEASE SUMMARIZE THE RECOMMENDATION IN YOUR SURREBUTTAL**
2 **TESTIMONY.**

3 A. ENO's Restricted Stock Incentive Plan, Project F5PPZZ4091, is a stock ownership plan
4 tied to the long-term performance of Entergy Corporation common stock and is,
5 therefore, of significant benefit to its shareholders. ENO has failed to show how this plan
6 benefits ratepayers and, therefore, has not provided any justification for recovering the
7 cost of the Restricted Stock Incentive Plan in rates. As such, the cost of the Restricted
8 Stock Incentive Plan should not be recovered in rates.

9 Q. **MR. THOMAS STATES THAT YOU HAVE NOT DEMONSTRATED THAT**
10 **ENO'S COMPENSATION PLANS ARE UNREASONABLE. WHAT IS YOUR**
11 **RESPONSE TO THIS STATEMENT?**

12 A. How a company compensates its employees is up to each company. As an Advisor to the
13 Council, it is not my role to micro-manage the company's compensation plans. The issue
14 here is who benefits from and who should pay for the cost of each component of the
15 company's compensation plans, the ratepayers or shareholders.

16 Q. **MR. THOMAS STATES THAT YOU HAVE NOT STATED AN INDEPENDENT**
17 **BASIS FOR WHY THE RESTRICTED STOCK INCENTIVE PLAN EXPENSES**
18 **SHOULD BE DISALLOWED. DO YOU AGREE WITH THIS STATEMENT?**

19 A. No, I do not. In my direct testimony I noted that Project F5PPZZ4091, Restricted Stock
20 Incentive, was a new incentive plan in 2011. According to the Entergy scope statement
21 for this project, the overall purpose of this project is to capture and manage costs
22 associated with Entergy's new long-term incentive Restricted Stock program. The
23 Restricted Stock program is a stock ownership plan associated with the incentive

1 compensation plan for management levels 1 through 5. Since the participants'
2 compensation is tied to the long-term performance of Entergy Corporation common
3 stock, it provides incentive to focus on the future impacts of current policies and
4 decisions.

5 As I discuss below and in my direct testimony, incentive compensation plans and
6 stock options may be recovered in rates only to the extent that the company demonstrates
7 that such plans benefit ratepayers. In any review of a company's incentive plan we
8 examine the basis for the plan and evaluate whether the incentive compensation was
9 related strictly to the company's stock price and financial performance criteria, or on cost
10 control, safety, and customer service criteria in addition to financial performance
11 measures.

12 Based on Entergy's scope statement for the Restricted Stock Incentive Plan, this
13 plan is a stock ownership plan tied to the long-term performance of Entergy Corporation
14 common stock and is, therefore, of significant benefit to its shareholders. As such, the
15 Advisors recommend that 100 percent (100%) of the revenue requirements associated
16 with the Restricted Stock Incentive Plan should be removed from rate recovery.

17 **Q. DOES MR. THOMAS DEMONSTRATE THAT ENO'S RESTRICTED STOCK**
18 **INCENTIVE PLAN BENEFITS RATEPAYERS?**

19 A. No, Mr. Thomas does not provide any justification for recovering the cost of the
20 Restricted Stock Incentive Plan in rates. The Company has failed to meet its burden of
21 showing that the Restricted Stock Incentive Plan benefits ratepayers.

1 **Q. MR. THOMAS CLAIMS THAT YOU ARE TRYING TO REWRITE THE 2010**
2 **AGREEMENT IN PRINCIPLE (“AIP”), WHICH GOVERNED THE RECOVERY**
3 **OF EXECUTIVE INCENTIVE COMPENSATION. DO YOU AGREE WITH**
4 **THIS CLAIM?**

5 A. No, I am not trying to rewrite the 2010 AIP regarding the recovery of executive incentive
6 compensation. As Mr. Thomas points out, this provision was only precedential for the
7 term of the FRP, which has lapsed. As explained in my response to the next question, I
8 am only referring to this provision as an example of how the Council decided a similar
9 issue in a previous case. It is a decision that the Council may consider when deciding on
10 the recovery of the Restricted Stock Incentive Plan costs in this proceeding.

11 **Q. DO YOU AGREE WITH THE ADVISORS POSITION DISCUSSED IN DOCKET**
12 **NO. UD-08-03 AND DO YOU BELIEVE IT APPLIES TO ENO’S RESTRICTED**
13 **STOCK INCENTIVE PLAN?**

14 A. Yes, I not only agree with this position but also believe that it still applies today related to
15 the Restricted Stock Incentive Plan.

16 I noted in my direct testimony that similar to Project F5PPZZ4091, Project
17 F5PCZZ4080, Equity Awards, and Project F5PCZZ4090, Restricted Share Awards, are
18 stock ownership plans. Since the participants' compensation is tied to the long-term
19 performance of Entergy Corporation common stock, it provides incentive to focus on the
20 future stock price impacts of current policies and decisions.

21 I also noted in my direct testimony that Project F5PCZZ4045, Long-Term
22 Incentive Plan, is a long-term restricted unit plan. According to the Entergy scope
23 statement for this project, the primary products or deliverables of this project code is to

1 maximize the quality of operating efficiency and fiscal responsibility of the Entergy
2 System in the long-term by tying the participants to the long-term performance of
3 Entergy Corporation common stock.

4 In its review of various forms of incentive compensation in Docket No. UD-08-
5 03, Council's Advisors examined the basis for each incentive and evaluated whether the
6 incentive compensation was related strictly to Entergy's stock price and financial
7 performance criteria, or on cost control, safety, and customer service criteria in addition
8 to financial performance measures. The Council's Advisors found that the financial
9 performance measurement criteria used in these Entergy incentive compensation plans
10 was based on Entergy's cash flow and earnings per share, thus, based on elements
11 directly affecting Entergy's stock price. The Advisors found that incentive compensation
12 based solely on Entergy's stock price was of significant benefit to its shareholders. As
13 such, the Advisors removed 100 percent (100%) of the revenue requirements associated
14 with the Long-Term Incentive, Equity Awards, Stock Options Incentive, and Restricted
15 Share Awards Plans.

16 As I said, I not only agree with this position but believe that it still applies today
17 related to the Restricted Stock Incentive Plan. As such, the same as Long-Term
18 Incentive, Equity Awards, Stock Options Incentive, and Restricted Share Awards Plans, I
19 continue to recommend that 100 percent (100%) of the revenue requirements associated
20 with the Restricted Stock Incentive Plan should be removed from rate recovery.

1 As I also discussed in my direct testimony, in making its recommendation to
2 disallow the above stock options and incentive compensation, the Council's Advisors in
3 Docket UD-08-03 relied in part on precedents established by other retail regulators that
4 regulate Entergy Operating Companies and on sound regulatory practices. As a result,
5 the Council's Advisors recommended that the Council should take administrative notice
6 of orders issued in the regulatory jurisdictions of other Entergy affiliates wherein the
7 issue of incentive compensation was examined and resulted in the removal of a
8 significant portion of these costs from eligible revenue requirements. These regulatory
9 jurisdictions were the Arkansas Public Service Commission in Docket No. 06-101-U,
10 Order 10, and the Louisiana Public Service Commission in Docket No. U-20925.

11 **Q. DO YOU HAVE ANY OTHER COMMENTS REGARDING MR. THOMAS'**
12 **REBUTTAL TESTIMONY?**

13 A. Yes, Mr. Thomas also points out that the Council Advisors did not seek to disallow the
14 restricted stock incentive plan expenses in conjunction with the 2012 FRP filings.
15 Apparently, Mr. Thomas believes that if the Advisors fail to seek a disallowance of an
16 expense in one case, they are prevented from ever seeking such a disallowance. The fact
17 that the Advisors haven't sought a disallowance for the Restricted Stock Incentive Plan
18 only means that the Council has never ruled on the allowability in rates of these expenses.
19 In addition, the parties reached an agreement in principle regarding the referenced FRP
20 filings. It is my understanding, therefore, that in lieu of a specific finding by the Council
21 on the issue, the issue is still open for Council determination of its allowability in rates.

1 **Q. DOES THIS COMPLETE YOUR SURREBUTTAL TESTIMONY?**

2 A. Yes, it does.