

November 1, 2024

Via Electronic Mail

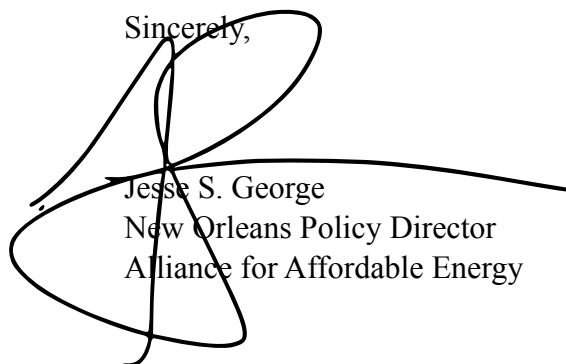
Clerk of Council  
Room 1E09, City Hall  
1300 Perdido Street  
New Orleans, LA 70112

RE: APPLICATION FOR AUTHORITY TO OPERATE AS LOCAL DISTRIBUTION  
COMPANY AND INCUR INDEBTEDNESS AND JOINT APPLICATION FOR  
APPROVAL OF TRANSFER AND ACQUISITION OF LOCAL DISTRIBUTION COMPANY  
ASSETS AND RELATED RELIEF (UD-24-01)

Dear Clerk,

Please find the enclosed Reply Brief of the Alliance for Affordable Energy for filing under the docket referenced above. We will submit physical copies at your instruction. If you have any questions, please do not hesitate to contact me. Thank you for your attention to this matter.

Sincerely,



Jesse S. George  
New Orleans Policy Director  
Alliance for Affordable Energy

**Before  
The Council of the City of New Orleans**

**DELTA STATES UTILITIES LA, LLC  
AND ENTERGY LOUISIANA, LLC,  
EX PARTE**

**DOCKET NO. UD-24-01**

**IN RE: APPLICATION FOR  
AUTHORITY TO OPERATE AS  
LOCAL DISTRIBUTION COMPANY  
AND INCUR INDEBTEDNESS AND  
JOINT APPLICATION FOR  
APPROVAL OF TRANSFER AND  
ACQUISITION OF LOCAL  
DISTRIBUTION COMPANY ASSETS  
AND RELATED RELIEF**

**NOVEMBER 1, 2024**

**REPLY BRIEF OF THE ALLIANCE FOR AFFORDABLE ENERGY**

**I. INTRODUCTION**

On December 11, 2023, Entergy New Orleans, LLC (“ENO”) and Delta States Utilities New Orleans, LLC (“DSU NO”) filed a joint application (“Application”) before the New Orleans City Council (“Council”) to, *inter alia*, authorize the sale and transfer of ENO’s gas distribution business to DSU and to allow DSU to operate as a jurisdictional natural gas Local Distribution Company. On February 1, 2024, the Council adopted Resolution R-24-49, establishing a docket, period of intervention, and procedural schedule for the consideration of the joint application. After multiple rounds of testimony, the Hearing Officer certified the record on September 17, 2024. Parties filed their initial briefs on October 15, 2024, and the Alliance for Affordable Energy (“Alliance”) now submits the following reply brief in response.

## **II. THE ENFRANCHISEMENT OF A FOSSIL GAS-FOCUSED UTILITY IS IRRESPONSIBLE AND WILL BE DISASTROUS TO RATEPAYERS AND THE CITY OF NEW ORLEANS**

In their initial briefs, both ENO and DSU NO tout the supposed benefits of enfranchising DSU NO as a utility focused solely on the sale of fossil gas. DSU NO argues that “under the ownership of DSU NO, a standalone natural gas utility, 100% of DSU NO’s revenues will be from gas service.”<sup>1</sup> Likewise, ENO states that “gas customers will benefit from a service provider in DSU NO that is exclusively focused on the gas business.”<sup>2</sup>

While the applicants present this exclusive focus on fossil gas as a benefit to ratepayers, it is precisely this dependence on the sale of one fossil commodity that would make enfranchisement of DSU NO a disastrous misstep for ratepayers and for the Council’s climate and clean energy goals. As DSU NO points out in its brief, “Currently, gas revenues are approximately 1% of total, consolidated operating revenues of Entergy Corporation (“Entergy”) based on Entergy’s 2022 10K.”<sup>3</sup> This means that as the general trend toward electrification continues, and as the single largest retail gas customer – the Sewerage & Water Board of New Orleans (“SWBNO”) – greatly reduces its use of retail gas, ENO can depend on the electric side of its business to make up the losses and can plan for a future beyond fossil fuels. Creation of a gas-only utility would incentivize continued investment in fossil gas infrastructure – and, indeed, DSU NO has been explicit about its plans to expand gas infrastructure in the City. This would leave New Orleans dependent upon and paying for fossil infrastructure well beyond the year 2050, the date by which the Council’s Renewable and Clean Portfolio Standard sets a target of achieving a carbon-free portfolio.<sup>4</sup>

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<sup>1</sup> Delta States Utilities NO, LLC Initial Brief at 4

<sup>2</sup> Post-Hearing Brief on Behalf of Entergy New Orleans, LLC at 12

<sup>3</sup> Delta States Utilities NO, LLC Initial Brief at 4

<sup>4</sup> New Orleans City Council Resolution R-21-182

With the sale costs alone projected to increase average monthly residential gas bills by over \$12, DSU NO's plans to greatly increase investment in fossil gas infrastructure will leave a shrinking pool of vulnerable ratepayers to shoulder a greater and greater share of these capital costs, a fact that has not been addressed adequately by either the applicants or the Council's advisors. Though DSU NO attempts to cast itself as the party assuming risk in this transaction, to the benefit of ratepayers, the truth is that captive ratepayers will almost certainly see rate increases that they simply cannot afford and the ultimate burden of stranded costs. Perversely, ratepayers would be assuming the risk, entirely to DSU's benefit.

### **III. THE APPLICANTS AND ADVISORS STILL HAVE NOT ADDRESSED THE GENERAL TREND OF ELECTRIFICATION AND THE ELECTRIFICATION OF SWBNO**

Though the Advisors have recommended measures to mitigate the ratepayer impact of the proposed transaction, they, like the applicants, have failed to address adequately the effect of electrification – especially the electrification of the SWBNO – on remaining ratepayers. The evaporation of such a significant portion of current retail gas load, along with the incremental impacts of electrification in general, will have harmful effects on the shrinking population of remaining customers that neither the applicants nor the Council's Advisors have given appropriate consideration. Rather than developing a plan for managed decapitalization of fossil gas infrastructure and the gas utility, DSU NO proposes to step on the gas and take New Orleans customers with them over the cliff of fossil fuel dependence.

#### **IV. THE COUNCIL SHOULD NOT FOLLOW THE LEAD OF THE LOUISIANA PUBLIC SERVICE COMMISSION**

In its brief, the SWBNO urges the Council to follow the lead of the Louisiana Public Service Commission (“LPSC”), which recently approved the sale of Entergy Louisiana, LLC’s retail gas system to Delta State Utilities Louisiana, LLC, saying that the LPSC’s decision should “provide useful guidance to the City Council in deciding whether to approve ENO’s proposed transfer.”<sup>5</sup>

A key benefit of the Council’s regulatory authority under the City’s Home Rule Charter is that the Council is not obliged to repeat the mistakes of the LPSC. The LPSC decision was made in an entirely different political and policy context. The LPSC has not adopted a Renewable and Clean Portfolio Standard, nor has it set any climate or clean energy goals for the utilities under its jurisdiction. The Council should consider the unique New Orleans-specific circumstances of this sale, including its own policy goals, the City’s Climate Action Plan, and trends in energy consumption in New Orleans, and the effects on the long-term health of residents and the livability of the environment.

#### **V. THE ALLIANCE REURGES COUNCIL TO DENY THE APPLICATION AND INITIATE PROCEEDINGS FOR A MUNICIPALLY MANAGED PHASE-OUT OF ENO’S GAS DISTRIBUTION SYSTEM**

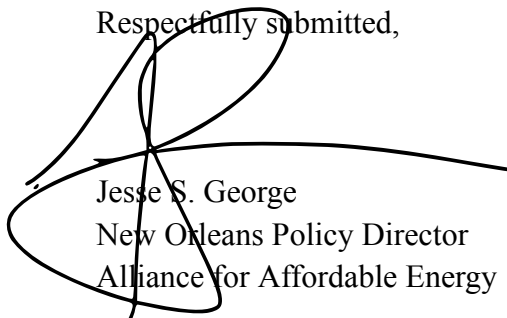
The Alliance reiterates that the applicants have failed to meet the burden of proof established under Resolution R-06-88, and have left unanswered significant questions about the effects of the proposed sale on ratepayers and the climate. For these reasons, the Council cannot responsibly approve the transaction and must deny the application. As

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<sup>5</sup> Sewerage and Water Board of New Orleans’ Initial Post-Hearing Brief at 4

recommended in the Alliance's direct testimony and our initial brief, the Council should initiate proceedings to develop a plan for municipal takeover of the gas distribution utility and managed decapitalization of the gas utility by the end of 2035. The Council should evaluate hiring a qualified firm to achieve these goals.<sup>6</sup>

Respectfully submitted,



Jesse S. George  
New Orleans Policy Director  
Alliance for Affordable Energy

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<sup>6</sup> AAE – 1 at 38

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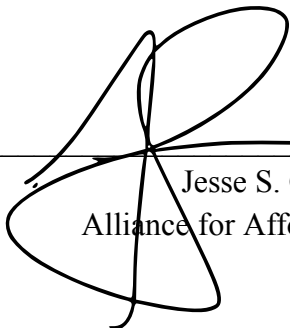
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**NOVEMBER 1, 2024**

**CERTIFICATE OF SERVICE**

I do hereby certify that I have, this 1st day of November 2024, served the foregoing correspondence upon all other known parties of this proceeding by electronic mail.

  
\_\_\_\_\_  
Jesse S. George  
Alliance for Affordable Energy

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