NO. R-06-329

BY: COUNCILMEMBERS THOMAS, HEDGE-MORRELL, MIDURA AND CARTER

IN THE MATTER OF APPLICATION OF ENTERGY NEW ORLEANS, INC.

FOR APPROVAL OF IMPLEMENTATION OF POST-KATRINA GAS AND ELECTRIC FORMULA RATE PLANS,

DOCKET NOS. UD-01-04 AND UD-03-01 and IN THE MATTER OF APPLICATION OF ENTERGY NEW

ORLEANS, INC. FOR AUTHORIZATION TO IMPLEMENT RIDERS TO RECOVER COSTS RELATED TO

HURRICANES KATRINA AND RITA (DOCKET NO. UD-06-01) AND TO ADEQUATELY FUND A STORM

RESERVE (DOCKET NO. UD-06-02) PROCEDURAL RESOLUTION

WHEREAS, pursuant to the Constitution of the State of Louisiana and the Home Rule Charter of the City

of New Orleans, the Council of the City of New Orleans (ACouncil@) is the governmental body

authorized to exercise regulatory control over rates, charges and the general conditions under which

electric and gas services are provided in New Orleans; and

WHEREAS, Entergy New Orleans (“ENO” or “Company” provides electric service to all of New Orleans

except the Fifteenth Ward (“Algiers”) and gas service to all of New Orleans; and

WHEREAS, in Resolution R-03-272, adopted by the Council on May 15, 2003, the Council approved an

electric formula rate plan (“EFRP”) and a gas formula rate plan (“GFRP”) (collectively, “FRPs” for

ENO; and

WHEREAS, in Resolution R-05-512 (authorized by letter of the Chairman of the Council Utility, Cable

and Telecommunications Committee, dated August 31, 2005, and deemed by Resolution R-05-U4 to be

effective as of September 1, 2006), the Council extended the FRPs for the years 2006 and 2007; and

WHEREAS, the FRPs are embodied in ENO’s Electric Formula Rate Plan Rider Schedule (“Rider

Schedule EFRP-2”) and Gas Formula Rate Plan Rider Schedule (“Rider Schedule GFRP-2”),

respectively, filed with the Council; and

WHEREAS, pursuant to Section II.B.1 of Rider Schedules EFRP-2 and GFRP-2, ENO is required to file

reports with the Council on or before May 1 of each year containing evaluations of ENO’s earnings for

the immediately preceding calendar year for its electric and gas operations, respectively; and

WHEREAS, in Resolution R-06-167, adopted by the Council on April 20, 2006, the Council extended

ENO’s deadline to file its 2006 FRP reports to July 1, 2006 and similarly extended all related procedural

deadlines set forth in Rider Schedules EFRP-2 and GFRP-2 by 61 days; and

WHEREAS, on June 30, 2006, ENO filed with the Council its Application of Entergy New Orleans, Inc.

for Approval of implementation of Post-Katrina Gas and Electric Formula Rate Plans in Docket Nos.

UD-01-04 and UD-03-01; and

WHEREAS, on June 30, 2006, ENO also filed with the Council its Application of Entergy New Orleansfor Authorization to Implement Riders to Recover Costs Related to Hurricanes Katrina and Rita and to

Adequately Fund a Storm Reserve (“Storm Cost Recovery Riders” and “Storm Reserve Riders,”

respectively); and.

WHEREAS, according to the testimony of Mr. Daniel F. Packer, the President and Chief Executive

Officer of ENO:

[t]he purpose of ENO=s storm cost recovery filing is threefold: first, it is to request, pursuant to Sections

III.A of Schedules EFRP and GFRP, that the Council find it necessary for the reasons presented herein to

consider a pass-through via riders of the extraordinary storm costs resulting from Hurricanes Katrina and

Rita and booked by the Company through March 31, 2006, including $104.058 million for Electric

Operations and $20.769 million for Gas Operations as well as $14.626 million in uncollectible write-offs

for a total recovery of $139.456 million in storm costs. Second, the Company requests that the Council

finds that the costs incurred were reasonable and necessary storm costs and may be recovered on a

basis consistent with approved rate-making practices through Storm Cost Recovery Riders (Electric and

Gas) designed to recover those costs over a period of 10 years. Third the Company also seeks

authorization to implement Electric and Gas Storm Reserve Riders to provide over time an adequate

source of funding for restoration efforts associated with future storms.

WHEREAS, the FRPs are annual filings required of ENO in accordance with settlement agreements

arrived at among the Council, ENO and the parties to Dockets UD-01-04 and UD-03-01, the Storm Cost

Recovery Riders and the Storm Reserve Riders are separate requests for an increase in rates by ENO

based on costs and projections that are being presented to the Council for the first time; and

WHEREAS, it is in the best interest of all stakeholders that ENO emerge from bankruptcy at the earliest

practicable date; and

WHEREAS, it is important that the City Council act with respect to ENO’s June 30, 2006 filing in a

manner consistent with the gravity of the situation for the City, ENO and its customers, and the need for

timely action that provides the requisite certainty with respect to ENO’s future rate path and the

long-term health of the City and its customers; and

WHEREAS, accordingly, it is the Council=s plan to consider the various elements of ENO=s filings, i.e.,

the Formula Rate Plans filings, the Storm Cost Recovery Riders, and the Storm Reserve Riders, in

separate dockets as expeditiously as possible in light of ENO’s pending bankruptcy; now, therefore:

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS THAT for administrative

convenience, the Council will consider ENO=s filings in the following dockets: the Council will consider

the formula rate plan filings in their original dockets, Dockets UD-01-04 and UD-03-01; and the Storm

Cost Recovery Riders shall be considered in Docket UD-06-01, and the Storm Reserve Riders shall be

considered in Docket UD-06-02.

BE IT FURTHER RESOLVED that the following procedural rules shall be adopted for the various

proceedings:

I. FORMULA RATE PLAN FILINGS [Docket Numbers UD-01-04 and UD-03-01]

1. Though the initial phase of the review process contemplates a cooperative effort, the parties working

together with little involvement of the Hearing Officer, the Council, nonetheless, retains the Honorable

Jeffrey Gulin in his role as Hearing Officer. In the event issues or disputes arise among the parties

regarding discovery, the parties are directed to make a good-faith effort to resolve them prior to

invoking the help of the Hearing Officer. However, should the Hearing Officers involvement become

necessary, the Hearing Officer is encouraged to take all reasonable steps to expedite the resolution of

the issues or disputes, toward the end of completing the initial phase of this proceeding on the basis and

in the spirit of the process set forth in the body of the Resolution.

2. Intervention. A period of intervention is hereby established and shall extend for ten (10) days from

the date of the adoption of this resolution. All parties desiring to intervene shall do so by filing an

intervention request with the Clerk of the Council, with a copy submitted to Director, Council Utilities

Regulatory Office, Room 6E07 City Hall, 1300 Perdido Street, New Orleans, Louisiana 70112.

Objections to intervention requests shall be filed within five (5) days of such requests. Interventions not

objected to within that time period shall be deemed GRANTED. All parties in Dockets UD-01-04 and

UD-03-01 shall be deemed parties in the current proceedings.

3. Consistent with the 61-day extension granted in Resolution R-06-167 of the procedural dates set forth

in Section II.B.2 of Rider Schedules EFRP-2 and GFRP-2, the Council confirms that the following

deadlines shall apply in this proceeding:

September 14, 2006

Parties’ written communication of errors and disputed regulatory issues to ENO October 4, 2006

Deadline for ENO review of errors and disputed regulatory issues and negotiations to resolve

Differences Late October 2006 Council Decision First billing cycle of November 2006

Rate adjustments (reflecting all revisions to initially filed Rate Adjustments on which the Parties agree)

To become effective November 3, 2006Testimony of Advisors and Intervenors on any unresolved errors

and disputed regulatory issues set for Hearing. November 22, 2006 Responsive Testimony of All

PartiesWeek of December 11, 2006Hearings on any unresolved errors and disputed regulatory issues

January 8, 2007 Certification of Record to Council

4. Discovery. All discovery in these proceedings shall be directed to the parties as herein provided.

Discovery on ENO in this proceeding shall extend from the adoption of this resolution until a December

6, 2006 cutoff. ENO’s discovery on the Advisors and Intervenors filings in this proceeding shall

Commence on October 4, 2006 and shall extend until December 6, 2006. All requests must be submitted

in time for responses to be received prior to the cutoff date. All written discovery requests shall be

submitted electronically, and the responding party shall respond to said discovery requests

electronically within ten (10) calendar days of receipt. Provided, however, if for any reason the

responding party determines it will not be able to respond to requests within the prescribed ten (10)

calendar days, the responding party shall notify the party submitting the requests within three (3) days

of receipt of the requests with the date upon which it can respond on an “expeditious basis” given the

nature of the discovery request.

5. It is anticipated that during discovery, the parties may be required to produce documents or

information that is deemed confidential and/or highly sensitive and, accordingly, the Council adopts for

use in these proceedings its Official Protective Order previously used in Dockets UD-01-04 and

UD-03-01.

6. Pleadings, testimony and briefs shall be served via hard copy. And all Filings with the Clerk of

Council or with the Utilities Regulatory Office shall be made via hard copy.

7. It is the Council’s present intention to render a decision on these matters by February 1, 2007.

II. STORM COST RECOVERY RIDERS [Docket Number UD-06-01]

1. The Honorable Jeffrey Gulin is hereby appointed Hearing Officer to preside over this proceeding.

2006 Motions/Resolutions http://library3.municode.com/minutes/DocView/30001/1/473/486

42. In this docket, and in addition to an examination of ENO’s filings generally, the Council is directing its

Advisors to conduct an audit of the costs associated with the Storm Cost Recovery Riders. The Advisors

are further directed to submit separate comments and recommendations regarding non-audit,

regulatory issues pertaining to the proposed Storm Cost Recovery Riders. ENO is directed to cooperate

with the Advisors throughout the audit process to facilitate their expeditious completion of the audit.

Given the expedited time frame that is envisioned by this Resolution for the completion of an audit that

can be relied upon by the Council for its consideration of the Company’s request in Docket UD-06-01,

the Technical Advisors are directed to make monthly reports as they deem necessary to the Council

Utility Committee on the progress of the Audit, and the Company’s cooperative efforts in the facilitation

of the expedited Audit, including:

a. the Company’s adherence and compliance with the expedited discovery schedule;

b the ready access to all sites, facilities and infrastructure of the Company;

c. the ready and timely availability of Company personnel, financial auditors, special auditors, and

consultants at times, dates, and locations required by the field auditors in the prosecution of their audit

work;

d. the ready availability of all Company accounting and such other information as related to the scope of

the audit and the audit tasks, including: (i) the necessary storm restoration cost documentation,

including accounts, summary and detailed resource codes, project codes, journal entry identifications,

vendor documentation, accounting code block descriptors, copies of invoices of outside contractors,

materials and supplies, and (ii) all documentation and contracts used in the repair and replacement of

the general, distribution, transmission, and generation functions for which cost recovery is sought by the

Company;

e. such other information that the Technical Advisors deem relevant in the prosecution of the audit on

an expeditious basis; and

f. any required extension of the audit completion date by virtue of delays in receipt of data, information,

availability of Company personnel, and access to Company sites, facilities, and infrastructure; including

an estimate of final completion dates attributable to such actions or inactions of the Company.

3. Intervention. A period of intervention is hereby established and shall extend for ten (10) days from

the date of the adoption of this resolution. All parties desiring to intervene shall do so by filing an

intervention request with the Clerk of the Council, with a copy submitted to Director, Council Utilities

Regulatory Office, Room 6EO7 City Hall, 1300 Perdido Street, New Orleans, Louisiana 70112.

Objections to intervention requests shall be filed within five (5) days of such requests. Interventions not

objected to timely shall be deemed GRANTED. Though there will be an opportunity to file comments at

the end of the procedural process in this docket, all Intervenors are encouraged to file any initial

comments on ENO’s Storm Cost Recovery Riders with their intervention requests.

4. Discovery. A period of discovery on ENO shall extend from the date of the adoption of this

Resolution until January 22, 2007. ENO shall have the right to discovery on other parties’ filings from

December 7, 2006 until January 22, 2007. All requests must be submitted in time for responses to be

received prior to the cutoff. All discovery in these proceeding shall be directed to the parties herein

provided. All written discovery requests shall be submitted electronically, and the responding party shall

respond to said discovery requests electronically within seven (7) work days of receipt (hard copies of

all discovery shall be submitted to the Council Utilities Regulatory Office). However, if for any reason the

responding party determines it will not be able to respond to requests within the prescribed seven (7)

work days, the responding party shall notify the party submitting the requests within three (3) work

days of receipt of the requests. Objections to data requests shall be filed within three (3) work days of

receipt. The parties are encouraged to attempt to resolve their discovery disputes amicably prior to

seeking the intervention of the Hearing Officer or an appeal to the Council.

5. Pleadings, testimony and briefs shall be served via hard copy. And all Filings with the Clerk of

Council or with the Utilities Regulatory Office shall be made via hard copy.

6. Comments. With respect to the Storm Cost Recovery Riders, Intervenors are directed to submit to

the Council written comments regarding the merits of the riders no later than December 7, 2006.

Comments may relate, inter alia, to (i) the appropriate level of ENO’s Storm Recovery Costs, and

components, (ii) the accuracy of the riders, (iii) whether costs have been properly allocated among the

operating companies, (iv) whether costs have been properly allocated among customer classes, (v) the

appropriate regulatory accounting treatment for Storm Recovery Costs, (vi) the appropriate period for

consideration of ENO’s Storm Recovery Costs, (vii) whether costs have been properly allocated between

gas and electric operations, and (viii) such other issues that the parties believe to be relevant to the

Council’s consideration of ENO’s application.

The Advisors shall file Comments and Recommendations with respect to the Storm Recovery Riders,

together with their Draft Audit, by noon on December 22, 2006.

ENO and Intervenors shall file Comments responsive to Advisors’ Comments and Recommendations,

together with any comments on the Draft Audit, no later than January 8, 2007. Copies of the Filing shall

be submitted electronically to the Advisors on the same day.

The Advisors shall file their Final Audit no later than January 18, 2007.

7. Evidentiary Hearing. An evidentiary hearing shall commence the week of January 22, 2007.

8. It is the Council’s present intention to render a decision on these matters by February 1, 2007.

9. It is anticipated that during discovery, the parties may be required to produce documents or

information that is deemed confidential and/or highly sensitive and, accordingly, the Council adopts for

use in these proceedings its Official Protective Order previously used in Dockets UD-01-04 and

UD-03-01.

III. STORM RESERVE RIDERS [Docket Number UD-06-02]

1. The Honorable Jeffrey Gulin is hereby appointed Hearing Officer to preside over this proceeding.

2. Intervention. A period of intervention is hereby established and shall extend for ten (10) days from

the date of the adoption of this resolution. All parties desiring to intervene shall do so by filing an

intervention request with the Clerk of the Council, with a copy submitted to Director, Council Utilities

Regulatory Office, Room 6EO7 City Hall, 1300 Perdido Street, New Orleans, Louisiana 70112.

Objections to intervention requests shall be filed within five (5) days of such requests. Interventions not

objected to timely shall be deemed GRANTED.

3. Discovery. A period of discovery on ENO shall extend from the date of the adoption of this

resolution until a January 22, 2007 cutoff. ENO shall have the right to discovery on other parties’

filings from December 7, 2006 until January 22, 2007. All requests must be submitted in time for

responses to be received prior to the cutoff. All discovery in these proceeding shall be directed to the

parties as herein provided. All written discovery requests shall be submitted electronically, and the

responding party shall respond to said discovery requests electronically within ten (10) calendar days of

receipt (hard copies of all discovery shall be provided to the Council Utilities Regulatory Office).

However, if for any reason the responding party determines it will not be able to respond to requests

within the prescribed ten (10) calendar days, the responding party shall notify the party submitting the

requests within three (3) work days of receipt of the requests. Objections to data requests shall be filed

within five (5) work days of receipt.

The parties are encouraged to attempt to resolve their discovery disputes amicably prior to seeking the

intervention of the Hearing Officer or an appeal to the Council.

4. Pleadings, testimony and briefs shall be served via hard copy. And all Filings with the Clerk of

Council or with the Utilities Regulatory Office shall be made via hard copy.

5. Comments. With respect to the Storm Reserve Riders Intervenors are directed to submit to the

Council written comments regarding the merits of the riders no later than December 7, 2006. The

comments should include recommendations relative to: (i) appropriate level or magnitude of any

reserve,

(ii) the appropriate recovery period, (iii) any other viable options to achieve the desired result of a storm

reserve, (iv) the appropriate rate that interest should accrue, (v) discussion of viable insurance issues,

(vi) the appropriate allocation of any storm reserve among customer classes, (vii) whether there should

Be caps on bills as they relate to the reserve rider, (viii) how should the rider be treated as between gas

and electric, (ix) the appropriate regulatory accounting treatment for the Storm Reserve Account, and

(x) such other issues that the parties believe to be relevant to the Council’s consideration of ENO’s

application. The Advisors shall file Comments and Recommendations with respect to the Storm Reserve

Riders by

January 8, 2007.

ENO and Intervenors shall file Comments on Advisors’ Comments and Recommendations no later than

January 18, 2007. Copies of the Filing shall be submitted electronically to the Advisors on the same day.

6. Evidentiary Hearing. An evidentiary hearing shall commence on January 25, 2007.

7. It is anticipated that during discovery, the parties may be required to produce documents or

information that is deemed confidential and/or highly sensitive and, accordingly, the Council adopts for

use in these proceedings its Official Protective Order previously used in Dockets UD-01-04 and

UD-03-01.

8. It is the Council’s present intention to render a decision on these matters by February 1, 2007.

THE FOREGOING RESOLUTION WAS READ IN FULL, THE ROLL WAS CALLED ON THE ADOPTION THEREOF

AND RESULTED AS FOLLOWS:

YEAS: Carter, Head, Hedge-Morrell, Midura, Thomas,

Willard-Lewis - 6

NAYS: 0

ABSENT: Fielkow (Temporarily Out of Chamber) - 1

AND THE RESOLUTION WAS ADOPTED.