

RESOLUTION

R-18-355

CITY HALL: August 23, 2018

BY: COUNCILMEMBERS MORENO, WILLIAMS, GIARRUSSO, BANKS,  
AND BROSSETT

**RESOLUTION AND ORDER ESTABLISHING A DOCKET AND OPENING A  
RULEMAKING PROCEEDING TO CONSIDER THE PROCESS FOR HOW ANY FUTURE  
REQUESTS FOR PROPOSALS FOR GENERATING RESOURCES OR PURCHASE POWER  
AGREEMENTS ISSUED BY ENTERGY NEW ORLEANS, LLC SHALL BE CONDUCTED**

**DOCKET NO. UD-18-05**

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, LLC ("ENO" or "Company"), is a public utility providing electric and natural gas service to all of New Orleans;<sup>1</sup> and

WHEREAS, ENO is a wholly owned subsidiary of Entergy Utility Holding Company, LLC ("EUH"), and the other four operating companies are Entergy Arkansas, Inc. ("EAI"), Entergy Louisiana, LLC, ("ELL"), Entergy Mississippi, Inc. ("EMI"), and Entergy Texas, Inc.

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<sup>1</sup> On November 30, 2017, Entergy New Orleans, Inc. undertook a restructuring which resulted in the transfer of substantially all of its assets and operations to Entergy New Orleans, LLC, which since that date provides retail electric and gas utility service to New Orleans.

**WHEREAS**, on December 14, 2017, the Council adopted Resolution R-17-622 establishing Docket UD-17-05 and an expedited procedural schedule for the consideration of ENO's DG Application; and

**WHEREAS**, several parties intervened in the docket, including the Alliance for Affordable Energy, Air Products and Chemicals ("Air Products"), Gulf States Renewable Energy Industries Association, 350 New Orleans and American Institute of Architects New Orleans; and

**WHEREAS**, on May 11, 2018, all of the parties to Docket UD-17-05, with the exception of Air Products, reached an Agreement in Principle ("AIP") and urged Council approval of the project; and

**WHEREAS**, Air Products agreed to not oppose the AIP; and

**WHEREAS**, after careful consideration of the AIP, on June 21, 2018 the Council adopted Resolution R-18-222 approving the AIP without modification; and

**WHEREAS**, ENO represented that it had attempted, without success, to negotiate the terms of agreements with third-party bidders to proceed with the two other projects selected in the 2016 RFP process and as a result, ENO declined to further pursue those projects; and

**WHEREAS**, ENO's October 6, 2017 filing in Docket UD-17-05 did not fully disclose to the Council the details of why it was unsuccessful in reaching an agreement with said third-party bidders; and

**WHEREAS**, after ENO and the third-party bidders were unable to reach contract terms consistent with the proposals submitted, ENO indicated that the 2016 RFP was reopened, with the approval of the independent monitor, to allow certain third party bidders the opportunity to submit updated proposals; and



3. The Council directs the Advisors to thoroughly investigate and evaluate ENO's process, its results and consider the timeframe it has employed to acquire renewable resources since its 2016 renewables RFP as discussed herein.
4. ENO shall provide to the Advisors all RFP documents, responses, correspondence, evaluations and analyses in ENO's possession related to the Company's 2016 renewables RFP, both original and re-opened.
5. ENO shall file with the Clerk of the Council on or before July 31, 2018 an application requesting approval of a portion of or all 90 MW of renewable resources selected by the Company from the updated bid responses received by ENO and announced in its January 30, 2018 press release. The filing shall include such testimony, evaluations, analyses, workpapers, and other information the Company believes will be of assistance to the Council in determining whether the proposed acquisitions are in the public interest and should be approved. To the extent that the Company does not seek approval of all 90 MW of renewable resources identified in its January 30, 2018 press release on or before July 31, 2018, then ENO shall, within the same time period, provide a detailed report explaining why any portion or all of the 90 MW of renewables are not being presented to the Council for consideration. The detailed report shall include all RFP documents, responses, correspondence, evaluations and analyses in ENO's possession related to the Company's January 2018 reopening of the 2016 renewables RFP, regardless of whether said documents support ENO's decision to not present the proposed projects to the Council for its consideration.
6. Following the passage of the Resolution, ENO shall provide the Advisors and the Council with monthly updates concerning the status of negotiations related to the 90 MW of renewables and the status of ENO's application for approval thereof.
7. The Council may make additions to the schedule outlined herein and make such further determination as it deems appropriate on the most appropriate future course of action.
8. The Advisors shall propose to the Council, within 30 days of the passage of this Resolution, a procedural schedule for a rulemaking proceeding to consider the process for how any future requests for proposals for generating resources or purchase power agreements issued by ENO, regardless of the type of technology sought, shall be conducted. If ENO does not file an application requesting approval of a portion of or all 90MW of renewable resources selected by the Company from the updated bid responses received by ENO and announced in its January 30, 2018 press release by the July 31, 2018 deadline, then the Company shall be required to issue a new RFP for renewable resources



- a. How can the RFP process be improved prior to the development of the Draft RFP to ensure that the Draft RFP:
  - i. Achieves wide participation by respondents and is not overly constrained to solicit specific, or narrowly defined resources;
  - ii. Targets the specific power supply, reliability or other system needs that would be met by acquiring those resource(s);
  - iii. Includes a proposed schedule of milestone events and dates that minimizes the time required to conduct the RFP while still allowing time for ENO to conduct necessary due diligence and negotiations?
  - iv. Includes a provision that requires a comprehensive narrative detailing the respondent's plan to comply with the provisions of Article IV of Chapter 70 of the Code of the City of New Orleans pertaining to local and disadvantaged business enterprises ("DBE") goals for the City of New Orleans;
- b. To further the objective of increasing the independence of the Independent Monitor ("IM") and increasing public confidence in the IM's selection and role in the RFP process, what changes to the selection process of the IM should the Council consider?
- c. What modifications, if any, should be considered regarding the competitive procurement process included in Entergy's Procurement Policy;

## 2. Development the final RFP documents

- a. How should the draft RFP comment process be improved to increase transparency and facilitate opportunities for public input, access to draft RFP

approval will be conducted in a timely and efficient manner and in accordance with the Council's RFP rules?

- d. What provisions should the Council consider regarding the issuance and distribution of the RFP such that it encompasses a sufficiently wide range of vendors who may be qualified to perform the work required by the RFP?

4. Post-issuance of RFP and Evaluation of bid proposals

- a. Can the RFP process be made more transparent by requiring ENO to provide periodic updates to the public without compromising the Company's negotiations with bidders and without releasing Highly Sensitive Protected Materials?

- i. What specific reporting requirements should be imposed?

- b. What provisions should the Council consider regarding evaluation methods and criteria for bid selection?

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

1. The Council establishes Docket No. UD-18-\_\_\_ to consider *A Rulemaking Proceeding to Establish A Docket and Opening a Rulemaking Proceeding to Consider the Process for How Any future Requests for Proposals for Generating Resources or Purchase Power Agreements Issued by Entergy New Orleans, LLC Shall Be Conducted.*
2. The Honorable Jeffrey S. Gulin is hereby appointed as Hearing Officer in this docket to preside over the proceedings and rule on procedural disputes, including motions and discovery, and shall, for good cause shown and as required by the



with a copy submitted to Director, Council Utility Regulatory Office, Room 6E07 City Hall, 1300 Perdido Street, New Orleans, LA 70112. The Council's requirements for motions to intervene may be found in the City Code (which is available on the Council's website) at sections 158-236, 158-240, 158-286, 158-287, 158-322, and 158-324. Objections to intervention requests shall be filed within five days of such requests. Timely-filed intervention requests not objected to within that time period shall be deemed GRANTED.

- b. Comments from all parties on the specific topics outlined in this resolution shall be filed no later than October 19, 2018.
- c. Reply comments shall be filed no later than November 16, 2018.
- d. An Advisors' Report responding to the comments and reply comments and providing the Advisors' recommendations to the Council shall be filed no later than February 15, 2018.

**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.**