



# The Southern Center for Environmental Justice, Inc.

*Doing Business as The Deep South Center for Environmental Justice, Inc.*

March 1, 2017

Ms. Lora W. Johnson, Clerk of Council  
New Orleans City Council  
Room 1E09, City Hall  
1300 Perdido Street  
New Orleans, LA 70112  
*Via Hand Delivery*

**Re: Resolution and Order Establishing a Rulemaking  
Proceeding Regarding Integrated Resource Planning,  
Docket UD-17-01**

Dear Ms. Johnson:

Pursuant to Council Resolution R-17-32 please find enclosed the original and three copies of the *Petition to Intervene Out of Time and Proposed Amendments to the Council's Integrated Resource Planning Requirements by the Deep South Center for Environmental Justice, Inc.* in the above-referenced matter. On February 27, 2017 when the office of the Clerk of Council was closed, this petition was distributed to persons on the service list for UD-17-01.

Please file the original and two copies of the petition and this letter into the record in the above-referenced matter, and return a date-stamped copy to our courier.

Thank you for your assistance.

Very truly yours,

Monique Harden, Attorney

Enclosure

cc: UD-17-01 Distribution List

RECEIVED  
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BY: *DM*

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**BEFORE THE  
COUNCIL OF THE CITY OF NEW ORLEANS**

<b>IN RE: RESOLUTION AND ORDER</b>	)	
<b>ESTABLISHING A RULEMAKING</b>	)	<b>DOCKET NO. UD-17-01</b>
<b>PROCEEDING REGARDING</b>	)	
<b>INTEGRATED RESOURCE PLANNING</b>	)	

**PETITION TO INTERVENE OUT OF TIME AND PROPOSED AMENDMENTS TO  
THE COUNCIL'S INTEGRATED RESOURCE PLANNING REQUIREMENTS  
BY THE DEEP SOUTH CENTER FOR ENVIRONMENTAL JUSTICE, INC.**

The Deep South Center for Environmental Justice, Inc. ("DSCEJ") respectfully requests that the City Council of New Orleans, Louisiana grant its Petition to Intervene Out of Time and participate as a party in the above-captioned docket as established by Resolution 17-32. Pursuant to this resolution, DSCEJ herein provides specific language to amend the *Electric Utility Integrated Resource Plan Requirements of the Council of the City of New Orleans* ("Council's IRP Requirements") in order to improve the Integrated Resource Planning process.

1. DSCEJ is a non-profit organization incorporated in the State of Louisiana with an office in New Orleans. Since 1992, DSCEJ works in collaboration with community environmental groups and universities within the Southern region of the United States for the purpose of achieving environmental justice. DSCEJ also works locally and globally as a resource for communities, scientific researchers, and policymakers on issues involving environmental justice.

**I. Reasons for Requesting Intervention Out of Time**

2. For the following reasons, DSCEJ requests intervention out of time in this proceeding.
3. The decisions in this docket will be informed, in part, by the issues involved in the *Application of Entergy New Orleans, Inc. for Approval to Construct New Orleans Power Station*

*and Request for Cost Recovery and Timely Relief* (Docket UD-16-02), to which DSCEJ is a party. These issues are rooted in the 2015 Integrated Resource Plan and arise from omissions in the Council's IRP Requirements. In particular, the key issues involved in Docket UD-16-02 are centered on some of the fundamental challenges in Integrated Resource Planning: the reliability of customer load forecast and the necessity for and impacts of a new generating source. These issues, which are contested among the parties in Docket UD-16-02 and of concern to the public, underscore the need for amending the Council's IRP Requirements to provide greater clarity and guidance.

4. On February 14, 2017, Entergy filed a motion in Docket UD-16-02, which revealed that it overestimated the customer demand for electricity through the next 20 years. Entergy requested and was granted a suspension of the proceedings in Docket UD-16-02 to allow time for evaluating what implications this new information of lower customer demand may have on the NOPS application.<sup>1</sup> The fact that after a two-year Integrated Resource Planning process, Entergy's recommendation in the 2015 Integrated Resource Plan and application for the proposed NOPS were based on inaccurate information points to an area for improvement in the Council's IRP Requirements. DSCEJ's request to intervene is in response to this new development, which occurred the day before the February 15, 2017 deadline to file a petition for intervention in this proceeding.

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<sup>1</sup> Entergy New Orleans, Inc., Motion to Suspend the Current Procedural Schedule Temporarily and to Set Date for Follow-up Status Conference, Docket UD-16-07, filed on February 14, 2017. Order (Granting Motion and Setting Date for Status Conference), Docket UD-16-07, issued on February 21, 2017.

On or before the time Entergy filed the Motion to Suspend the Procedural Schedule Temporarily and other parties could file a response to this motion, Entergy did not disclose the new information. DSCEJ, the Alliance for Affordable Energy, and the Sierra Club jointly filed the Response to Entergy New Orleans, Inc.'s Motion to Suspend Procedural Schedule on February 16, 2017.



5. A related matter of concern is the misleading and skewed email message that Entergy sent to its customers on February 27, 2017 (after the deadline for filing a petition to intervene in this proceeding). Entergy's email message, titled *Making Sure the Solution Fits the Need*, contradicts Entergy's Motion to Suspend the Current Procedural Schedule Temporarily. In the motion, Entergy requests time for itself and all parties in Docket UD-16-02 "to evaluate what implications, if any, a recently updated forecast of ENO customer load may have with regard to its pending proposal seeking Council approval to construct the New Orleans Power Station." However, Entergy's email asserts that "customer needs over the next 20 years have **decreased slightly** when compared to the forecast in effect when the request to construct the New Orleans Power Station was filed with the Council in June 2016." [Emphasis added]. Contrary to Entergy's motion, which is premised on figuring out what the change in information about future customer demand means for the proposed NOPS, Entergy's email to customers conveys with certainty the message that the change is minimal. This is misleading. Assuming that Entergy's updated forecast of customer need for electricity is 3.5% lower<sup>2</sup> than the 1,336 megawatts ("MW") presented in Entergy's application for the proposed NOPS,<sup>3</sup> this would mean a reduction of 46.76 MW in customer need for electricity which is 21% of the 226 MW capacity of NOPS.<sup>4</sup> In other words, Entergy may have overestimated customer need for the proposed NOPS by 21%.

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<sup>2</sup> See Greg LaRose, *Entergy Puts Michoud Power Plant on Hold*, THE TIMES-PICAYUNE, Feb. 18, 2017, (reporting that "[i]n a follow-up email, Entergy said its updated load analysis shows power demand decreasing 3.5 percent throughout the 20-year planning horizon"), available at: [http://www.nola.com/business/index.ssf/2017/02/entergy\\_puts\\_new\\_michoud\\_power.html](http://www.nola.com/business/index.ssf/2017/02/entergy_puts_new_michoud_power.html).

<sup>3</sup> See Entergy New Orleans, Inc., Application of Entergy New Orleans, Inc. for Approval to Construct New Orleans Power Station and Request for Cost Recovery and Timely Relief (Docket UD-16-02), Direct Testimony of Seth E. Cureington, Exhibit OT-1, June 2016, p. 18, Table 2 (showing that, in the year 2030, customers will need 1,336 MW of electricity).

<sup>4</sup> *Id.* at p. 1 ("NOPS will be a 226 megawatt (MW) CT located at ENO's Michoud facility in New Orleans East").

6. Entergy's email message to customers heightens the growing need for candor, openness, and transparency in its communications to the public regarding its Integrated Resource Plans and the proposed NOPS.<sup>5</sup> DSCEJ proposes amendments that set a standard for factual and unbiased communications, which is currently not addressed in the Council's IRP Requirements.

## II. Proposed Amendments to the Council's IRP Requirements

7. DSCEJ proposes specific amendments to the Council's IRP Requirements. These amendments present (a) best practices in forecasting customer need for energy,<sup>6</sup> (b) standards to ensure factual and unbiased information as well as meaningful and effective public participation in the Integrated Resource Planning process, and (c) provisions to clarify the legal and policy framework, define Integrated Resource Planning, and incorporate an environmental impact assessment.

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<sup>5</sup> See, e.g., the following City Council resolutions:

Council Resolution and Order Regarding Entergy New Orleans, Inc.'s Integrated Resource Plan Status Report and Report on Transmission Planning, R-10-142, March 25, 2010 (recognizing a complaint that "ENO has not engaged in a collaborative process and has not provided enough information to allow the public to provide meaningful input"; and stating "the Council agrees with many of the criticisms . . ."); and

Council Resolution Initiating a Show Cause Proceeding Regarding Entergy New Orleans, Inc.'s Utility Operations, R-16-01, July 14, 2016 (explaining that "the June 15, 2016 public hearing in the ENO IRP docket was well attended by ENO customers and several community organizations, and every person who spoke opposed Entergy's proposal to build a new CT plant at Michoud. Many people also called for greater transparency and for more information to be provided to the public . . .").

<sup>6</sup> DSCEJ's sources for best practices in forecasting customer need for energy include Synapse Energy Economics for the Regulatory Assistance Project, *Best Practices in Electric Utility Resource Planning: Examples of State Regulations and Recent Utility Plans*, June 2013 and the Lawrence Berkeley National Laboratory for the US Department of Energy, *Load Forecasting in Electric Utility Integrated Resource Planning*, October 2016.



*A. Best Practices in Forecasting Customer Need for Energy*

8. Recognizing that forecasting customer need for energy is a starting point for Integrated Resource Planning and that both electric and gas service provided by Entergy New Orleans, Inc. should be included in such planning, the Council's IRP Requirements should require an Integrated Resource Plan to provide the following information:

- 1) Explanation of how the utility company met each of the substantive and procedural requirements provided in the Council's IRP Requirements;
- 2) Comparison between forecast customer load in previous Integrated Resource Plans submitted to the Council versus actual customer load during the years covered in the planning horizon up to the current year with an analysis of any difference between forecast and actual customer load that is greater than one percent;
- 3) Analysis of high and low load growth scenarios in addition to stochastic load risk analysis with an explanation of all assumptions;
- 4) For electric utilities, a determination of the levels of peaking capacity and energy capability expected for each year of the plan, given existing resources; identification of capacity and energy needed to bridge the gap between expected loads and resources; modeling of all existing transmission rights, as well as future transmission additions associated with the resource portfolios tested;
- 5) For natural gas utilities, a determination of the peaking, swing and base-load gas supply and associated transportation and storage expected for each year of the plan, given existing resources; and identification of gas supplies (peak, swing and base-load), transportation and storage needed to bridge the gap between expected loads and resources;

- 6) Identification and estimated costs of all supply-side and demand-side resource options, including renewable solar energy and energy efficiency, taking into account anticipated advances in technology;
- 7) Analysis of measures the utility intends to take to provide reliable service, including cost-risk tradeoffs;
- 8) Identification of key assumptions about the future (e.g., growth of renewable solar and wind energy as supply resources, growth of installed solar generation among customers, fuel prices, environmental compliance costs) and alternative scenarios considered;
- 9) Construction of a representative set of resource portfolios to test various operating characteristics, resource types, fuels and sources, technologies, lead times, in-service dates, durations and general locations – system-wide or delivered to a specific portion of the system;
- 10) Evaluation of the performance of the candidate portfolios over the range of identified risks and uncertainties;
- 11) Results of testing and rank ordering of the portfolios by cost and risk metric, and interpretation of those results;
- 12) Identification and analysis of the uncertainties associated with each portfolio evaluated;
- 13) Explanation of how each portfolio conforms to the City of New Orleans ordinances, budgeting priorities, policies, and programs pertaining to climate change, equity and non-discrimination, public health, affordable housing, environmental quality, flood and hurricane risks, reduction of the carbon footprint, and sustainability;
- 14) Selection of a portfolio that represents the best combination of cost and risk for the utility and its customers;

- 15) Explanation of whether the selected portfolio, if implemented, would have a racially disproportionate pollution burden;
- 16) Identification and explanation of any inconsistencies of the selected portfolio with any state and federal energy policies that may affect a utility's plan and any barriers to implementation; and
- 17) An action plan with resource activities the utility intends to undertake over the next two to four years to acquire the identified resources, regardless of whether the activity was acknowledged in a previous IRP, with the key attributes of each resource specified as in portfolio testing.

***B. Factual and Unbiased Information for Meaningful and Effective Public Participation in the Integrated Resource Planning Process***

9. Public participation in Integrated Resource Planning is critical to utility regulation. Ensuring meaningful and effective public participation relies, in part, on factual and unbiased information. Accordingly, the Council's IRP Requirements should establish a new section titled "Public Participation in the Development of the Integrated Resource Plan" with the following requirements.

- 1) A utility company required to prepare an Integrated Resource Plan that, through its representatives, makes written or verbal statements to the public regarding such plan shall affirm under penalty of perjury that the statements are believed to be true. In the event a public statement is shown to be false, the utility company shall post a correction of the statement on its website and submit a report of the correction to the Council within seven calendar days. In the event, the utility company disputes the charge that its statement is false, the Council may open an inquiry into the matter to make a determination.



- 2) The Council Utility Regulatory Office shall conduct public outreach and facilitate public input in the Integrated Resource Planning process through the following steps:
- a) Coordinate with the utility company to establish a timeline of public meetings at strategic points throughout the Integrated Resource Planning process;
  - b) For each public meeting, review the draft presentation of the current iteration of the Integrated Resource Plan development that is prepared by the utility company, and make recommendations to improve the accessibility and comprehension of technical language and concepts in the presentation;
  - c) Conduct public outreach by publicizing and advertising information about the public meeting broadly, posting it in places where stakeholders go for their information, and directly contacting organizations, associations and networks representing each customer class as well as neighborhood groups in each of the council districts;
  - d) In all outreach materials and activities, clearly state the purpose and goal of the public meeting, how it will work, and why stakeholders should attend, include the beginning and end times of the meeting;
  - e) As public meetings are often a focal point for media interest, invite media and provide them with specific information that will help them to cover the meeting accurately;
  - f) Provide meeting attendance sheets and request participants to write their contact information on the attendance sheets for follow-up communications;
  - g) Take photos of the public meeting to provide a record of the event;

- h) Arrange for a video recording of each meeting and make them available for viewing on the Council's website and/or cable access television;
- i) Book a venue for the public meeting that is convenient, accessible, and convenient for people to go to and allows for flexibility as to numbers of attendees;
- j) Conduct the public meeting at a time that is most convenient for people to attend;
- k) Make arrangements for people with disabilities or with language interpretation needs to participate in the public meeting;
- l) At the public meeting, present the agenda and explain the purpose of the meeting, how it will work, expected outcomes, and how/where it fits into the overall Integrated Resource Planning process;
- m) Facilitate the meeting to create a comfortable environment for all voices to be heard, and be flexible as issues may arise that can alter the agenda or ability to address certain issues;
- n) Record all input and comments; summarize what you have heard at the end of the meeting and let participants know what you will do with their input and what to expect next in the process, especially opportunities for ongoing participation in the Integrated Resource Planning process; and
- o) Produce a clear summary of the public meeting, post the summary on the Council's website, and distribute widely including to those who attended the meeting.

***C. Provisions to Clarify the Legal Framework, Define Integrated Resource Planning, and Incorporate an Environmental Impact Assessment***

10. The Council's IRP Requirements should clarify the legal framework for Integrated Resource Planning by identifying the federal, state, and local laws and regulations governing the process.

11. The Council's IRP Requirements should add a new section titled "Definition of Integrated Resource Plan" to provide the following: An Integrated Resource Plan is prepared by an electric and/or gas utility company every three years to project how energy will be made and used through the next 20 years in New Orleans; to analyze scenarios for supplying energy and managing its use; and to select a portfolio of energy supply and demand resources that would best serve the public interest.

12. The Council's IRP Requirements should establish the following provision to require environmental impact assessments of existing and proposed supply sources: For each existing and proposed supply source considered in the Integrated Resource Plan, the utility company shall provide in the plan an assessment of the impact the source would have, if any, on the following:

- 1) Air quality (specify each air pollutant and quantify the annual emission in pounds);
- 2) Surface water or groundwater resource (specify whether the impact would pollute, deplete or otherwise impair the resource);
- 3) Soil and land;
- 4) Human health and safety (specify whether a residential area or school is located within five miles of the existing source or site(s) considered for any proposed source);
- 5) Sustainability and resilience of a residential area within five miles of the existing source or site(s) considered for any proposed source;

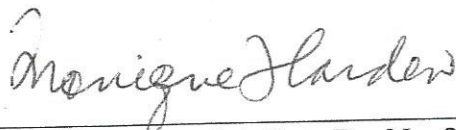


- 6) Culture and quality of life of a residential area within five miles of the existing source or site(s) considered for any proposed source;
- 7) Flood control structure;
- 8) Property values;
- 9) Local land use standards;
- 10) Historic and cultural sites; and
- 11) Birds, animals, fish, shellfish and their habitats (endangered and non-endangered species).

### **III. Conclusion**

DSCEJ possesses the standing to intervene, and respectfully requests the grant of intervenor status in order to fully participate in this docket. The DSCEJ requests to be included on the service list for Docket UD-17-01 and served with all pleadings, notices, orders, and other filings.

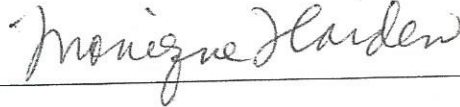
Respectfully submitted on the 27th day of September, 2017 by:



\_\_\_\_\_  
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**Certificate of Service Docket No. UD-17-01**

I hereby certify that I have this 27th Day of February, 2017, served the required number of copies of the foregoing correspondence upon all other known parties of this proceeding, by USPS or electronic mail.



Monique Harden

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