

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

**IN RE: APPLICATION OF ENTERGY NEW)
ORLEANS, LLC FOR A CHANGE IN ELECTRIC)
AND GAS RATES PURSUANT TO COUNCIL)
RESOLUTIONS R-15-194 AND R-17-504 AND FOR)
RELATED RELIEF)**

DOCKET NO. UD-18-07

SURREBUTTAL AND CROSS-ANSWERING TESTIMONY

OF

JOSEPH W. ROGERS, P.E.

ON BEHALF OF

THE ADVISORS TO THE

COUNCIL OF THE CITY OF NEW ORLEANS

April 26, 2019

PREPARED SURREBUTTAL AND CROSS-ANSWERING TESTIMONY

OF

JOSEPH W. ROGERS, P.E.

1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND OCCUPATION.**

3 **A.** My name is Joseph W. Rogers. My business address is 6041 S Syracuse Way, Suite 105,
4 Greenwood Village, Colorado. I am a registered Professional Engineer in the States of
5 Colorado and Louisiana and I am an Executive Consultant with the firm, Legend
6 Consulting Group Limited (“Legend”).

7 **Q. ON WHOSE BEHALF DO YOU APPEAR IN THIS PROCEEDING?**

8 **A.** I am presenting testimony on behalf of the Advisors to the Council of the City of New
9 Orleans (“Council”). The Council regulates the rates, terms, and conditions of electric
10 and gas service of Entergy New Orleans, LLC (“ENO”).¹ Entergy Corporation is the
11 direct and indirect holder of the common membership interests of Entergy Utility
12 Holding Company, LLC, which is the sole holder of the common membership interests of
13 ENO.

¹ The Entergy Operating Companies (“EOCs”), as of the preparation of this testimony, are, Entergy Arkansas, LLC (“EAL”), Entergy Mississippi, LLC (“EML”), Entergy Louisiana, LLC (“ELL”), ENO, and Entergy Texas, Inc. (“ETI”). Any reference to the EOCs or an individual EOC should include any successor organization.

1 **Q. ARE YOU THE SAME JOSEPH W. ROGERS WHO PREVIOUSLY FILED**
2 **TESTIMONY IN THIS PROCEEDING?**

3 **A.** Yes.

4 **Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL AND CROSS**
5 **ANSWERING TESTIMONY IN THIS PROCEEDING?**

6 **A.** My testimony reaffirms the recommendations and conclusions from my direct testimony,
7 rebuts arguments made by witnesses sponsoring testimony on behalf of ENO, and
8 discusses related issues in the testimony of intervenor witnesses. Specifically, I address
9 the ENO proposed reliability incentive mechanism, gas infrastructure replacement
10 program costs and the associated ratepayer impact, and testimony with respect to riders.

11 **II. RELIABILITY INCENTIVE MECHANISM**

12 **Q. PLEASE REITERATE YOUR RECOMMENDATIONS WITH RESPECT TO**
13 **ENO'S PROPOSED RELIABILITY INCENTIVE MECHANISM.**

14 **A.** In my direct testimony, I recommended that the Council not approve ENO's proposed
15 reliability incentive mechanism ("RIM") and Advisor witnesses Watson and Proctor
16 provided analyses and recommendations regarding ENO's appropriate allowed-Return on
17 Equity ("ROE") absent ENO's proposed RIM. I testified that ENO should prudently
18 manage its electric utility, including making prudent expenditures and investments, and
19 that ENO should not require an incentive to act prudently and achieve reasonable results
20 for stakeholders.

1 I indicated that in Council Docket No. UD-17-04, the Council is expected to establish
2 minimum reliability performance standards, along with a financial penalty mechanism in
3 the event of ENO's failure to achieve and maintain such standard for failure to meet such
4 minimum reliability performance standards. I testified that setting a target SAIFI level of
5 1.05 as part of this proceeding would be premature prior to the conclusion of the
6 investigations being conducted in Docket No. UD-17-04.

7 Lastly, I expressed a concern there is a not a direct proportional relationship between the
8 utility's ROE and distribution performance to justify the proposed incentive. ROE
9 customarily affects ENO's return on all its investments, not just the distribution plant that
10 is generally regarded as most closely related to many of ENO's reported service outages.

11 As such, adjusting ENO's allowed-ROE may not be the best mechanism to incentivize
12 ENO's distribution-related performance given its broad impact on ENO's rates and its
13 value in terms of comparison to other regulated utilities.

14 **Q. DO OTHER PARTIES IN THIS DOCKET OPPOSE ENO'S PROPOSED RIM?**

15 **A.** Yes, specifically, Air Products and Chemicals, Inc. ("APC") witness Brubaker
16 recommends that the Council reject the proposed RIM. Mr. Brubaker argues that "the
17 mechanism is conceptually flawed because it would reward ENO for doing what it is
18 supposed to be doing in the first place – namely, providing reliable service." Mr.
19 Brubaker's argument is supportive of my testimony that it is not necessary to incentivize
20 ENO to improve its SAIFI value and that ENO should not require an incentive to act
21 prudently and achieve reasonable results for stakeholders.

1 **Q. DID ENO PROVIDE ANYTHING IN ITS REBUTTAL TESTIMONY THAT**
2 **DISAGREES WITH THE RATIONALE SUPPORTING YOUR**
3 **RECOMMENDATION?**

4 **A.** No. ENO continues to recommend adoption of the RIM, however, the basis for the
5 continued recommendation appears to be based solely on the reasons set forth in the
6 Revised Direct Testimonies of Mr. Hevert, Mr. Thomas, and Ms. Stewart.²

7 **Q. ENO SUGGESTS THAT COUNCIL DOCKET NO. UD-17-04 COULD SERVE AS**
8 **AN ALTERNATIVE PROCEEDING IN WHICH TO ADDRESS THE**
9 **PROPOSED RIM. WOULD YOUR RECOMMENDATIONS WITH RESPECT**
10 **TO RIM CHANGE IF IT WERE CONSIDERED COUNCIL DOCKET UD-17-04?**

11 **A.** No. While I do believe that Council Docket No. UD-17-04 is the appropriate proceeding
12 through which the Council may establish minimum reliability performance standards, and
13 any associated financial penalty mechanism for failure to meet such minimum reliability
14 performance standards, I do not believe it is necessary to consider ENO's proposed RIM
15 further.

16 ENO's appropriate allowed-ROE will be established in this instant docket, and Council
17 Docket No. UD-17-04 is considering the issue of whether or not to adopt minimum
18 reliability performance standards. There is no need to consider ROE and minimum
19 reliability performance standards in conjunction with each other. Further, my concern

² Rebuttal Testimony of Joshua B. Thomas at page 19, lines 10-14

1 that there is a not a direct relationship between the utility's ROE and distribution
2 performance remains – any adjustment to ROE would typically affect ENO's return on
3 all its plant, not just the distribution plant that is generally regarded as most closely
4 related to many of ENO's reported service outages. I continue to recommend that the
5 Council not approve ENO's proposed RIM.

6 **III. GAS INFRASTRUCTURE REPLACEMENT PROGRAM COSTS**

7 **Q. WHAT IS YOUR CONCERN WITH RESPECT TO ENO'S PROPOSED GAS**
8 **INFRASTRUCTURE REPLACEMENT PROGRAM COSTS?**

9 **A.** I agree that ENO's proposed scope of Gas Infrastructure Replacement Program ("GIRP")
10 is consistent with industry trends to identify risks and replace aging infrastructure prior to
11 failure. I agree that ENO's proposed GIRP will provide customers with a safer, more
12 reliable gas distribution system. My primary concern with respect to ENO's proposed
13 gas infrastructure replacement program is the cost impact on ratepayers.

14 The recovery of costs related to GIRP investment through 2019 will have been addressed
15 through the Council's setting gas rates beginning the first billing cycle in August 2019
16 and are estimated to have a bill impact on a typical 100 ccf/month residential customer of
17 approximately \$6.12/month in 2019. Including the estimated costs related to GIRP
18 investment after 2019 and the estimated costs related to address historical underground
19 utility conflicts, the estimated bill impact on a typical 100 ccf/month residential customer
20 peaks at approximately \$20.45/month in 2026.

1 Recognizing that a major concern of mine was with respect to ratepayer impact, I
2 attempted to obtain from ENO, through discovery, the rate of GIRP investment that
3 would be required for the safe operation of its gas distribution system. While I did not
4 obtain from ENO a rate of GIRP investment required for the safe operation of ENO's gas
5 distribution system in response to discovery, ENO's response to DR CNO 3-10d appears
6 to indicate that a slower rate of replacement could be achieved while maintaining the safe
7 operation of ENO's gas distribution system. A slower rate of gas infrastructure
8 replacement would lessen GIRP's impact on ratepayer's bills.

9 **Q. WHAT DID YOU RECOMMEND TO ADDRESS YOUR PRIMARY CONCERN**
10 **WITH RESPECT TO ENO'S PROPOSED GIRP COSTS?**

11 **A.** In my direct testimony, I recommended that ENO be required to identify, for Council
12 consideration, a rate of gas distribution pipe installation and dollar investment that is
13 required to maintain the safe operation of ENO's gas system. Concurrently with
14 identifying the necessary pace of gas distribution pipe investment, ENO should identify
15 potential measures to mitigate the identified impact on ratepayers.

16 **Q. IN ITS REBUTTAL TESTIMONY DID ENO IDENTIFY, FOR COUNCIL**
17 **CONSIDERATION, A RATE OF GAS DISTRIBUTION PIPE INSTALLATION**
18 **AND DOLLAR INVESTMENT THAT IS REQUIRED TO MAINTAIN THE SAFE**
19 **OPERATION OF ENO'S GAS SYSTEM?**

20 **A.** Contrary to ENO's discovery response that appears to indicate that a slower rate of
21 replacement could be achieved while maintaining the safe operation of ENO's gas

1 distribution system, ENO maintains its position for the original GIRP schedule presented
2 in its Revised Direct Testimony.³

3 **Q. IN ITS REBUTTAL TESTIMONY DID ENO IDENTIFY, FOR COUNCIL**
4 **CONSIDERATION, POTENTIAL MEASURES TO MITIGATE THE IMPACT**
5 **OF THE GIRP-RELATED COSTS ON RATEPAYERS?**

6 **A.** No. While ENO witness Bourg stresses that it is “crucial that the Company receive
7 authorization to continue with pipe replacement”⁴, Ms. Bourg fails to directly address
8 ratepayer impact, indicating that “the Company looks forward to working with the
9 Advisors to identify potential opportunities to mitigate the cost impact to customers that
10 may result from the continued replacement of vintage/aging gas distribution
11 infrastructure”.⁵

12 **Q. IS IT YOUR POSITION THAT ENO SHOULD NOT BE ALLOWED TO**
13 **CONTINUE WITH PIPE REPLACEMENT RELATED TO GIRP?**

14 **A.** No. ENO has a responsibility to operate and maintain its gas distribution system in a safe
15 and prudent manner. Further, ENO should be allowed timely recovery of its prudently
16 incurred costs required for the safe operation of its gas distribution system.

³ Rebuttal Testimony of Michelle P. Bourg at page 5, lines 14-16

⁴ Rebuttal Testimony of Michelle P. Bourg at page 26, lines 12-13

⁵ Rebuttal Testimony of Michelle P. Bourg at page 26, lines 13-16

1 **Q. IS A GIRP RIDER AS PROPOSED BY ENO NECESSARY TO ENSURE THAT**
2 **ENO RECEIVES TIMELY RECOVERY OF ITS PRUDENTLY INCURRED**
3 **COSTS REQUIRED FOR THE SAFE OPERATION OF ENO'S GAS**
4 **DISTRIBUTION SYSTEM?**

5 **A.** No. As discussed in the direct and surrebuttal testimony of Advisor witness Watson, a
6 GIRP Rider is not necessary to provide ENO a reasonable opportunity to recover its
7 prudently-incurred costs related to GIRP on a contemporaneous basis. The Advisors'
8 recommendations in this proceeding provide the ability for ENO to receive timely
9 recovery of its prudently incurred costs required for the safe operation of its gas
10 distribution system.

11 **Q. AS THE ADVISORS' POSITIONS IN THIS DOCKET SUPPORT THE**
12 **INVESTMENT IN GAS DISTRIBUTION PLANT REQUIRED FOR THE SAFE**
13 **OPERATION OF ENO'S GAS UTILITY AND RECOMMEND THAT ENO BE**
14 **PROVIDED THE ABILITY FOR COST RECOVERY OF PRUDENTLY**
15 **INCURRED COSTS, IT WOULD APPEAR THAT THE ONLY ISSUE WITH**
16 **RESPECT TO THE GAS INFRASTRUCTURE REPLACEMENT PROGRAM**
17 **THAT REMAINS UNRESOLVED WITH REGARD TO THE ADVISORS'**
18 **POSITIONS IN THIS DOCKET IS THE IMPACT ON RATEPAYERS; IS THAT**
19 **CORRECT?**

20 **A.** Yes. In my direct testimony I put forth two general recommendations to mitigating
21 customer impact: (1) slow down the pace of the GIRP and (2) implement potential

1 measures to mitigate the identified impact on ratepayers. I recommended that ENO
2 address both.

3 In its rebuttal testimony ENO maintains its proposal presented in its direct testimony with
4 respect the pace of the GIRP. Given that, (1) it is ENO's responsibility to operate its gas
5 distribution system in a safe and prudent manner; (2) the safety of ENO customers takes
6 priority over customer impact on bills; and (3) that ENO is probably in the best position
7 to determine what is required for the safe operation of its gas distribution system; I
8 cannot recommend a change in the pace of the GIRP to simply reduce the impact on
9 customers' bills. Accordingly, the only tools left to mitigate the impact on customers
10 with respect to GIRP are mitigation measures designed to either reduce costs, amortize
11 costs over a longer time frame, provide a means to reduce the financing costs associated
12 with the investment through either an existing or new securitization act at the state level,
13 or through contributions by ENO.

14 **Q. WHAT DO YOU RECOMMEND WITH RESPECT TO RESOLVING YOUR**
15 **CONCERNS WITH RESPECT TO MITIGATING THE RATEPAYER IMPACT**
16 **OF GIRP?**

17 **A.** ENO has not disputed the ratepayer impact developed by the Advisors. ENO has
18 indicated that they look forward to working with the Advisors to identify potential
19 opportunities to mitigate the cost impact to customers. I recommend that a working
20 group composed of the Advisors, ENO, and Intervenors be established immediately to
21 explore the mitigation measures discussed herein.

1 **IV. RIDERS**

2 **Q. WITNESS THOMAS SUGGESTS THAT BOTH THE GIRP RIDER AND THE**
3 **PPCACR RIDER REMAIN NECESSARY DUE TO TIMING**
4 **CONSIDERATIONS, DO YOU AGREE?**

5 **A.** No. ENO witness Thomas testifies that both the GIRP Rider and the PPCACR Rider
6 proposed by ENO remain necessary due to timing considerations. According to ENO
7 witness Thomas, “[t]he GIRP Rider would remain necessary due to the nature and timing
8 of the GIRP, which is expected to take place over ten years – a period significantly longer
9 than the proposed term of the Gas FRP.”⁶ Mr. Thomas indicates that “...the PPCACR
10 Rider would remain necessary due to similar timing considerations” and expands on that
11 point noting that “[t]he PPCACR Rider provides for recovery of non-fuel costs of new,
12 Council-approved resources when there is no Electric FRP in effect.”⁷

13 ENO presents its argument for the necessity of GIRP rider and PPCACR rider by
14 construing the proposed three-year term of the proposed Electric and Gas FRPs in a
15 negative light. The proposed Electric and Gas FRPs present an advantage to ENO in
16 reducing the potential for regulatory lag, not a disadvantage. Often rates are set without
17 implementing the successive revenue adjustments that would occur with an FRP. In that
18 instance, the utility has less certainty on the method of recovery of costs for new,

⁶ Rebuttal Testimony of Joshua B. Thomas at page 9, lines 11-13

⁷ Rebuttal Testimony of Joshua B. Thomas at page 10, lines 1-3

1 unidentified projects and costs, that may or may not occur next year, let alone four-years
2 into the future which seems to be the time frame regarding which Mr. Thomas is
3 concerned. Rather, the FRPs provide for annual adjustments to revenues and, under the
4 Advisors' recommended changes to the ENO-proposed FRPs, allow ENO to perform in
5 costs that are known and measurable. To now suggest that the three-year term of the
6 proposed FRPs necessitates the need for the GIRP and PPCACR rider is simply incorrect.

7 Furthermore, the three-year term of the FRPs is specified by design and not by
8 happenstance. The limited term of the FRPs allows the utility and the regulator an
9 opportunity to re-evaluate the framework, costs, and cost recovery mechanisms included
10 in the FRPs after several years of operation and determine if new FRPs or a general rate
11 case may be appropriate for setting future rates. The advantages of this process provide
12 benefits to customers, the regulator and the utility.

13 **Q. WITNESS THOMAS IN RESPONSE TO YOUR TESTIMONY THAT**
14 **“...RIDERS TEND TO REDUCE RISK TO THE UTILITY AND PROVIDE AN**
15 **EASIER PATH TO A UTILITY ACHIEVING ITS ALLOWED ROE” IMPLIES**
16 **THAT YOU HAVE AN INCORRECT NOTION THAT RIDERS ONLY BENEFIT**
17 **THE UTILITY AND SHOULD BE REJECTED. DO YOU BELIEVE RIDERS**
18 **ONLY BENEFIT THE UTILITY AND SHOULD BE REJECTED?**

19 **A.** No. I do not support that view, and I do not believe witness Thomas has portrayed my
20 testimony in a fair manner. In my direct testimony, I spoke to both the potential benefits
21 and potential detriments of riders. I spoke to the benefits of riders, their ability to
22 mitigate regulatory lag, and the types of costs which typically are afforded cost recovery

1 through a rider. Contrary to the notion that all riders should be rejected, in my direct
2 testimony I recommended approval of corrected or modified versions of the ENO
3 proposed Combined Fuel Adjustment Clause Rider, Purchased Gas Adjustment Rider,
4 Combined Midcontinent Independent System Operator, Inc. Rider, and Purchased Power
5 and Capacity Acquisition Cost Recovery Rider.

6 In Mr. Thomas's rebuttal to my statement in the instant question, he indicates "The
7 question that must be considered is whether ENO is afforded a reasonable opportunity to
8 achieve its authorized ROE in the absence of the proposed riders, or some other
9 mechanism that will mitigate the regulatory lag that is the basis for their proposal."⁸ This
10 question that Mr. Thomas includes in his rebuttal testimony is not some new question that
11 was not considered by the Advisors' position in the Advisors' direct testimony – it was a
12 question the Advisors address directly. The following excerpt is from my direct
13 testimony:

14 ***“Q. REGARDING THE RIDERS ENO PROPOSES IN THE***
15 ***APPLICATION, IS ENO ENTITLED TO EXACT AND***
16 ***CONTEMPORANEOUS COST RECOVERY?***

17 ***A. No. My understanding is that a utility is entitled only to the opportunity to***
18 ***earn a reasonable return on its investment, and that the law does not***
19 ***insure that a utility will in fact earn the particular rate of return***
20 ***authorized by a Commission or even that it will earn any net revenues.⁹***
21 ***ENO should be allowed a reasonable opportunity to recover its prudently***

⁸ Rebuttal Testimony of Joshua B. Thomas at page 36, lines 14-17

⁹ *Entergy Gulf States, Inc. v. Louisiana PSC*, 730 So. 2d. 890 at 920-921 (la. 1999) *citing* Southern California Edison Co. v. Public Utilities Comm'n, [^{**97}] 20 Cal. 3d 813, 144 Cal. [^{*921}] Rptr. 905, n. 8, 576 P.2d 945, n. 8 (1978) *citing* Power Comm'n v. Pipeline Co., 315 U.S. 575, 590, 62 S. Ct. 736, 745, 86 L. Ed. 1037 (1942); *Bluefield Co. v. Public Serv. Comm'n*, 262 U.S. 679, 692-693, 43 S. Ct. 675, 678-679, 67 L. Ed. 1176.

1 *incurred costs and earn a reasonable return on its investments. The*
2 *reasonable return on investment is primarily influenced by the Council*
3 *setting a ROE at a level that is comparable to that being earned by other*
4 *companies with comparable risks, maintains ENO's financial integrity,*
5 *and maintains ENO's ability to raise capital. As such, an allowed-ROE*
6 *may properly reflect the risks to ENO, including those related to*
7 *regulatory lag. Mr. Proctor discusses an appropriate ROE adjustment to*
8 *reflect ENO's risks.*

9 **Q. HAVE THE ADVISORS CONSIDERED MECHANISMS IN THEIR**
10 **TESTIMONY TO REDUCE THE POTENTIAL FOR REGULATORY**
11 **LAG AND MITIGATE THE DETRIMENTAL AFFECTS YOU HAVE**
12 **IDENTIFIED, THEREBY REDUCING THE NEED FOR RIDERS?**

13 **A. Yes. Advisor witnesses' Prep, Watson, and I, through the testimony in this**
14 **proceeding, recommend eliminating riders or reducing the scope of riders**
15 **where the proposed costs to be recovered by the riders' costs are**
16 **relatively known, within the utility's control, and are not subject to**
17 **potential significant variations in costs. To mitigate concerns related to**
18 **regulatory lag, witness Prep recommends that the Council approve an**
19 **annual Electric utility FRP and annual Gas utility FRP for a period of**
20 **three years. As proposed, the FRP would provide for an annual**
21 **adjustment to ENO electric and Gas Rates to reduce the time between**
22 **regulatory base rate actions and mitigate regulatory lag. Additionally,**
23 **and to further mitigate regulatory lag, Witness Prep recommends that**
24 **ENO be allowed to include prospective proforma adjustments for known**
25 **and measurable capital additions budgeted for the 12-month period**
26 **immediately following the FRP test year. Similar to the prospective**
27 **adjustments that would be allowed in the Advisors proposed FRP, witness**
28 **Watson recommends Council approval of ENO's proposed AJ14 which**
29 **includes capital investments which are outside of the test year in this**
30 **proceeding, but which costs are known and measurable in that they are**
31 **budgeted and reflect plant additions can reasonably be expected to be**
32 **closed by December 31, 2019."**

33 The Advisors' recommendations in this proceeding have considered regulatory lag, have
34 recommended riders when appropriate, have considered the timely recovery of ENO's
35 prudently incurred costs, and would afford ENO a reasonable opportunity to recover its
36 prudently incurred costs and earn a reasonable return on its investments.

37 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

1 A. Yes.