

RESOLUTION

R-17-38

CITY HALL: January 26, 2017

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

**ENTERGY NEW ORLEANS, INC. UPDATE
ON THE STATUS OF GAS INFRASTRUCTURE
REBUILD PURSUANT TO COUNCIL RESOLUTION R-07-377**

**RESOLUTION AND ORDER ESTABLISHING A
PROCEDURAL SCHEDULE FOR THE CONSIDERATION OF THE
ENTERGY NEW ORLEANS, INC. UPDATE ON
THE STATUS OF GAS INFRASTRUCTURE REBUILD
PURSUANT TO COUNCIL RESOLUTION NOS. R-07-377 AND R-16-263**

DOCKET NO. UD-07-02

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 serves approximately 107,000 retail gas customers; and

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WHEREAS, ENO's gas system consists of 1,495 miles of gas distribution pipeline and an additional 1,030 miles of service lines. The gas system is operated at two different pressures: high pressure ("HP"), which operates at 60-90 pounds per square inch ("psi"); and low or utilization pressure ("UP") which operates at 0.25 psi; and

Background

WHEREAS, Hurricane Katrina made landfall in the City of New Orleans on August 29, 2005. The Hurricane and the ensuing multiple levee failures caused widespread flooding throughout the City causing catastrophic damage to homes, businesses and infrastructure. ENO suffered severe damage to its electric and gas utility systems and removed over four million gallons of water from the gas system; and

WHEREAS, although ENO restored gas service to virtually all parts of the City of New Orleans by 2007, the long-term, corrosive effects of the floodwaters from Hurricane Katrina remained pervasive and would require the replacement of damaged portions of the gas system; and

WHEREAS, on October 27, 2006, the Council adopted Resolution No. R-06-459, entitled "Resolution and Order Approving Agreement in Principle" (the "Resolution"), which approved an Agreement in Principle dated October 26, 2006 ("October 26, 2006 AIP") which, among other things, resolved certain rate requests by ENO, including issues relating to post-Katrina storm costs and storm reserves filed in Council Docket Nos. UD-06-01 and UD-06-02; and

WHEREAS, pursuant to Paragraph No. 31 of the Agreement in Principle of the October 26, 2006 AIP, ENO was to file with the Council by July 1, 2007 a plan of reconstruction for its damaged gas system that includes identification of relevant priorities and contingencies; and

WHEREAS, on June 29, 2007, in response to the Council’s mandate, ENO filed its Plan for Gas Infrastructure Rebuild and contemporaneously filed a Motion for Leave to File Supplemental Information on the Status of the Plan for Gas Infrastructure Rebuild which requested that the Council allow ENO to file supplemental information concerning its Plan in the future as conditions change; and

WHEREAS, ENO argued that the ultimate schedule, scope and cost of rebuilding ENO’s entire gas system in future years would require resolution of key uncertainties that were not known or knowable at that time including the condition of pipe and rates of deterioration, ongoing reliability and system integrity, the progress of and coordination with the City’s own rebuilding efforts (such as the Unified New Orleans Plan), the relative rates of repopulation, and the resolution of key financial requirements including receipt of Community Development Block Grant (“CDBG”) funds, and the resolution and receipt of then-pending insurance claims; and

WHEREAS, in response to ENO’s Plan for Infrastructure Rebuild, the Council, in Resolution No. R-07-377 established Docket No. UD-07-02 to consider ENO’s Plan for Gas Infrastructure Rebuild in addition to future filings that include supplemental information relating to the status of the proposed Plan for Gas Infrastructure Rebuild; and

ENO’s Application

WHEREAS, on September 9, 2016, ENO made a filing with the Council entitled “Supplemental Report and Update on the Status of the Plan for Gas Infrastructure Rebuild” (“Application”). On October 4, 2016, ENO filed a Revised Gas Infrastructure Rebuild Plan (“GIRP”) which revises the forecasted customer rate impact to reflect a jurisdictional-only (non-weather adjusted) sales which increases the average annual rate impact; and

WHEREAS, ENO states that as of September 2016, its Gas Infrastructure Rebuild has resulted in the replacement of approximately 342 miles of gas distribution pipe at a cost of approximately \$159 million, funded through CDBG and insurance proceeds that have had no rate impact; and

WHEREAS, ENO states that the CDBG and insurance proceeds allocated to the gas infrastructure rebuild program will be fully expended in late 2016 or early 2017; and

WHEREAS, ENO states that it is important that ENO be able to transition seamlessly from the current gas infrastructure rebuild program to its proposed GIRP so that it is able to retain current construction resources and maintain pipe replacement at similar levels of efficiency and cost effectiveness. In this regard, ENO argues that delayed implementation of GIRP would likely result in the loss of current construction resources, which will increase the overall cost of the needed infrastructure replacements; and

WHEREAS, ENO presents three options for the Council's consideration. According to ENO, Option 1 is a continuation of the current Rebuild program, with all pipe flooded during Katrina (high and low pressure) replaced by the end of GIRP. ENO notes that the high pressure flooded pipe has been monitored and is not currently showing any accelerated degradation due to the flooding. Since ENO's current information does not show an immediate need to replace this pipe, ENO does not recommend Option 1; and

WHEREAS, ENO's proposed Option 2 focuses on replacement of the remaining low pressure pipe that flooded during Katrina. In contrast, in its Option 3, ENO proposes to replace all low pressure cast iron and steel pipe, in addition to all remaining vintage plastic pipe. ENO notes that the difference between Option 2 and Option 3 centers on whether the non-flooded low pressure system piping and vintage plastic pipe should be replaced. According to ENO, cast iron

and vintage plastic are two of the material types that the natural gas industry recognizes is prone to failure and recommends should be replaced; and

WHEREAS, ENO recommends that the Council approve Option 3 as it is consistent with the industry approach and would give customers the safest, most reliable gas distribution system at the most reasonable cost of the three options; and

WHEREAS, if approved, ENO's recommended Option 3 would replace 231 miles of remaining low pressure cast iron and steel pipe and the seven miles of plastic pipe over a period of nine to ten years, ending by 2027 at a rate of approximately 25 miles per year; and

WHEREAS, ENO projects that Option 3 will cost a total of \$119.3 million (approximately \$12.5 million per year). ENO proposes that cost recovery be deferred until ENO's next rate case; and

WHEREAS, the Council notes that Resolution No. R-15-194 approved the May 7, 2015 Agreement in Principle settling Council Docket No. UD-14-02 ("Algiers Transaction AIP") and provided: (i) for ENO to file "a full cost of service study based on combined ENO operations on both the east bank and west bank of the Mississippi River" ("Combined Rate Case"); and (ii) "... ENO will not initiate and the Council shall not take any base rate action specific to Legacy-ENO or Algiers customers requesting any changes to base rates set forth in existing Legacy-ENO or Algiers base rate schedules, prior to ENO's filing . . . The Combined Rate Case [which] shall not be submitted to the Council prior to the first quarter of 2018;" and

WHEREAS, ENO's Council-approved base rates provide ENO the opportunity to recover its non-purchased gas costs to provide gas service to ratepayers, including costs related to capital investment in gas distribution plant; and

WHEREAS, the Algiers Transaction AIP provides that ENO may only seek special recovery of base-rate related costs should “ENO experience such an exceptional increase or decrease in costs, excluding costs recovered via the Fuel Adjustment Clause and other applicable riders, having a revenue requirement effect exceeding \$3.2 million on a total Company basis, . . . then the Company may initiate a filing with the Council seeking consideration of whether a mechanism for recovery or return of such exceptional cost increases or decreases is appropriate;” and

WHEREAS, ENO’s present rates can reasonably be expected to allow it to earn more than a fair return on its investment while recovering all of its costs in the present economic climate; and

WHEREAS, ENO, in its Application projects that all of its GIRP expenditures will be capital investments; and

WHEREAS, ENO states that the depreciable life of its GIRP investments will be 40 years; and

WHEREAS, until such time as the Council establishes new rates as part of the Combined Rate Case, the provisions of the Algiers Transaction AIP call for ENO to recover any GIRP related costs, including but not limited to depreciation expense, return on rate base at ENO’s Weighted Average Cost of Capital (“WACC”), Allowance for Funds Used During Construction (“AFUDC”), Construction Work in Process (“CWIP”), Operations and Maintenance (“O&M”) expenses, and taxes, through its current rates; and

WHEREAS, the Council finds that the ENO’s proposed GIRP will provide customers with a safer, most reliable gas distribution system; however, the Council recognizes that ENO’s

proposal would result in increased rates to gas customers. Further, the Council also desires to allow for input from interested parties regarding this matter; and

WHEREAS, the Council wishes to evaluate the gas infrastructure replacement plan that would best serve the public interest and the impact on ratepayers of the approval of any such plan as part of a proceeding involving all interested parties; **NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS THAT:**

1. ENO is authorized to proceed with the replacement of gas infrastructure as requested in its Application at a rate of approximately 25 miles per year and approximately \$12.5 million in capital investment per year until the resolution of the 2018 Combined Rate Case.
2. As each GIRP-related investment is placed into service, ENO shall record depreciation expenses and accrue accumulated depreciation for each such investment according to a (40) forty-year straight-line schedule. ENO's GIRP-related costs, including but not limited to depreciation expense, return on rate base (i.e., generally, prudently incurred capital investments at cost including AFUDC and CWIP less accumulated depreciation, less the amount of related ADIT) at ENO's WACC (i.e., rate base multiplied by WACC), O&M expenses, and tax expenses, are deemed to be recovered in the period in which they are incurred through ENO's current rates until such time as the Council may establish new rates as part of the Combined Rate Case.
3. As part of the Combined Rate Case, the Council may establish new overall gas base rates to allow ENO to continue to recover its GIRP-related costs, taking into account ENO's then GIRP-related costs such as depreciation expense, return on ENO's then current GIRP-related rate base, taxes, and O&M.

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

4. ENO and the Council's Advisors, are designated Parties to these proceedings. Additionally, a period of 30 days from the adoption of this Resolution is established for interventions in this docket by individuals not herein designated a party. Persons desiring to intervene shall do so by filing an intervention request with the Clerk of Council, with a copy submitted to Director, Council Utilities Regulatory Office, Room 6E01 City Hall, 1300 Perdido Street, New Orleans, LA 70122; and to persons on the Official Service List of this docket, which can be obtained from the Council Utilities Regulatory Office. All fees associated with the filing of interventions are hereby waived, in accordance with Section 158-286 of the City Code. Objections to intervention requests shall be filed within seven days of such requests. Timely-filed intervention requests not objected to within that time period shall be deemed GRANTED.

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6. Jeffrey Gulin is appointed the Hearing Officer to preside over the discovery in this docket, including scheduling, motions and discovery disputes, as needed.

7. A period of discovery shall commence with the adoption of this Resolution and extend until eight days prior to the evidentiary hearing (discovery requests must be made in time that responses may be received prior to the close of the discovery period). Responses to data requests shall be made on a rolling basis and shall be due in hand within 12 calendar days of receipt (All requests received after 3:00 o'clock p.m. (central) on a Friday shall be deemed received the following business day). Parties are encouraged to submit their data requests and responses electronically, where appropriate. Objections to data requests shall be filed within five 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 appealing to the Council.

8. It is anticipated that during discovery, the parties may be required to produce documents or information that are deemed confidential and/or highly sensitive and, accordingly, the Council adopts for use in this docket its Official Protective Order adopted by Resolution No. R-07-432, a copy of which can be obtained from the Council Utilities Regulatory Office.

9. 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.

10. Direct Testimony of Intervenors shall be filed not later than July 7, 2017.

11. Direct Testimony of Advisors shall be filed not later than August 18, 2017.

12. Rebuttal Testimony of ENO shall be filed not later than September 15, 2017.
13. The evidentiary hearing shall take place on October 10, 2017.
14. The Hearing Officer shall certify the record of these proceedings to the Council not later than October 18, 2017.
15. 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.
16. 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.

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

YEAS:

NAYS:

ABSENT:

AND THE RESOLUTION WAS ADOPTED.