

RESOLUTION

NO. R-21-296

CITY HALL: August 5, 2021

**BY: COUNCILMEMBERS MORENO, GLAPION, GIARRUSSO, BANKS AND
BROSSETT**

**RESOLUTION AND ORDER ESTABLISHING A DOCKET AND
PROCEDURAL SCHEDULE WITH RESPECT TO THE APPLICATION
OF ENTERGY NEW ORLEANS, LLC FOR CERTIFICATION OF COSTS
RELATED TO HURRICANE ZETA**

DOCKET UD-21-02

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, Entergy New Orleans, LLC ("ENO" or "the Company"), effective September 1, 2015, is a public utility providing electric and natural gas service to all of New Orleans; and

WHEREAS, ENO is a wholly owned subsidiary of Entergy Utility Holding Company, LLC. ENO, and four other Entergy subsidiaries, Entergy Arkansas, LLC, Entergy Louisiana, LLC, Entergy Mississippi, LLC, and Entergy Texas, Inc. are the Entergy Operating Companies ("EOCs"); and

WHEREAS, on October 28, 2020, Hurricane Zeta made landfall near Cocodrie, Louisiana with 115 mph sustained winds just before moving over New Orleans and onto Mississippi and Alabama; and

WHEREAS, the storm's center passed directly over Orleans Parish, and damaging winds brought down trees, limbs, poles, and lines throughout the metropolitan New Orleans area causing extensive damage to ENO's distribution facilities, as well as some damage to ENO's transmission facilities; and

WHEREAS, the storm caused widespread customer service outages across several states, and ENO reports that at its peak, the storm knocked out power to approximately 178,171 ENO customers; and

WHEREAS, ENO reports that, working with other EOCs, mutual-assistance utilities, and outside contractors, ENO was able to restore power to 96% of its customers within five days, and to 100% of all customers who were able to accept service (*i.e. customers who did not require reconstruction of their personal property*) within seven days; and

WHEREAS, on May 21, 2021, ENO filed its Application for Certification of Costs Related to Hurricane Zeta ("ENO Application"); and

WHEREAS, the ENO Application states the Company incurred approximately \$36 million of Hurricane Zeta costs through March 31, 2021 ("Total Storm Costs"); and

WHEREAS, the ENO Application states ENO has, to date, withdrawn a total of \$44.4 million from the storm reserve escrow accounts ("Storm Reserve"); \$28.6 million from its securitized storm reserve escrow account, and \$15.6 million from its unsecuritized storm reserve escrow account to cover the estimated costs of restoration for Hurricane Zeta. In addition, the application states that ENO also withdrew approximately \$5 million of unrecovered costs related to other storms that have accumulated from ENO's unsecuritized storm reserve; and

WHEREAS, the ENO Application states the actual storm costs (plus estimated costs) as of March 31, 2021 are approximately \$4 million less than ENO's withdrawals, and once the total

costs are finalized, the Company will work with the Advisors and the Council to determine whether the Company should return any withdrawals in excess of actuals to the escrow account or whether they may be used for other qualified triggering weather events; and

WHEREAS, in the ENO Application, the Company states that of ENO's Total Hurricane Zeta Storm Costs of approximately \$36 million, \$28.1 million are capital expenditures (*e.g. replacement of poles and wires*), and \$7.7 million are non-capital costs; and

WHEREAS, in the ENO Application, the company provided a breakdown of storm costs by class and category representing that the \$35,798,619 in Total Storm Costs include certain estimated costs in the amount of \$6,958,157 related to mutual-aid utilities that assisted ENO in the restoration of its distribution system following Hurricane Zeta, but not final invoices; and

WHEREAS, in the ENO Application, ENO requests entry of a Council order determining that the total amount of Hurricane Zeta storm costs of \$35.8 million (or any updated total of such costs submitted in this proceeding) was reasonable, necessary, and prudently incurred; and

WHEREAS, the ENO Application also states that the company anticipates it will prepare and file with the Council a separate application at an appropriate time requesting replenishment and reestablishment of its storm reserve escrow account at an appropriate level; and

WHEREAS, the ENO Application requests that after due and lawful proceedings are held, the ENO Application be approved; and

WHEREAS, in particular, ENO requests that the Council: (1) Find ENO's Total Storm Costs of \$35.8 million incurred through March 31, 2021 be found reasonable, necessary, and prudently incurred; (2) Direct that all notices in this proceeding be sent to Rebecca Knox; (3) Adopt for application in this proceeding the Council's Official Protective Order as set forth in Resolution R-07-432, or provide for such other appropriate protection for any confidential

information to be produced in this proceeding; (4) Approve a waiver of the Minimum Filing Requirements set forth in Chapter 158, Division I, Section 158-41, *et seq.* of the New Orleans City Code; and (5) Grant such other relief to which ENO shows itself to be entitled; and

WHEREAS, it is the Council's desire to receive input on matters related to Hurricane Zeta and ENO's practices related to major storms and its storm reserves, including, a) what restoration costs incurred by or on behalf of ENO following Hurricane Zeta are appropriately recoverable, b) the most appropriate means of cost recovery of any such recoverable costs, c) under what circumstances should storm restoration costs be recoverable through a reserve fund escrow withdrawal and whether past such withdrawals were appropriate, and d) the appropriate disposition of any funds withdrawn from the storm reserve fund escrow accounts in excess of costs properly recoverable through such withdrawals; and

WHEREAS, it is the Council's desire to open Docket UD-21-02 and to establish a procedural schedule that will allow the Parties to this proceeding ("Parties") to investigate the ENO Application, conduct discovery, file Comments, and otherwise establish a record which the Council may use to render a determination as to approve and certify the costs incurred by the Company to restore its facilities following Hurricane Zeta, **NOW THEREFORE**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That the ENO Application herein shall be reviewed pursuant to the following procedure:

1. The Application shall be reviewed and identified as Council Docket UD-21-02.
2. Jeffery S. Gulin shall be appointed the Hearing Officer to preside over this inquiry pursuant to the City of New Orleans Code of Ordinances. In presiding over the inquiry, the Hearing Officer is directed to administer the proceedings efficiently so as to minimize excessive costs to ratepayers.
3. ENO is designated as a party to these proceedings.

4. The Council's Advisors are directed to fully participate in the proceeding, including conducting discovery, to ensure that the Council's objectives for this docket are achieved.
5. Stakeholders desiring to intervene shall file a motion to intervene with the Clerk of Council within 30 days from the adoption of this Resolution, with a copy submitted electronically to Bobbie Mason (bfmason1@nola.gov). The Council's requirements for motions to intervene may be found in the City Code at sections 158-236, 158-240, 158-286, 158-287, 158-288, 158-322, and 158-324. All fees associated with the filing of interventions in this proceeding are hereby waived, in accordance with Section 158-286 of the City Code. Objections to motions to intervene shall be filed within 5 days of such requests. Timely-filed motions to intervene not objected to within that time period shall be deemed **GRANTED**.
6. A discovery period will commence upon adoption of this Resolution and the Council orders that all responses to discovery shall be made on a rolling basis and shall be due within 15 calendar days of receipt. Parties are encouraged to submit their data requests and responses electronically, where possible. Objections to data requests shall be filed within 5 days of receipt. All parties are strongly encouraged to provide complete, unambiguous, and non-evasive responses to requests for information. Failure to do so could cause unnecessary discovery disputes and may disrupt the procedural schedule outlined herein. The parties are encouraged to attempt to resolve their discovery disputes amicably prior to seeking the intervention of the Hearing Officer or appealing to the Council. The discovery deadline shall be 15 days prior to the deadline for the submission of the Advisors' Report to the Council.
7. All discovery and related dates are to be strictly adhered to by the Parties, and enforced by the Hearing Officer, unless there is a compelling reason for allowing late responses. If despite this admonition, the Hearing Officer allows late discovery responses, he/she is directed to alleviate any prejudice suffered by any Party due to the late responses, including through adjustments to the procedural schedule. Continued dilatory tactics by the Parties in the discovery process are strongly discouraged.
8. The Intervenors are directed to file comments or testimony, if they choose to do so, by Monday, April 18, 2022.
9. The Advisors are directed to report their findings in the form of a written report ("Report") or sworn testimony. The Report or testimony shall address: a) whether the restoration costs presented in the ENO Application are accurate, reasonable, and necessary to rebuild ENO's electric infrastructure and to restore power to its customers, b) what restoration costs, if any, are appropriately eligible for recovery from the ENO customers, c) what restoration costs, if any, were already recovered or are being recovered in retail rates, other rate mechanisms, or sources of funding, and therefore not properly recoverable, d) the Advisors' recommendation as to the disposition of any funds withdrawn from the storm reserve fund escrow accounts in excess of costs properly recoverable through such withdrawals, and e) any additional

issues that the Advisors may find germane to the issues raised by the ENO Application, which may include ENO's methodologies for categorizing costs as either capital or O&M and ENO's recovery through storm reserve escrow withdrawals of costs related to other storms and weather events.

10. The Advisors shall file their Report or testimony on or before **May 18, 2022**.
11. For good cause shown and as required by the circumstances of the proceedings and as discussed herein, the Hearing Officer shall have the authority to change or amend the dates established set forth herein.
12. The Hearing Officer shall certify the record to the Council for consideration no later than **Friday, June 17, 2022**.
13. It is anticipated that during discovery, the Parties may be required to produce documents or information deemed confidential and/or highly sensitive and, accordingly, the Council adopts for use in this docket its Official Protective Order adopted by Resolution R-07-432, a copy of which can be obtained from the Council Utilities Regulatory Office.
14. Given the limited scope of the ENO Application with regard to regulatory issues involved and the limited and strictly defined time frame of the costs to be evaluated, ENO's requests for waivers of the Minimum Filing Requirements as defined in Chapter 158, Division, 1, Section 158-41, *et seq.* of the New Orleans City Code are hereby approved.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That in the event the Council finds an evidentiary hearing or any further administrative proceedings are necessary, the Council may establish additional dates within the procedural schedule in this docket.

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

YEAS: Banks, Brossett, Giarrusso, Gisleson Palmer, Glapion, Moreno, Nguyen - 7

NAYS: 0

ABSENT: 0

AND THE RESOLUTION WAS ADOPTED.

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