NO. R-08-291

BY: COUNCILMEMBERS MIDURA, CARTER, HEDGE-MORRELL AND WILLARD-LEWIS

RESOLUTION DIRECTING IMMEDIATE RESPONSE FROM ENTERGY NEW ORLEANS, INC. REGARDING ENTERGY ARKANSAS, INC. AND ENTERGY MISSISSIPPI, INC. REQUESTS TO WITHDRAW FROM THE ENTERGY SYSTEM AGREEMENT DOCKET NO. UD-07-03

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 (“ENO”) is a public utility that provides electric service to all of New Orleans, except the Fifteenth Ward (“Algiers”), and gas service to all of New Orleans; and

WHEREAS, Entergy Louisiana, LLC (“ELL”) is a public utility that provides electric service to the Algiers section of New Orleans; and

WHEREAS, ENO and ELI are wholly-owned subsidiaries of Entergy Corporation (“Entergy”) and two of the six operating companies, along with Entergy Services, Inc. (“ESI”), that are parties to the Entergy System Agreement (“System Agreement”). The other four operating companies are Entergy Arkansas, Inc. (“EAI”), Entergy Gulf States, Louisiana, L.L.C. (“EGSL”), Entergy Texas, Inc. (“ETI”), and Entergy Mississippi, Inc. (“EMI”) (the six operating companies are referred to collectively as the “Operating Companies”); and

WHEREAS, the System Agreement is a contract among the Operating Companies under which the Operating Companies collectively plan and operate their electric generation and bulk transmission facilities as a single, integrated electric system; and

WHEREAS, ENO’s ratepayers receive important benefits under the System Agreement, including the ability to share in low-cost energy that is available from other Operating Companies; and

WHEREAS, for more than fifty (50) years, Entergy has operated as a highly integrated system and has required ENO and the other Operating Companies to share in the benefits and burdens of the system with the expectation that both the costs and benefits will be shared as part of a unified system to serve all Operating Companies and their native load customers;

and

WHEREAS, the potential withdrawal of any of the Operating Companies may significantly diminish this cost and benefit sharing; and

WHEREAS, on June 14, 2001 the Council and the Louisiana Public Service Commission (“LPSC”) filed a petition with the Federal Energy Regulatory Commission (“FERC”), which was docketed as Docket No. EL01-88-000, alleging in part that the System Agreement was no longer working to produce “rough equalization” of production costs among the Operating Companies and that the System Agreement should be modified to ensure that full production cost equalization among the Operating Companies is achieved going forward;

and

WHEREAS, on March 13, 2003 the Council Advisors and ENO entered into an agreement in principle to resolve and compromise on several issues, including a pending retail rate increase by ENO before the Council and the Council’s withdrawal as a complainant before the FERC in Docket No. EL01-88-000; and

WHEREAS, the agreement in principle was adopted on May 15, 2003 by the Council as Resolution R-03-272 (hereinafter referred to as the “Settlement Agreement”); and

WHEREAS, paragraph 24 of the Settlement Agreement provides that ENO’s purchase of capacity and energy resources under its Resource Plan “will result in a significant reduction in the cost of energy, which ENO is obligated to bear under the Entergy System Agreement …;” and

WHEREAS, the Settlement Agreement and the associated benefits to be derived by ENO, and consequently New Orleans’ ratepayers, was predicated upon the then current form of the System Agreement and the anticipated participation by all Energy Operating Companies; and

WHEREAS, on December 19, 2005 EAI sent written notice to the other Entergy Operating Companies of EAI’s intent to withdraw from the System Agreement; and

WHEREAS, on November 8, 2007 EMI also gave notice to the other Entergy Operating Companies of EMI’s intent to withdraw from the System Agreement; and

WHEREAS, the termination of or withdrawal from the System Agreement by an Operating Company has the potential to adversely effect costs for the supply of electricity from the other Operating Companies to ENO, and consequently to New Orleans ratepayers. In particular, EMI and EAI’s withdrawals will likely affect the cost of energy borne by ENO under the System Agreement by, among other things, increasing the cost of energy under Service Schedule MSS-3; and

WHEREAS, EAI’s and EMI’s withdrawals also will likely adversely affect ENO’s allocated share of Entergy system-wide costs, such as the cost of the System Operations Center, because those costs will be recovered from a smaller group of Operating Companies and customers; and

WHEREAS, in recognition of the significant financial burdens that the termination of or withdrawal by an Operating Company from the System Agreement may place on New Orleans’ ratepayers, the Council on September 20, 2007 passed Resolution R-07-429 initiating an investigation in Docket No. UD-07-03 into issues related to the System Agreement and the intended withdrawal of EAI from the System Agreement; and

WHEREAS, the Council in R-07-429 directed ENO and ELL, among other things, (1) to file with the Clerk of the Council “all minutes of the Entergy System Agreement Operating Committee that contain any reference to the amendment, revision, and consideration of a new and/or replacement system agreement for use in the supply to any of the Entergy Operating Companies complete with any reports, studies, correspondence and data regarding the same that are within ENO and ELL’s possession within 45 days of the adoption of this resolution”, and (2) to fully answer a series of questions and to provide requested documentation and information regarding Entergy’s plans to replace the System Agreement; and

WHEREAS, ENO and ELL responded to the questions and document and information requests ordered in R-07-429 with twenty-four objections, the unsupported assertions of attorney client privilege and predominately non-responsive partial answers; and

WHEREAS, the Council on January 24, 2008 passed Resolution R-08-38 to address similar issues in response to EMI’s stated intention to withdraw from the System Agreement; and

WHEREAS, the Council in R-08-38 directed ENO and ELL, among other things, (1) to answer specific questions regarding Entergy’s plans to exit, revise or replace the System Agreement, and (2) to provide documents and information including any steps ENO and ELL were taking or planned to take to mitigate adverse affects on New Orleans ratepayers;

and

WHEREAS, ENO and ELL responded to the questions and document and information requests ordered in R-08-38 on February 7, 2008 once again with numerous objections, the unsupported assertion of attorney client privilege and mostly non-responsive partial answers; and

WHEREAS, the President and Chief Executive officer of EAI, Hugh T. McDonald, has testified before the Arkansas Public Service Commission (“APSC”) in Arkansas proceeding

Docket No. 04-023-U that Entergy has formed a working group to develop an agreement(s) to replace the System Agreement and that Entergy’s attorneys routinely report the status of the group’s efforts to Entergy’s Executive Team. According to Mr. McDonald, the group has developed “guiding principles,” one of which is to “[c]larify that there is to be no requirement or standard for rough production cost equalization.” Mr. McDonald further testified that he expects to provide the APSC detailed information about the replacement agreement “in the middle of 2008”; and

WHEREAS, the APSC in Order No. 13 in Docket No. 04-023-U directed Mr. McDonald to file testimony each month, most recently on May 1, that provides a status report on Entergy’s progress;

WHEREAS, in light of Mr. McDonald’s testimony in APSC Docket No. 04-023, the Council’s Settlement Agreement, and ENO’s position as the smallest Operating Company on the Entergy System, the Council has significant concerns regarding numerous aspects associated with EAI and EMI’s withdrawals from the present System Agreement and any principles being developed to guide in the establishment of any successor agreement; now, therefore

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS. That in light of (1) the Council’s concern regarding the likely effect of EAI’s and EMI’s withdrawal from the System Agreement, (2) Entergy’s efforts, through its working group and Executive Committee, to replace the System Agreement and eliminate the rough production cost equalization requirement and bandwidth remedy in contravention of Opinion Nos. 480 and 480-A, (3) Mr. McDonald’s commitment to provide to the APSC detailed information about the replacement to the System Agreement, and (4) ENO and ELL’s failure to fully respond to the Councils directives in R-07-429 and R-08-38, ENO and ELL are hereby directed to fully comply and respond in detail, within 20 days of this Resolution, to R-07-429 and R-08-38 and to file (subject, where applicable, to the Council’s official Protective Order, as amended) said responses and the required information on each objection on the grounds of legal privilege with the Clerk of the Council and serve on all parties on the Official Service List in Docket No. UD-07-03.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That the inquiry into the withdrawal of EIA directed by the Council in R-08-38 be consolidated in Docket No. UD-07-03.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That ENO and ELL are hereby directed to fully respond, within 20 days of this Resolution,

to the following questions in detail and to file (subject, where applicable, to the Council’s Official Protective Order, as amended) said responses with the Clerk of the Council and serve on all parties on the official Service List in Docket No. UD-07-03:

1. Please explain how ENO and ELL would achieve the lowest cost of energy for New Orleans ratepayers by continuing joint dispatch and employing load diversity and economies of scale following EAI or EMI’s withdrawal from the System Agreement or by virtue of any successor replacement agreement.

2. Please explain how ENO and ELL would achieve economies of scale and the optimization of resources used to serve New Orleans following EAI or EMI’s withdrawal from the System Agreement or by virtue of any successor replacement agreement.

3. Please explain how ENO and ELL’s ability to receive from, and sell energy to, the other Operating Companies and the market on a “deemed delivered” basis would be affected by EAI or EMI’s withdrawal from the System Agreement or by virtue of any successor replacement agreement.

4. Please explain how ENO and ELL’s ability to continue to receive the amounts of energy/capacity provided for under its purchased power agreements with EAI, Entergy Power, Inc. and EGSL as provided for in the Settlement Agreement would be affected following EAI or EMI’s withdrawal from the System Agreement or by virtue of any successor replacement agreement.

5. Please explain how the Michoud plant would be operated and costs allocated following EAI or EMI’s withdrawal from the System Agreement or by virtue of any successor replacement agreement. Specifically, explain how Michoud would continue to be used for reliability purposes and how ENO would distinguish those costs that would be recovered from New Orleans ratepayers based upon ENO’s service area’s reliability from those costs associated with providing Entergy System area reliability that should be borne by others.

6. Please explain how ENO and ELL would coordinate with the other Operating Companies to construct new supply-side resources following EAI or EMI’s withdrawal from the System Agreement or by virtue of any successor replacement agreement.

7. Under the System Agreement, an Operating Company with capacity in excess of its native electric load requirement receives a payment under Schedule MSS-1. Conversely, an Operating Company that has insufficient capacity to serve its native load purchases capacity under Schedule MSS-1. As demand-side management programs are implemented, Operating Company-specific capacity surpluses and shortages change and, consequently, payments and purchases between the Operating Companies change. Please explain how ENO and ELL's implementation of demand-side and energy conservation measures will be evaluated to ensure that the benefits of such programs will remain with New Orleans ratepayers following EAI or EMI’s withdrawal from the System Agreement or by virtue of any successor replacement agreement.

8. Please explain how the reserve sharing provisions, costs and approach would change among the Operating Companies following EAI or EMI’s withdrawal from the System Agreement or by virtue of any successor replacement agreement.

9. Please explain how the allocation of costs and the approach used for “pooled energy” among the Operating Companies would change following EAI or EMI’s withdrawal from the System Agreement or by virtue of any successor replacement agreement so as to not disadvantage New Orleans ratepayers.

10. Please provide any copies of presentations or any such other related documents that have been made by the working group described in Mr. McDonald’s testimony to the Operating Committee or to one or more representatives of the Operating Companies.

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

YEAS: Carter, Clarkson, Head, Hedge-Morrell, Midura, Willard-Lewis - 6

NAYS: 0

ABSENT: Fielkow (Official City Business) - 1

AND THE RESOLUTION WAS ADOPTED.