

**RESOLUTION**

**NO. R-16-506**

**CITY HALL: November 3, 2016**

**BY: COUNCILMEMBERS  WILLIAMS, HEAD, GUIDRY, BROSSETT AND GRAY**

**APPLICATION OF ENTERGY NEW ORLEANS, INC. FOR APPROVAL TO  
CONSTRUCT NEW ORLEANS POWER STATION AND REQUEST FOR COST  
RECOVERY AND TIMELY RELIEF**

**RESOLUTION AND ORDER ESTABLISHING A  
PROCEDURAL SCHEDULE FOR THE CONSIDERATION OF THE  
APPLICATION OF ENTERGY NEW ORLEANS, INC. FOR APPROVAL TO  
CONSTRUCT NEW ORLEANS POWER STATION AND REQUEST FOR COST  
RECOVERY AND TIMELY RELIEF**

**DOCKET NO. UD-16-02**

**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**, pursuant to its powers of supervision, regulation and control over public utilities, the Council is responsible for fixing and changing rates and charges of public utilities and making all necessary rules and regulations to govern applications for the fixing and changing of rates and charges of public utilities; and

**WHEREAS**, Entergy New Orleans, Inc. ("ENO" or "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 Corporation ("Entergy"). The other four operating companies are Entergy Arkansas, Inc. ("EAI"), Entergy Louisiana, LLC

("ELL"), Entergy Mississippi, Inc. ("EMI"), and Entergy Texas, Inc. ("ETI"). These five operating companies are referred to collectively as the "Operating Companies"; and

**WHEREAS**, on June 1, 2016, ENO deactivated Michoud Units 2 and 3 as a result of economic decisions based on maintenance and operational issues resulting in the loss of approximately 781 MW of local capacity; and

**WHEREAS**, ENO sought the approval of acquiring approximately 500 MW of generation from Power Block 1 of the Union Power Station ("Power Block 1") located in El Dorado, Arkansas in an effort to offset a substantial portion of ENO's overall capacity needs; and

**WHEREAS**, on November 19, 2015, the Council approved resolution R-15-542 authorizing ENO to acquire Power Block 1 subject to certain terms and conditions; and

**WHEREAS**, on March 3, 2016, ENO acquired Power Block 1 and its related common assets; and

**WHEREAS**, ENO has indicated to this Council that it has a remaining long-term peaking/capacity need requiring new resource(s) capable of meeting those needs; and

**WHEREAS**, on June 20, 2016, ENO filed an Application for Approval to Construct New Orleans Power Station and Request for Cost Recovery and Timely Relief ("Application"); and

**WHEREAS**, the Application seeks approval to construct the New Orleans Power Station ("NOPS"), an advanced 250 MW capacity (226 MW during summer conditions) combustion turbine ("CT") located at ENO's Michoud facility in New Orleans East; and

**WHEREAS**, in addition to a finding that NOPS is in the public interest, ENO also requests approvals relating to appropriate cost recovery, a construction monitoring plan, and a procedural schedule to permit a Council decision on its Application by January 31, 2017 which would result in commercial operation of NOPS in October 2019; and

**WHEREAS**, in support of its Application, the Company submitted the Direct Testimonies of Charles L. Rice, Orlando Todd, Seth E. Cureington, Jonathan E. Long, Charles W. Long, Shauna Lovorn-Marriage, and Robert A. Breedlove; and

**WHEREAS**, ENO asserts in its Application that it has a remaining overall long-term capacity need of approximately 123 MW in 2016 and up to 205 MW by 2030; and

**WHEREAS**, ENO also states that its resource needs come at a time when the MISO South capacity market is expected to tighten and reach equilibrium (the point at which supply and demand meet) by 2022; and

**WHEREAS**, the Company asserts that although it continues to seek opportunities to offset some of its capacity needs with energy efficiency and demand-side management ("DSM") programs, as well as adding renewable resources to its generation portfolio, such resources are not alternatives to NOPS and cannot fill the long-term peaking/reserve capacity deficit in a cost effective manner during the long-term planning period; and

**WHEREAS**, ENO maintains that its long-term planning indicates a need for a local resource that can support local reliability, reduce reliance on transmission and resources outside of Orleans Parish and facilitate storm restoration; and

**WHEREAS**, according to ENO's Application, the current estimated cost to construct NOPS is \$216 million, which reflects the use of a fixed-price, fixed duration form of engineering, procurement, and construction services contract; and

**WHEREAS**, the Company also asserts that the construction of NOPS is expected to have a positive impact on the economies of the State of Louisiana and Orleans Parish, including hundreds of millions of dollars in economic benefits in terms of new business sales, household earnings, and jobs in both the State and Parish economies; and

**WHEREAS**, ENO's Application also states that the Integrated Resource Planning ("IRP") process, conducted in Council Docket No. UD-08-02, identified an overall long-term need for capacity as well as a need for long-term peaking and reserve resources; and

**WHEREAS**, the Company conducted a DSM Potential Study, Generation Technology Assessment, and Portfolio Evaluation which evaluated a range of viable supply and demand-side alternatives, and ENO asserts that the results of the Final IRP support the conclusion that a CT resource is the lowest reasonable cost resource addition capable of meeting the Company's overall capacity needs; and

**WHEREAS**, the Application includes a proposed cost recovery plan which identifies certain cost recovery mechanisms to be utilized by the Company to recover non-fuel costs, Long Term Service Agreement expenses, fuel expenses and any revenue or expense resulting from MISO market settlements; and

**WHEREAS**, ENO seeks approval of its proposed Monitoring Plan whereby the Company would make periodic progress reports to the Advisors and the Council during the construction phase of the project; and

**WHEREAS**, ENO requests that the Council grant the following approvals and relief:

1. Find that the Company's construction of NOPS serves the public convenience and necessity and is in the public interest, and is therefore prudent;
2. Confirm that the Company's investments made pursuant to a public interest determination by the Council are presumed prudent and eligible for recovery from customers, and that the Company will have the full and fair opportunity to recover all prudently-incurred costs of the project;
3. Find that retail non-fuel revenue requirement associated with the Project (to be determined in a subsequent revenue requirement filing) is deemed eligible for recovery in the first billing cycle in the month following commercial operation of NOPS via applicable

PPCACR Rider, which would be modified for such purpose, or a similar exact cost recovery rider;

4. Approve recovery, through the applicable FAC, of the energy costs and expenses incurred under NOPS' LTSA;
5. Approve the Monitoring Plan under which the Company will:  
(i) report to the Council Advisors on a quarterly basis the status of NOPS, including schedule, costs and other critical associated activities, and (ii) receive written acknowledgement from the Council Advisors;
6. Rule that, with respect to the Project described in the Application, the Company has complied with, or is not in conflict with, the provisions of all applicable Council resolutions;
7. Grant a waiver of any applicable requirement to the extent that such waiver may be required to facilitate approval of the transaction described in this Application;
8. Develop and implement appropriate procedures to facilitate a Council decision on the Application no later than January 31, 2017; and
9. Order such other general and equitable relief as to which the Company may show itself entitled; and

**WHEREAS**, on August 11, 2016, the Council adopted Resolution R-16-332, which established this docket and allowed for an intervention and discovery period; and

**WHEREAS**, the Alliance for Affordable Energy ("Alliance"), PosiGen, Air Products and Chemicals, Inc., Gulf States Renewable Energy Industries Association, Occidental Chemical Corporation, New Orleans Cold Storage & Warehouse Co. Ltd., the Sierra Club, and Deep South Center for Environmental Justice Inc., have intervened in this docket; and

**WHEREAS**, included with its request for intervention, the Alliance filed a reply motion to ENO's application requesting that the Council (1) reject ENO's proposed procedural schedule and convene a status conference to "ensure alignment in scope and schedule between the IRP,

ENO's proposal for new generation, and examination of the specific transmission constraints, local installed capacity requirements, and resource alternative options." (2) open a new docket to study transmission constraints, local installed capacity requirements, and resource alternatives for meeting those requirements; and (3) conduct a second status conference to determine next steps for consideration of ENO's proposed combustion turbine generating unit; and

**WHEREAS**, the Alliance also urges the Council to set a procedural schedule that emphasizes the "critical importance of evaluating the many critical facts and assumptions that underlie ENO's proposal with the benefit of independent analysis, expert opinion, and meaningful stakeholder engagement"; and

**WHEREAS**, PosiGen also filed comments criticizing ENO's application but did not address the Company's proposed procedural schedule; and

**WHEREAS**, ENO filed an opposition to the Alliance's motion on July 15, 2016 which asserted that the Alliance's motion was intended to deliberately "derail" the certification of the proposed project which according to ENO's testimony, could expose customers to significant risks, including market risks caused by equilibrium, contractual escalation, and a loss of capacity revenue associated with NOPS; and

**WHEREAS**, throughout the 2015 IRP process, the Alliance has repeatedly challenged the inputs and assumptions developed by ENO for modeling the 2015 IRP; and

**WHEREAS**, ENO has acknowledged that it has been aware of the Alliance's concerns since ENO presented the IRP modeling results at Milestone 3, which occurred on February 26, 2015 -- nearly 18 months ago; and

**WHEREAS**, after receiving comments from the parties on its initial Draft IRP Plan on August 31, 2015, ENO ran a new "Stakeholder Input Case" where it made a few adjustments

sought by the Advisors and the Intervenors, but also increased the size of the proposed CT facility from 194 MW in the Draft IRP Plan filed June 2015 to the 250 MW CT proposed in February 2016 -- this was a significant last-minute change regarding which the Intervenors and Advisors were given no notice or opportunity to comment, and for which no satisfactory explanation has yet been provided; and

**WHEREAS**, on July 14, 2016, the Council established a Show Cause proceeding in Resolution No. R-16-263 so ENO could demonstrate why its actions and omissions are not imprudent, and for the Council to consider ENO's actions and omissions; and

**WHEREAS**, among the multiple issues raised in the Show Cause resolution, was the Council's fundamental concern that ENO freely provide the information being sought by the Intervenors and the Council's Advisors in the IRP process including an explanation of and justification for the size of the proposed CT; and

**WHEREAS**, Specifically, in its resolution the Council stated:

WHEREAS, the Council is extremely concerned that ENO has not provided adequate explanation in the IRP record for a CT larger than 194 MW. The increased size of the proposed CT has significant implications, particularly for energy efficiency, renewables integration and demand side management. We note that the Council, its Advisors, many stakeholders and members of the public have expressed a strong interest in balancing these issues. Yet, ENO has not "made its case" for the larger CT; and

**WHEREAS**, the Advisors have had numerous informal meetings and communications with ENO where the information and analyses to support the increase in size of the proposed CT plant were requested, and have sought the same through discovery, but very little information has been provided to the parties that would allow our Advisors to reach a conclusion regarding the appropriate size of the proposed CT; and

**WHEREAS**, The Council's concern regarding the increased size of the proposed CT and its implications, particularly for energy efficiency, renewables integration and demand side management has, likewise, not been completely addressed by ENO; and

**WHEREAS**, the Council's Advisors and other parties have begun conducting formal discovery and producing requested information in this docket regarding the proposed project; and

**WHEREAS**, on September 19, 2016, the Council's Advisors requested that ENO perform additional IRP modeling, using its Aurora resource planning software, which would include multiple, updated expansion plans and scenarios in order to assist the Council in determining whether the construction of NOPS is necessary and in the public interest; and

**WHEREAS**, ENO has agreed to perform the additional modeling; and

**WHEREAS**, the additional modeling is critical to the Council in its obligation to (1) insure that ratepayers receive the most reliable electric and gas service at the lowest reasonable cost and (2) realize potentially cost effective renewable resources and energy efficiency/demand side measures during ENO's resource planning horizon; and

**WHEREAS**, the Council requires the results of the additional Aurora modeling before the dates set forth in the procedural schedule herein become effective; and

**WHEREAS**, the Council intends to provide the residents of the City of New Orleans with an open and transparent process that will allow for multiple opportunities for the public to communicate its views to ENO and the Council as they relate to the construction of the proposed project; and



**WHEREAS**, while the Council shares the Alliance's concerns regarding stakeholder participation and transparency in its regulatory proceedings, an indefinite delay in establishing a procedural schedule in this docket is unwarranted; and

**WHEREAS**, it is the Council's desire to establish a procedural schedule that will allow the parties to this proceeding to rigorously investigate the Application, conduct discovery, file testimony and otherwise establish a record upon which the Council may use to render a decision regarding ENO's Application; and **NOW THEREFORE**

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS**

**THAT:** The Company is hereby ordered to make a supplemental filing on or before November 18, 2016, which filing must include supporting testimony related to: (i) any and all analyses, data, sources, assumptions and results, including calculating and supporting workpapers in their native electronic format (e.g., Excel) related to the values presented therein for each of the four proposed Aurora modeling production runs requested by the Council's Advisors on September 19, 2016; (ii) groundwater withdrawal and subsidence at its Michoud site and surrounding area(s); (iii) air quality effects of the proposed NOPS; (iv) such other matters as ENO deems relevant to support its Application, or to address Intervenors' concerns raised to date; and, provided said supplemental filing, as described above, is made timely:

**BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS THAT:**

1. Direct Testimony of Intervenors shall be filed not later than January 6, 2017.
2. Direct Testimony of Advisors shall be filed not later than February 17, 2017.
3. Rebuttal Testimony of ENO shall be filed not later than March 17, 2017.
4. The evidentiary hearing shall take place on April 5-6, 2017.

5. The Hearing Officer shall certify the record of these proceedings to the Council not later than April 14, 2017.
6. To the extent technical conferences or settlement negotiations are required, they are to be arranged by the parties with the assistance of the Hearing Officer, if necessary.
7. For good cause shown and as required by the circumstances of the proceedings, the Hearing Officer shall have the authority to change or amend the dates set forth herein.
8. Prior to December 24, 2016, ENO shall conduct a minimum of 2 public outreach meetings for the purpose of sharing information with, and answering questions from, the public related to the proposed project. ENO shall provide notice of the public outreach meetings no later than 30 days prior to each meeting and such notification shall be published in *The Times Picayune*, *Gambit*, *The New Orleans Advocate*, *The New Orleans Tribune*, and on ENO's website. At least 1 of the public outreach meetings shall take place after 5pm and shall be conducted within Council District E. Within 7 days following each public outreach meeting, ENO shall file a written report in the official docket of this proceeding indicating the date, time and location of the meeting, including a list of individual attendees and representatives of any community, civic or other organizations present at the meeting.
9. In addition to the 2 public outreach meetings described in paragraph 8 above, the Council, through its Utilities Regulatory Office, shall conduct a public hearing in the Council Chambers in City Hall prior to December 24, 2016 for the purpose of receiving additional public comment related to the project. A court reporter shall be present to record the statements made during the public hearing and the written

transcript shall be filed in the official docket in this proceeding and made available for review in the Clerk of Council's office upon completion.

10. In light of the considerable public interest in this particular proceeding, interested persons wishing to receive email notices of any public meetings or public hearings regarding the CT application shall submit their email addresses to CURO at pthomas@nola.gov, wtstrattonjr@nola.gov, and careed@nola.gov, and following which CURO will forward such notices of public meetings or public hearings to the persons who submit their email addresses.

11. To the extent that the City Clerk's office closes before 5:00 pm on the date of any deadline contained therein, the deadline shall be extended to the next business day.

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

**YEAS:** Cantrell, Gray, Guidry, Head, Ramsey - 5

**NAYS:** 0

**ABSENT:** Brossett, Williams - 2

**AND THE RESOLUTION WAS ADOPTED.**

THE FOREGOING IS CERTIFIED  
TO BE A TRUE AND CORRECT COPY

*Lera W. Johnson*  
CLERK OF COUNCIL